
Joint Committee on the Draft Domestic Abuse Bill Inquiry

Marie Stopes UK Response

1. Marie Stopes UK is an independent provider of abortion care services throughout England, and a country programme within the global charity, Marie Stopes International. Marie Stopes UK provides quality abortion services to more than 62,000 women every year, with 50 clinic locations in England. We can offer both medical and surgical abortion services, as well as counselling, post-abortion contraception, and vasectomy services.
2. Given our role on the frontline of supporting women in communities across the country, we care for many who are facing domestic abuse. Domestic abuse is one of the issues most commonly disclosed to teams in our clinics. In our supportive and non-judgemental environment, people often feel more able to reach out to us about issues of protection, in some cases we are better able to identify safeguarding issues than social care organisations. Last year we identified hundreds of cases of domestic abuse, both current and historic, and made many Social Care referrals due to domestic abuse concerns. When we identify protection issues, we work collaboratively with women and girls to support them in taking whatever next steps they are comfortable with. Our priority is their safety and security.

Overview

3. This submission will focus on two points of the Committee's Terms of Reference - *Whether the measures in the Bill ensure that the UK is compliant with the Istanbul Convention and Issues raised in relation to the interface between reserved and devolved powers within the United Kingdom.*
4. In its current draft, the Domestic Abuse Bill is restricted to cover England and Wales. Marie Stopes UK believes that by excluding Northern Ireland from the scope of this draft Bill, the Bill is inadequate to protect the rights of UK women. Though the Bill has the potential to ensure that the UK is compliant with the Istanbul Convention, with the current scope of the draft Bill not including Northern Ireland, the UK will fall short of compliance.
5. There are already existing and recognised inadequacies between domestic abuse protections in Great Britain, and statutory domestic abuse protections in Northern Ireland, where there is still no single piece of legislation that describes domestic abuse. Women in Northern Ireland are being denied the opportunity to have improved access to protection against domestic violence, and support following identification of abuse.
6. Every month, around 32 women from Northern Ireland leave their homes and cross the Irish Sea to access abortion care at Marie Stopes UK Centres alone. Our Manchester Centre sees the most Northern Irish residents, welcoming 74.6% of all Northern Irish clients, due to the availability of flights from Northern Ireland to nearby airports. Should one of our Northern Irish clients disclose continuing domestic abuse to us, we think it is only right that they can be afforded the same protections and support when they return home as any other UK citizen. These protections and support include the drafted prohibition of cross-examination of victims by alleged perpetrators; and establishing a Domestic Abuse Commissioner in law to provide leadership, monitor provision of services, share and embed guidance and best practice, and to establish a victims and survivors advocacy group.

The Istanbul Convention

7. The Government signed the Council of Europe's Istanbul Convention in 2012 to reaffirm the UK's strong commitment to tackling Violence Against Women and Girls (VAWG). The Convention covers both reserved and devolved areas, and therefore covers the whole of the UK.¹ The Domestic Abuse Bill could ensure that the UK is in compliance with this Convention. However, the current draft leaves the UK in contravention of some of the Convention's 81 articles. The articles that still need addressing are:

Article 4 (fundamental rights, equality, and non-discrimination)

8. Article 4(3) states that "*The implementation of the provisions of this Convention by the Parties...shall be secured without discrimination on any ground such as...national or social origin...[or] migrant or refugee status.*"
9. By not extending the scope of the draft Bill to Northern Irish women, and so not ensuring that there is an implementation of domestic abuse prevention, protection and prosecution across the UK, this amounts to discrimination on the grounds of national origin.

Article 44 (jurisdiction)

10. A key element of the Convention's requirements is making sure that ratifying states can use their national law to prosecute offences required by the Convention when those offences are committed by their nationals or residents overseas. This means that even if the abusive act is not illegal in the country they were performed – such as forced marriage, female genital mutilation (FGM), and sexual violence including rape, the state's law should still enable prosecution in the UK.
11. However, the draft Bill directly contravenes these requirements. Instead, S55 of the draft Bill outlines that to prosecute there is a requirement for dual criminality. This means that crimes that are often disclosed to us at our clinics, such as rape and FGM, would need to also be illegal in the country in which they are committed in order for the perpetrator to be prosecuted.
12. The draft bill extends extra-territorial jurisdiction for only English and Welsh courts. Limiting the extra-territorial jurisdiction in this way means that the draft Bill does not adequately address UK perpetrators who have been part of cross-border abuse in devolved regions not covered by the Bill. For instance, where a person is resident in England but their abuser lives in Scotland or Northern Ireland.
13. The limited extra-territorial jurisdiction also means that women resident in Northern Ireland would have no power to enforce other article rights under the Istanbul Convention, such as Articles 33, 34, 35, 36 and 39.

Article 33 (psychological violence); Article 34 (stalking); Article 35 (physical violence); Article 36 (sexual violence, including rape); Article 39 (forced abortion and forced sterilisation)

14. These five respective articles require that states can prosecute perpetrators who commit certain crimes abroad. For this to happen, governments need to have extra-territorial jurisdiction in place as outlined in Article 44, above.

¹ Home Office (2018), Ratification of the Council of Europe Convention on Combating Violence Against Women and Girls and Domestic Violence (Istanbul Convention) – 2018 Report on Progress, p. 6. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/752315/CCS207_CCS0918513168-001_Domestic_Violence_Istanbul_Convention_2018_Accessible_002_.pdf

15. Compliance with Article 34 (stalking) is also impacted by not including Northern Ireland in the scope of the draft Bill. This Article requires that '*the intentional conduct of repeatedly engaging in threatening conduct directed at another person, causing her or him to fear for her or his safety, is criminalised*'. As Northern Ireland has no legal definition of stalking, in the absence of a Northern Ireland Assembly the only way the UK can fully comply with this Article is if Northern Ireland is included in the scope of the Domestic Abuse Bill.

Inequality in domestic abuse protection between reserved and devolved powers within the United Kingdom

16. As previously mentioned, the Istanbul Convention covers both reserved and devolved areas, and therefore covers the whole of the UK. The UK Government remains responsible protecting against VAWG and human rights violations for all its citizens, including Northern Ireland residents. However, the current draft of the Domestic Abuse Bill does not address the rights or needs of Northern Irish citizens.
17. There are already recognised, harmful inadequacies of existing domestic abuse protections in Northern Ireland, where there is no single piece of legislation that describes domestic abuse. This led to the Northern Ireland Department of Justice holding a well-received public consultation on proposals for new domestic abuse legislation in 2016. Progress on improvements to domestic abuse protections halted in January 2017, with the collapse of the Northern Ireland Assembly, and cannot advance without an Assembly in place.
18. As well as inadequate protections for victims of stalking, as described in the previous section, the current disparities between domestic abuse legislation in Northern Ireland and the legislation that exists in England and Wales includes the lack of a specific offence to capture coercive and controlling behaviour in Northern Ireland.
19. The inclusion of Northern Ireland in the scope of this Domestic Abuse Bill would prevent widening inequality of protection against domestic abuse in the UK, but would not prevent the Northern Irish Assembly from passing Northern Irish specific legislation once the Assembly has been restored. Until the restoration of Stormont, the Government have a duty to protect the rights of women and girls in Northern Ireland.

Conclusion

20. For the Domestic Abuse Bill to be fit for the purpose of UK compliance with the Istanbul Convention, the scope of the legislation must be widened. The final protections that the draft Domestic Abuse Bill provides should be for all victims of abuse. We urge the UK Government to protect women and girls from across the UK, fully comply with the Istanbul Convention, fulfil the UK's national and international human rights obligations, and end inequality in domestic abuse protections by extending the scope of this Bill to include Northern Ireland.

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