

# **PE2025/G: Improve the support available to victims of domestic violence, who have been forced to flee their home**

## **Minister for Victims and Community Safety written submission, 29 July 2024**

Thank you for your letter of 4 July and for highlighting the evidence you have received from a number of organisations. In your letter you requested an update on a number of areas which I will look to address as follows.

You have asked what action is being taken to ensure victims have the opportunity to be heard before Non-Harassment Orders are varied or revoked.

As set out in previous correspondence, where a Non-Harassment Order (NHO) is made by a civil court following an application by the person at risk, they will automatically be notified of any application to revoke or vary the NHO and will be entitled to oppose the application in court.

The rules that apply when an NHO is made against an offender convicted of an offence involving misconduct towards a person by a criminal court when sentencing that offender are set out in the Act of Adjournal (Criminal Procedure Rules Amendment No. 2) (Non-Harassment order) 1997.

These require that where the convicted person makes an application to the court to vary or revoke an NHO, they must serve a copy of the application upon "any person, other than the offender, who is named in the order." This should ensure that where an NHO is made by a criminal court to protect the victim of an offence, the victim will be made aware of any application by the offender to vary or revoke the order.

However, it is the prosecutor, rather than the victim of the offence, who must decide whether to oppose the application to revoke or vary the order. COPFS have a policy of always proactively seeking the views of the victim (in some cases this may be via a 3rd party for a child or a domestic abuse victim with an advocacy worker where they have nominated the support/advocacy worker to engage with COPFS on their behalf).

COPFS note that while they have a policy of giving weight to the victim's view when making an application for an NHO, or in setting out its position to the court on any application to vary or revoke an NHO, they do not expressly impart the victim's view in open court. This is because, in many cases, doing so presents a significant potential safety risk to the victim and expressly conveying their view to the court leaves it open to the accused to carry out further abuse through the court process.

There is a risk that any move away from the current approach to require the court to focus more on the victim's view would put the victim at greater risk and in particular would create opportunities for perpetrators to use the court process to further abuse the victim.

With regard to the work to progress the implementation of Part 1 of the Domestic Abuse (Protection) (Scotland) Act 2021, my officials continue to engage with Justice partners and others, including colleagues in other parts of the UK, to determine what legislative changes will be required to enable us to move forward. That work continues to take some time and has inevitably highlighted some new challenges that need to be considered, but I will look to provide the Committee with a more detailed update over the coming months.

The Vision for Justice in Scotland: Three Year Delivery Plan contains an action to engage with key stakeholders to inform and shape future legislative proposals to reform the legal aid system. Scottish Government officials intend to commence this engagement in early course. Working with stakeholders, including victim support organisations, will allow opportunities for consideration of practical improvements for users of legal aid, building upon the Martin Evans Review recommendations and subsequent public consultation.

Yours sincerely,

**SIQBHIAN BROWN**