

Criminal Justice Committee

**31st Meeting, 2023 (Session 6), Wednesday 22
November 2023**

Domestic Abuse (Scotland) Act 2018: correspondence received

Note by the clerk

Background

1. The Domestic Abuse (Scotland) Bill (now 2018 Act) was passed by the Scottish Parliament in February 2018. [The 2018 Act](#) created a new offence of engaging in an abusive course of conduct against a current partner or an ex-partner. It also provided that the new offence may be aggravated where a child is involved. For example, when a child sees, hears or is present during a domestic abuse incident.
2. Further changes included:
 - creating a standard condition of bail for domestic abuse cases prohibiting an accused from obtaining a statement from a complainer other than through a solicitor;
 - placing a restriction on granting bail in some domestic abuse cases;
 - banning an accused person in a domestic abuse case from conducting their own defence in court;
 - allowing certain expert evidence relating to the behaviour of victims of domestic abuse;
 - applying certain special measures aimed at protecting child witnesses during trials;
 - requiring the court to consider the future protection of the victim when sentencing an offender in a domestic abuse case; and
 - telling the court to always consider making a non-harassment order (NHO) against a person convicted of a domestic abuse offence.
3. Earlier this year, the Committee agreed to review how the 2018 Act has been implemented to determine whether any issues have arisen and, if so, how these might be resolved. The Committee published its [report](#) on 4 May 2023, with the Scottish Government [replying](#) the following month.
4. Subsequently, the Committee has written several letters to the Scottish Government by way of requests for follow-up information. The latest response from the Cabinet Secretary for Justice and Home Affairs is set out in the **Annex** to this paper.

Action/recommendation

- 5. Members are asked to consider the correspondence and decide what, if any, further action is required.**

**Clerks to the Committee
November 2023**

ANNEX

Letter from the Cabinet Secretary for Justice and Home Affairs

October 2023

Dear Convener

Thank you for your further correspondence as part of your post legislative scrutiny of the Domestic Abuse (Scotland) Act 2018 (DASA). The response to each of your questions is provided at the Annex and I thought it would also be helpful to outline the consideration which has taken place since our last correspondence.

Tackling incidents of domestic abuse continues to be a priority for the Scottish Government and our justice partners. We recognise that there is more that can be done and that there are areas where improvement must take place, particularly the need to scrutinise and review the effectiveness of existing legislative interventions, the time taken for cases to progress through the court process and the experiences of those who interact with the justice system and support services. We have developed a short paper which sets the current key priority areas of work for the Scottish Government and also areas for development in our approach to tackling domestic abuse. A copy of that paper is attached to this correspondence.

To support consideration of matters and as was referred to in my earlier correspondence, a group of justice partners who considered the implementation of the Domestic Abuse (Scotland) Act 2018 was reconvened. That group met in August to discuss the recent review reports and agreed to further roundtable discussions to provide regular and collective updates on the work that is being progressed and considered to tackle domestic abuse. A copy of the minutes from that meeting are attached.

Key areas of focus for the Scottish Government to be discussed in that group over the next 12 months include:

- Improving the evidence base;
- Improving victim experience;
- Tackling perpetrators;
- Improving multi agency working; and
- Early intervention/prevention and changing societal attitudes.

The group is scheduled to meet again in November and we will ensure that the outcome of that discussion, including the finalised terms of reference for the group, which are under development, are shared with the Committee.

I hope this information is of assistance.

ANGELA CONSTANCE

ANNEX

Response to Criminal Justice Committee - Post legislative scrutiny of the Domestic Abuse (Scotland) Act 2018 (DASA)

- **What further steps could the Scottish Government take to encourage COPFS and Police Scotland to make maximum use of the child aggravator provision in the Act, accepting that these are operational matters in the first instance?**

The child aggravator was included in the Act to reflect the harm that can be caused to children by domestic abuse. The inclusion of the child aggravator means that in relevant cases, this harm can be reflected through, amongst other matters, emphasising to the court the need to consider appropriate sentencing in these cases.

It is, as your letter states, an operational matter for COPFS to decide in which cases the child aggravator may be used. This will of course depend on the facts and circumstances of each domestic abuse case being considered. As you know such decisions are made entirely independently by COPFS, however I can reassure you that COPFS consider carefully in each case whether the child aggravator can be applied.

To assist the Committee on this matter, the COPFS position was sought. They advise they have provided significant training and detailed guidance to prosecutors to ensure a clear understanding of the evidence required to prove a DASA offence and any child aggravation in terms of the Act.

COPFS and Police Scotland agreed a Joint Protocol on Challenging Domestic Abuse which sets out that when investigating incidents of domestic abuse, the police will ensure that all possible lines of enquiry are rigorously pursued, and all available evidence is secured. The Joint Protocol which was updated in May this year can be viewed at: [joint-domestic-abuse-protocol.pdf \(copfs.gov.uk\)](#) The Protocol specifies the information which the police require to provide to prosecutors when reporting a case involving domestic abuse, including cases reported under the DASA legislation. The police will provide information on whether the DASA offence was aggravated by reason of involving a child, as set out in the Act, and information on the impact of the abuse on the child or children. This information is taken into account by prosecutors in considering the appropriate prosecution response in each individual case.

In the first 3 years following implementation of the Act, court proceedings were commenced in 98% of charges with a child aggravation. In 2022/23, court proceedings were commenced in 99% of charges with a child aggravation.

COPFS have highlighted the most recent official statistics which are published at [domestic-abuse-publication-2022-23-final-1.pdf \(copfs.gov.uk\)](#)

If the Committee has any further queries regarding the operational use of the aggravator, you may want to raise directly with COPFS.

- **Your response indicates you will give consideration to a new awareness campaign, members agree that public awareness campaigns are an important part of the overall response to domestic abuse. I would be grateful for any more detail you can provide on this proposal.**

We are currently undertaking insight gathering to inform future consideration of this issues. A key matter for consideration by the Implementation Group will be around early intervention/prevention and changing societal attitudes which would include consideration of the development of an approach to awareness raising and associated communications strategy on VAWG.

All of the campaign assets developed as part of our successful “Belongings” campaign are available online and we would encourage all to make use of these resources: [v3-5156-Domestic-Abuse-toolkit \(6\).pdf](#).

- **Whether you support in principle our recommendation for consideration to be given to a single court/judge model when cases involve both civil and criminal matters?**

The Scottish Government agrees that in principle the single court/judge model for cases involving both civil and criminal matters is worth consideration. We are committed to understanding what can be done to improve the interaction between the civil and criminal courts. Consideration of single court/judge models could certainly form part of the workshops discussions we are planning following the research on “Domestic Abuse and Child Contact: The Interface Between Criminal and Civil Proceedings” <https://www.sccjr.ac.uk/our-work/publications/>. These workshops will consider the issues and potential solutions in this area and will inform a Scottish Government discussion paper on improving interaction between the criminal and civil courts, as committed to in the Family Justice Modernisation Strategy.

The Committee will also wish to be aware of new court rules which have just come into force in relation to family actions which contain provision so that, where possible, a single sheriff is to preside over all hearings in a family case to provide judicial continuity. These rules are at [Act of Sederunt \(Ordinary Cause Rules 1993 Amendment\) \(Case Management of Defended Family and Civil Partnership Actions\) 2022 \(legislation.gov.uk\)](#).

When looking at the single court/judge model for cases involving both civil and criminal matters, there would be a number of cost implications as well as practical challenges relevant to the application of this model to consider, including:

- Which model to use. The literature review the Scottish Government published on Integrated Domestic Abuse Courts [Domestic abuse courts: report - gov.scot \(www.gov.scot\)](#) noted there were a number of models in operation around the world.
- What the jurisdiction of any new model would be. There would be a need to consider which criminal offences would be covered and which civil areas. In relation to civil areas, there could be questions on whether an integrated model would just cover child contact and residence actions or whether it would be wider than that.

- Consideration of how multi-crave actions would be dealt with by any integrated criminal/civil model as family actions can be “multi-crave”: an individual case can involve a number of different legal remedies sought by the pursuer such as, for example, divorce, financial provision on divorce, child contact, and civil protection orders against domestic abuse.
- If a new court were to be established, how many courts would there be, where they would be located, and would they use the existing court estate. How the judiciary would be deployed – ie would they be full time in a single court/judge model or would they work part time in the model and part time on other cases. Further judicial training might be needed, which is entirely a matter for the Judicial Institute, and training might also be needed for court staff and other professionals working in the justice system.
- Consideration of timescales, ie timings of a criminal case and a civil case could very likely be different.
- Consideration of what would happen if an accused person in this model is found not guilty – would any civil case continue in this model or would it be referred to the ordinary courts.
- Consideration of different approaches taken in the civil and criminal systems to the admissibility of evidence and the burden of proof.
- Consideration of whether any integrated model would cover cases that would otherwise have been heard in the Court of Session as whilst most child contact cases are heard in the Sheriff Court, some are heard in the Court of Session. There could also be questions arising in relation to rights of audience.
- Whether we would run two parallel court systems for child contact and residence cases. An integrated model when there is a criminal prosecution and the ordinary civil courts when there is no prosecution.
- Whether there would be any points arising on who would hear appeals of decisions from the integrated model, or whether the existing appeals mechanisms would be used.
- Would any changes would be required to legal aid.
- Consideration of need for primary and secondary legislation and changes to court rules and court IT systems.

Given the range of policy and practical issues that would need to be worked through, any consideration would be for the longer term and in consultation with the Lord President and other members of the judiciary, as well as with other justice partners, stakeholders and users.

I noted the comments made by Russell Findlay MSP on this matter at my evidence session on 27 September and believe it would be sensible to consider whether there are any reflections from the Committee in relation to its scrutiny of the Victims, Witness and Justice Reform (Scotland) Bill which could help to inform our consideration on this matter.

In addition to integrated or single court models, there are other investigative and problem-solving approaches to the family courts that could also be considered, such as the Pathfinder pilots in England and Wales. The Scottish Government is following the progress of those pilots and, when they are fully evaluated, we will consider whether there could be any application within the Scottish context.

- **When you will convene the short-life implementation group for this Act to consider the issues around implementation raised in this report and whether this will include the courts, Crown Office and the police service, as well as academics and those providing support to victims of domestic abuse?**

The Scottish Government absolutely values the contributions of those providing support to victims of domestic abuse and academics in the field, as well as our justice partners. This is why a number of workstreams relevant to domestic abuse are being co-developed in this way. An example of this is the work to develop Scotland's first national multi-agency Domestic Homicide Review Model. The model aims to learn lessons following a death where domestic abuse is suspected. This work is underpinned by a Taskforce comprised of senior members from across justice, health, local government, social work, victim support organisations and academia to provide leadership on the development and implementation of the model. The Taskforce is committed to working together collectively to help prevent domestic abuse related deaths.

As has been outlined above, the justice partners group has also reconvened for a series of roundtable discussions to provide a forum to consider the particular recommendations emerging from the research which was undertaken with victims of domestic abuse and those who support them. Scope for specific engagement with support services and academics will form part of the discussion within the group and can be explored further in the Terms of Reference for the group.

Additional material sent by the Scottish Government

THE SCOTTISH CRIMINAL JUSTICE RESPONSE TO INCIDENTS OF DOMESTIC ABUSE (October 2023)

CONTEXT

The Scottish Government's Justice Vision for a just, safe, and resilient Scotland sets out that justice services must be person centred, ensuring that a person's needs and values are respected. That aim has helped to shape the development of the Victims, Witnesses and Justice Reform (Scotland) Bill which embeds trauma-informed practice across the justice system and requires criminal justice agencies to make efforts to reduce re-traumatisation.

More widely, Scotland's Equally Safe Strategy to tackle violence against women and girls sets out a vision to prevent violence from occurring in the first place, build the capability and capacity of support services, and strengthen the justice response to victims and perpetrators. That focus has been supported by the report from the Women's Justice Leadership Panelⁱ which was clear that women's experience of justice is different to men's, and policy must be formulated with greater understanding of gender and intersectionality.

Tackling incidents of domestic abuse has been and continues to be a priority for the Scottish Government and its justice partners which is evidenced by our focus on policy and legislation. Indeed, our collective endeavours have been recognised internationally, most recently in Icelandⁱⁱ where experts in the field gathered to share experience and research, and to learn lessons as we all grapple with the unacceptable societal problem which is domestic abuse.

However, we recognise that there is more that can be done and that there are areas where improvement must take place, recognising the need to scrutinise and review the effectiveness of existing legislative interventions, the time taken for cases to progress through the court process and the experiences of those who interact with our justice system and support services.

Priority areas of activity

The scope of work around domestic abuse is considerable with the key policy priorities being:

- Progressing the Domestic Abuse (Protection)(Scotland) Act 2021 to ensure its effective and sustainable implementation across Scotland.
- Supporting the taskforce to lead the development of Scotland's first national multi-agency Domestic Homicide Review model, including its future rollout and evaluation.
- Managing the Victim-Centred Approach Fund and Victims Surcharge Funding which includes funding for specialist support for survivors of gender-based violence, with a key focus on long term sustainability and an assessment of the best funding model going forward.
- Future development of the Caledonian system, including accreditation and evaluation.

- Justice Partners Roundtable Discussion to coordinate our collective response to recent research and evaluation reports in conjunction with a broader look across the domestic abuse policy landscape to understand where there are areas for development.

Justice Partners Roundtable Discussion

This new development brings together the Justice partners which considered the implementation of the Domestic Abuse (Scotland) Act 2018. That group has already met to consider the response to the recent review reports and agreed that these justice organisations work together through further roundtable discussions to provide regular and collective updates on the work that is being progressed and considered to tackle domestic abuse. Membership of the group comprises representatives from COPFS, Police Scotland, Judicial Institute for Scotland and the Scottish Courts and Tribunals Service.

Key areas of focus for the Scottish Government to be discussed in that group over the next 12 months includes:

Improving the evidence base

- Consider the data issues arising through the Women’s Justice Leadership Panel, including research to consider evidence on protected characteristics and intersectionality.
- Map out current data provision across the Justice sector and third sector partners on VAWG with a view to developing in the longer term a more systematic approach to data collection and dissemination.

Improving Victim experience

- More visibly demonstrate the Scottish Government’s cohesive approach within the Justice system to improve the experience of domestic abuse victims.
- Work with justice partners to respond to the recommendations contained in the recent reports on domestic abuse reflecting changes which can be made to improve victim experience.
- Consideration of developments to improve the interaction between the civil and criminal justice systems and their approach to domestic abuse issues.
- Consider any early recommendations arising from the project to explore an expansion of the role of independent domestic abuse advocates.

Tackling perpetrators

- Explore targeted programmes that examine and understand the root causes of domestic violence; and identify linked preventative action.
- Explore synergies with Intimate Partner Violence Interventions in Prisons.
- Progress with accreditation and evaluation actions for the Caledonian system.
- Look at the justice landscape around domestic abuse offending with a view to seeing what more we could be done to address perpetration.

Improving multi agency working

- Promote a shared understanding of domestic abuse across Justice agencies.
- Support consistent trauma informed training and implementation of the Knowledge and Skills Framework.
- Develop a model of multi-agency Domestic Homicide Review in Scotland.

Early Intervention/Prevention and changing societal attitudes

- Increase the public understanding of incidences and the nature of domestic abuse and other forms of VAWG and examine the role that education and awareness campaigns can and should play in supporting early intervention and prevention.
- Consider the development of a marketing approach and associated communications strategy on VAWG.
- Explore some of the key challenges on online harms and VAWG.

This group will also provide a forum to discuss emerging initiatives including any proposals around future legislation; and will expect to engage with stakeholders and those with lived experience as part of their consideration, as appropriate.

Terms of reference for the group are under development and will be shared when available.

**Criminal Justice Division
Justice Directorate
Scottish Government
October 2023**

Summary of Discussion Report

Purpose / Background

To convene Justice partners for a roundtable discussion to reflect on the response to domestic abuse and what more is planned and may be required to address the concerns raised in the recent research reports. The roundtable discussion will also provide an opportunity to consider what further actions are required, including opportunities to progress a collective response to domestic abuse in a more strategic way.

Overview of recent research and domestic abuse data mapping and developments – Justice Analytical Services (JAS)

Scottish Government JAS colleagues provided an overview on recent research findings from 3 reports (women victims, male victims and qualitative research on adults and child witnesses) in relation to experiences of victims and witnesses in domestic abuse court cases.

- [Domestic Abuse \(Scotland\) Act 2018 and the Criminal Justice System: Women's experiences two years in the emerging findings](#) (Lombard et al., 2022)
- [Domestic Abuse \(Scotland\) Act 2018 - male victims' experiences of the criminal justice system: emerging findings](#)
- [Domestic abuse court experiences - perspectives of victims and witnesses: research findings - gov.scot \(www.gov.scot\)](#)

JAS Research activities

- **Research priorities:** Domestic Homicide Reviews (DHR) intersectionality, cyber/online VAWG
- Internal evidence review of black and minority ethnic women's experiences of domestic abuse and barriers to support
- Exploratory work on nature and prevalence of cyber VAWG inc. domestic abuse and how to address it
- Supporting the DHR policy team (evidence review/case studies)
- DASA Final Report (stats only)
- Grant research inc. research on [Domestic Abuse and Child Contact: The Interface Between Criminal and Civil Proceedings](#) South Asian women's perceptions and experiences of domestic abuse and justice in Scotland (forthcoming)
- Feasibility/exploratory work to analyse partner abuse module in SCJS using an intersectional approach
- Enhanced SCJS partner abuse module
- Civil Justice System's Pandemic response research (Aug 23)
- [Repeat Violence Victimisation](#) research (Sep 23)

Data held by JAS

Presentation on the various data sets are currently held by JAS (see presentation slides attached).

Scottish Government (SG) update - current and planned actions on Domestic Abuse

Strategic Initiatives

The Scottish Government continues to develop strategic initiatives which set the tone for the delivery of policies targeted at gender based violence. The first is to develop a person-centred justice system to ensure that a person's needs and values are respected.

The second is a trauma-informed justice system which recognises that victims, witnesses and parties in the justice system can be affected by psychological trauma in many different ways, and at differing times, and that the system itself can be re-traumatising. SG commissioned a 'Knowledge and Skills' framework specifically to support the development of a trauma-informed workforce in the justice sector, helping justice organisations to respond to victims and witnesses in a trauma-informed way.

SG are also progressing the Victims, Witnesses and Justice Reform (Scotland) Bill which embeds trauma-informed practice across the justice system and requires criminal justice agencies to make efforts to reduce re-traumatisation.

The Women's Justice Leadership Panel's [report](#) was published last week and is intended to be a foundational stone and the basis on which we should all strive to make strategic changes to the way justice is delivered which improve outcomes for women in the justice system. The Panel's remit included aims to demonstrate that women's experiences differ to men's and to promote consistent understanding of gendered issues within the justice system.

Equally Safe, Scotland's strategy for preventing and eradicating violence against women and girls sets out a vision to prevent violence from occurring in the first place, builds the capability and capacity of support services, and strengthens the justice response to victims and perpetrators. It will be important that our collective approach to domestic abuse is advanced in a way that is complementary to the ambitions set out in Equally Safe.

Justice Policy Developments

The Domestic Abuse (Protection)(Scotland) Act 2021 gained Royal Assent in May 2021 and when it comes into effect, will provide police and courts with powers to make emergency notices and order to protect people at risk of domestic abuse. An Implementation Board has been established to support this and includes a number of partners and will oversee the implementation of the protective orders scheme.

A Domestic Homicide Review Taskforce was established in December 2022 to provide national leadership and strategic oversight in developing Scotland's first national multi-agency Domestic Homicide Review model.

SG are also responsible for managing the Victim-Centred Approach Fund and Victims Surcharge funding which includes £18.5m funding for specialist advocacy support for survivors of gender-based violence.

SG are also funding SafeLives to broaden the scope of the essential Independent Domestic Abuse Advocate role, creating an expert accredited module on domestic abuse court advocacy to enhance the current training. SafeLives will also undertake development work to support the creation of national standards for domestic abuse court advocacy services.

There are also a number of other pieces of work to be considered in enhancing our approach to domestic abuse. For example, the Criminal Justice Committee made a particular recommendation around public awareness campaigns and SG marketing colleagues have undertaken insight gathering which could inform a future approach to communications.

There is work that can be pursued around improved presentation of data and scope to improve data collection more generally.

Updates from Justice Partners – current and planned actions in response to recent research reports

Crown Office and Procurator Fiscal Service (COPFS)

Current Position

COPFS is committed to prosecuting crimes of domestic abuse effectively and prosecutors apply a presumption in favour of prosecution where there is sufficient evidence to support a criminal allegation. This consistent approach to raising proceedings ensures that where complainers report domestic abuse, they can have confidence that prosecutors will take action, where there is sufficient evidence.

This consistent response is reflected in the statistics which highlight that in the three years between 2019-20 and 2021-22 an initial decision was made to proceed to court in 92- 93% of charges reported with a domestic abuse identifier. Where the decision was to take "No Action", the most common reason recorded was "Insufficient Admissible Evidence.

The range of cases reported to prosecutors with a domestic abuse identifier, encompass the entire spectrum of behaviour by perpetrators where this amounts to criminal conduct and prosecutors will raise prosecutions in relation to common law and statutory offences, including offences in terms of the DASA legislation, depending on the circumstances and available evidence in each individual case.

Prosecutors also consider each case to identify any risks to the complainer and witnesses and will oppose bail or seek special conditions of bail, as appropriate.

The prosecution response is supported by close working relationships with Police Scotland to ensure efficient evidence gathering and investigation and with victims support and advocacy services to ensure that witnesses are supported and remain engaged in the process. It is also reinforced by intensive staff training, both in relation to domestic abuse in general, including typologies of abuse and the application of DASA.

All cases of domestic abuse and cases with child witnesses are referred to the Victim Information and Advice Service (VIA) within COPFS which assists victims and other vulnerable witnesses by providing information about the criminal justice system, providing case updates, helping victims to get in touch with organisations that can offer practical and emotional support and court advocacy and arranging for the victims and child witnesses to use special measures when giving evidence in court.

Recent Developments

Prosecutors have raised prosecutions to expand the application of the DASA legislation to serious offending, such as rapes which took place in the context of a course of abusive behaviour, where these offences could not have been proved as stand-alone charges. This has increased access to justice for victims of the most serious crimes.

Many sexual offences involve an element of domestic abuse and the ongoing Sexual Offences Review, commissioned by the Lord Advocate is considering how COPFS deals with the prosecution of sexual offences with a view to identifying best practice and making recommendations, to improve the experience of complainers.

COPFS is working closely with justice partners in the Summary Case Management (SCM) pilot in Dundee, Hamilton and Paisley. The pilot aims to improve the quality of service provided to users of the criminal justice system by facilitating early resolution of cases which will not ultimately be contested. Where a trial is required, the pilot aims to narrow the scope of the evidence to be led through encouraging meaningful engagement between parties, and through effective case management, conducted at an early stage. The pilot has a specific focus upon domestic abuse cases and involves enhanced engagement between prosecutors and complainers to increase confidence in engaging with the justice process. This additional contact offers a further opportunity to offer access to victims support services.

A prosecutor will contact complainers in domestic abuse cases in the Pilot areas by telephone in the weeks following the pleading diet. The purpose of the call is to inform the victim that their case is being prepared by a legal member of staff, and to provide information on the role of COPFS and the general court process. The call allows the complainer to ask questions or to raise any concerns they have about coming to court to give their evidence.

This direct engagement has produced tangible benefits, including alerting the prosecutor to further criminality which can then be reported to the police, or advising of the existence of additional evidence, not identified during the initial enquiry.

Where the charges involve an allegation in terms of Section 1 of DASA, the victim is offered the opportunity to meet with the allocated prosecutor in advance of the trial diet, at the local Procurator Fiscals Office.

The pilot is already producing results in terms of reduced journey times for cases, earlier resolution and a decrease in witnesses who require to be cited for trial.

The VIA Modernisation Programme, instructed by the Lord Advocate, is working to improve the quality of service delivered to victims and witnesses. The remit of the programme includes improving partnership working with external agencies, to ensure that communications are fit for purpose and to establish feedback mechanisms to promote continuous improvement.

The Witness Gateway, which is currently under development, will also improve access to information and choice for complainers and witnesses on how they receive information and some services.

COPFS is committed to implementing a trauma informed approach to responding to crime, in line with the recently published trauma informed skills framework for the criminal justice system.

Further work required

In order to respond effectively and meet the needs of complainers and children, and prevent attrition and disengagement, criminal justice agencies need to work together to significantly improve journey times through the court process and reduce delay. Despite fixing trial diets (out with the SCM pilot areas) within 8 to 10 weeks of the case first calling in court, there continues to be significant delay in cases reaching conclusion, even taking account of the fact that priority is given to domestic abuse and child witness trials. This has an impact on complainer's feelings of safety when awaiting trial.

Prosecutors will work to ensure that cases can proceed to trial at the first trial diet, wherever possible, including in situations where it would be feasible to lead evidence from victims and children on the date of the trial, even where that would require the case to be part heard to hear further evidence at a later date.

Prosecutors will also take a robust approach to opposing defence adjournments and seeking remand where alleged offenders repeatedly breach bail conditions.

Police Scotland (PS)

Police Scotland recorded statistics show that there were 1,760 crimes recorded under the Domestic Abuse (Scotland) Act 2018 (DASA) in 2021-22 – the third year this legislation has been in place.

A comparison between year 1 statistics and year 3 statistics indicates a 4.6% increase in the number of reported Domestic Abuse (Scotland) Act 2018 offences to Police Scotland. Of note is the significant increase in the number of Domestic Abuse

(Scotland) Act 2018 crimes reported to COPFS during the same time period has increased by 13%.

At an operational level, Police Scotland utilises a 'three tiered approach' response to the policing of domestic abuse; local operational policing, divisional specialist domestic abuse investigation officers and national Domestic Abuse Task Force / Coordination Unit.

This established tiered approach ensures domestic abuse victims across Scotland received a police response tailored to the particular circumstances of their case.

HMICS Thematic Review of Domestic Abuse commenced in March 2022 and concluded in June 2022. The written report was published on 12 January 2023. This comments on officers varying confidence and understanding of the DASA legislation. The finalised HMICS Domestic Abuse improvement plan was submitted to HMICS in June 2023.

Police Scotland acknowledge that they have a generation of officers (tier 1) who have not received the Domestic Abuse Matters Training due to the impact of COVID-19, officer retirements and the subsequent recruitment of new officers to replace them. This has resulted in some officers lacking confidence and understanding of the legislation. In response, Police Scotland have renewed their licence with the College of Policing for the Domestic Abuse Matters Change Programme and will explore training options during 2023.

Additionally, Police Scotland continue to work with SafeLives, with contribution from other key partners, to develop the following six Continuous Professional Development (CPD) modules;

1. Domestic abuse and the effects of trauma - Responding well to people experiencing domestic abuse
2. South Asian Women - Diverse experiences of domestic abuse
3. The Domestic Abuse Scotland Act: Understanding and applying the legislation
4. Multi-agency tools for keeping people safe
5. The use of technology and social media in domestic abuse
6. Domestic abuse and children

Police Scotland, supported by SafeLives, delivered a week long *Train the Trainer* event during the annual 16 Days of Activism. The event increased the cadre of 'Trainers' across the country, embedded within their respective business areas as Domestic Abuse Subject Matter Experts.

This will support the upskilling of officers and staff across various roles and departments, to recognise signs of Domestic Abuse and oversee investigations, ensuring that all reports are considered in the context of a potential course of conduct and, that the most appropriate crime is recorded.

Training is underpinned by lived experience accounts through the use of a number of case studies and input from partner agencies, which shapes the learning.

Police Scotland has launched their Victim Survivor Feedback (VSF) portal to gather feedback from victim survivors of domestic abuse, rape and sexual crimes. It is entirely confidential and the feedback will be used to help shape internal training and procedures.

Work continues to strengthen our partnerships with agencies working with under-represented groups such as the deaf via the Silent Harm (previously Justisign2) project focusses on best practices for police officers and sign language interpreters, working together to support deaf survivors of domestic abuse.

The challenges faced by individuals who require the support of interpreters or translators are well documented and supported by Police Scotland's engagement with survivor reference groups. When requesting an interpreter or translator for any victim of the offences outlined by the Victims and Witnesses (Scotland) Act, officers will, where practicable, afford the victim the opportunity to specify the gender of any interpreter.

'You, Me, Together' is a resource created in partnership with key partners and stakeholders to target domestic abuse (including themes of coercive control, inappropriate relationships and peer pressure) in young persons' relationships. The resource forms part of a national standardised interactive educational workshop delivered in schools to educate students around the issues of domestic abuse and its correlation with Violence Against Women and Girls.

In total, the resource was presented, during a pilot, to 1,100 students. The evaluation feedback was positive with 96% of students finding the input impactful, 95% left with a better understanding of domestic abuse and 92% had an improved understanding of coercive control within a relationship.

It is intended that the You, Me, Together resource, be rolled out across Scotland later this year in partnership with Education Scotland.

Scottish Courts and Tribunals Service (SCTS)

As referenced by COPFS, SCTS is one of a number of justice partners collaborating on the judicially led Summary Case Management Pilots. The pilots are currently running in Dundee, Hamilton and Paisley and seek to reduce the number of unnecessary hearings, and earlier resolution through facilitating early disclosure of evidence and early judicial case management. The pilots have a particular focus on domestic abuse cases and require key evidence to be received by the Crown from the police, automatically, prior to the first appearance. With that key evidence available to be released to the defence prior to or at the first appearance. A programme of review and evaluation is a key feature of the pilot. As referenced by COPFS the data currently available indicates extremely positive results.

Work is underway to roll the pilot out to another court location.

To support transparency and provide further information on journey times and progress on the court recovery programme SCTS continue to publish specific data on domestic abuse case as part of its publically accessible [National Statistics publications](#). The latest report indicates that 95% of domestic abuse court cases are heard at Sheriff

Summary Court level, with over 13,700 complaints received in 2022/2023. They account (as at Quarter 1 of 2023/2024) for 22% of Sheriff Summary registrations; 27% of Sheriff Summary trials called and 33% of Sheriff Summary trials in which evidence was led.

Given their sensitive nature, and the ability to more readily identify them within the criminal justice sector some focus has been placed on these types of cases in recent years with a view to improving the experience and process for all involved. Approaches have included the piloting of physical domestic abuse courts for summary cases in Glasgow and Edinburgh sheriff courts, while other Sheriffdoms have applied their own unique response focusing on specifically focused court programming changes including early trial applications and cluster courts. The most recent innovation for domestic abuse cases has been the virtual summary trial pilot in Aberdeen which has focused on the progression of domestic abuse trials on a virtual platform, following on from the initial inception and use of virtual trials in June 2020 as a key response to the pandemic. This latest pilot has been under the supervision of the National Project Board for Virtual Summary Trials (chaired by Sheriff Principal Pyle and which includes SCTS, COPFS, the Law Society and Scottish Government). Ensuring participation and engagement, particularly from the defence community has been particularly challenging. The National Project Board's latest [report](#) recommended that every Sheriffdom across Scotland should have a dedicated virtual summary court for domestic abuse cases.

In the intervening period the SCTS, alongside other key justice partners, including COPFS, Police Scotland, the Law Society of Scotland have continued to review and make proposals to innovate upon this model, and develop and use lessons learned from other pilots, including the current summary case management pilots, virtual custodies, the remote giving of expert evidence.

The proposal is to create a dedicated end to end (custody to sentence) trauma informed virtual domestic abuse court process within the summary crime jurisdiction, operating initially in Aberdeen before being expanded across Grampian, Highland and Islands. The model will place an increased focus on the needs of complainers and witnesses who are particularly susceptible to trauma caused by having to attend court and give live evidence in close proximity to the accused and their supporters. The model proposes the use of increased judicial case management by designated specially trained sheriffs, specialist trained prosecutors, and support for solicitors to undertake trauma informed training; and will allow police and medical and professional witnesses to give evidence remotely to allow them to continue with their essential duties as opposed to travelling to, and waiting in, court and the costs associated with that.

The model will seek to address and support other challenges faced by the justice sector e.g. prisoner escorts which have the potential to delay or interrupt court hearings, and the day to day efficiency of our courts via virtual custody models. This is an incredibly ambitious and challenging model but one that has the opportunity to transform the management and experience of domestic abuse cases in our courts.

One key step taken to date has been to ensure trauma informed practice has been inbuilt. This is one of the key first steps the SCTS has taken to support its commitment to become a trauma informed organisation.

As part of the work undertaken on the project to date, we have held a cross justice partner training session on trauma informed practice to support those involved in its design to place a trauma informed lens on it. Attendees included representatives from the SCTS, COPFS, the Law Society and the judiciary.

Judicial Institute for Scotland

Training in Domestic Abuse was mandated to those on the bench in a wide-scale training intervention that took place immediately before and beyond the implementation of the Domestic Abuse (Scotland) 2018. We continue to provide that training to newly appointed sheriffs and summary sheriffs when they are inducted.

Active consideration of issues of domestic violence and sexual violence is embedded in many of our courses for serving judicial office holders.

In 2022/23 we provided significant new training interventions in relation to Trauma-Informed Judging for all Senators and temporary judges dealing with serious sexual crime. This strand of our work is expected to expand as there is a legislative bill pending before the Scottish Parliament that will, if enacted in the current proposed form, increase the requirement for more training on these issues.

All judicial office holders have online access to the Domestic Abuse and the Trauma resource kits which are comprehensive self-study resources on the two topics.

It is important to have a systematic approach to training and to collaborate with others when possible. The judiciary is responding as part of other initiatives, for example in the virtual summary trials pilot.

Conclusions and observations

There is an opportunity to present a clearer narrative of the work to tackle domestic abuse across the Justice sector, recognising the many initiatives that are being progressed by the partner organisations. Scottish Government will make progress with drafting that narrative and will share with partners.

It is suggested for this group to meet on a regular basis and use the discussion as a vehicle for regular and proactive feedback to the Criminal Justice Committee and to communicate our collective approach to this issue more widely.

Partners indicated that they were content with this approach, the group will be used to have more focussed discussions going forward e.g. research and data, and to look in more detail at the collective response to the recommendations.

Next Steps / Actions

1. To schedule a further roundtable meeting

CJ/S6/23/31/2

2. Provide an update from this meeting
3. Develop a draft narrative to be shared with partners for comment before providing to the Criminal Justice Committee

Close.

ⁱ [Women's Justice Leadership Panel - The Case for Gendered and Intersectional Approaches to Justice \(www.gov.scot\)](http://www.gov.scot)

ⁱⁱ [Programme NEW! – ECDV \(hi.is\)](http://hi.is)