

## **DOMESTIC ABUSE BILL**

*A proposal for new legislation to provide protection for the victims of domestic abuse and their children.*

**For the Attention of the Chair of the:** Social and Community Development Committee.

### **Names of Promoters:**

Nicky Adams, Safe Haven Manager, Safeguarding Directorate

Detective Sergeant Dave Honan, Police Directorate

Christine Cooper, Crown Counsel (Community Care), Attorney General's Chambers

### **Background**

1. Although Saint Helena is small, isolated and remote, domestic abuse and gender-based violence are significant issues; as they are in most other countries. Over the past few years, a lot of work has been done to raise awareness and to support victims.
2. On the 28th July 2016 the Safe Haven was opened as an accessible resource for the woman of Saint Helena fleeing domestic abuse. Prior to the opening of the Safe Haven service, the Equality and Human Rights Commission had campaigned for two years to raise awareness of domestic abuse. There were only a few people in Saint Helena at that time with the skills to manage and work effectively within a domestic abuse service. Social workers struggled to provide support for domestic abuse victims as an add-on to their existing roles with only limited support from a part-time Independent Domestic Abuse Specialist. There was no safe refuge for women who had to leave their homes because of abuse and there were no trained support staff to provide secondary services.
3. The Safe Haven is an important facility but it alone cannot resolve the problems experienced by victims of domestic abuse. For the long term, victims need to be able to return to their homes or to establish new homes for themselves and their children where they can live free from any further abuse.
4. The most prevalent domestic abuse cases dealt with on the Island are linked to severe coercive and controlling behaviour. The majority of the victims are women who experience various types of abuse. According to statistics based on the referrals, males appear to be the predominant

perpetrators. There is no documented evidence of domestic abuse involving males or the elderly as the victims of abuse. There are however documented cases of domestic abuse involving husbands and wives, partners, boyfriends and girlfriends as well as adult children and parents.

5. At the moment, there is no specific law offering protection to victims of domestic abuse. Where violence has been used, there may be a prosecution but only after the event and the Police have little power to prevent further violence. Where the abuse consists of controlling, coercive behaviour or emotional harm there is often nothing that can be done because that behaviour does not constitute a criminal offence. The key criminal statutes used to tackle that kind of abuse in England and Wales are not applicable on Saint Helena and there is no domestic legislation creating equivalent offences.
6. Further, victims who seek help often find themselves (and their children) left with the stark choice between homelessness or returning to live with the abuser. There is a severe shortage of housing on the Island. Clients admitted to the Safe Haven often have come from a situation where they share accommodation with a partner who owns the home, or whose home belongs to the family of the partner, this effectively means that the client does not have the option of returning to the home. The reality of managing life on single income often exacerbates the difficulty of transitioning. When a new home is found, most of the women with young children have to change pre- schools due to location difficulties and this impacts the finances of the client. There are extra practical complications to setting up a new life independently, like the resourcing and purchasing of furniture, appliances and equipment for a new home. The children's welfare would be better served by enabling them to return to the family home with the abuser finding new accommodation. However, there is currently no means by which this can be achieved.

### **Evidence Relied Upon**

7. Statistics on incidents of domestic abuse are collected by the Police Directorate. Between the years 2009 and 2016, there have been approximately 50 to 70 incidents recorded per year. The Police recorded 51 incidents in the 12 months to 31<sup>st</sup> March 2017. Fewer than 25% of these result in criminal charges being brought. This is due to the difficulties in collecting evidence and also to the nature of the abuse not crossing the threshold for criminal prosecution. It is likely that there are many more incidents of domestic abuse that do not come the attention of the Police.

8. The Safeguarding Directorate also collects statistics on referrals to Children's Services where domestic abuse is considered a potential issue. For the period 2016/2017 children services have received 34 referrals directly related to domestic abuse.
9. Many of these incidents of domestic abuse will be witnessed by or heard by children. The detrimental impact upon children of ongoing domestic abuse in the home has been the subject of much research. The effects on such children include insecurity in their attachment relationships which impacts on their emotional and behavioural development resulting in: decreased ability to cope with stress and succeed in school; difficulties in their own intimate and peer relationships; increased vulnerability to poor mental health such as depression and anxiety in adolescence and adulthood; and, difficulties with substance misuse, unemployment and poverty.

### **Details of Proposal**

10. It is proposed that a Domestic Abuse Bill be enacted. The provisions of the bill will define the types of behaviour that constitute domestic abuse and will enable a person who is the victim of such behaviour to make an application to the court for a protection order. The application can also be made by another person (such as a police officer or social worker) or on behalf of a child who is affected by the abuse.
11. A protection order may prohibit specific acts of abusive behaviour or may prohibit domestic abuse generally if the court is satisfied that this is appropriate. The court will have a wide discretion as to what is necessary and may impose such restrictions and conditions as it thinks appropriate upon the abuser. No order will be made where the person accused of the domestic abuse is willing to give an appropriate undertaking to the court.
12. Where a person gives an undertaking to the court but does not honour that undertaking, this will amount to a contempt of court. Where a protection order is made and then breached, this will be a criminal offence and the Police will have a power of arrest, thereby enabling them immediately to prevent any further abuse. The penalty for breaching a protection order will be a fine of £1,000 and/or imprisonment for up to five years.
13. As the powers of the court will include the ability prevent a person entering all or part of the victim's residence, any person with an interest in the property will be entitled to be heard (such as a landlord, for example).

## **What Will Happen if no Legislation is Made**

14. Without the proposed Domestic Abuse Bill, the problems and issues set out in the Background section above will persist and any progress towards reducing the number of incidents will be slower. Victims of domestic abuse will continue to have limited options for assistance and children will continue to be adversely affected by growing up in homes where domestic abuse occurs.
15. The funding for the Safe Haven was provided by the United Nations Development Programme Fund. The award of 150,000 USD was provided to establish the shelter, to develop a support service for empowering women and to develop policy and practice to support the service. To secure any further funding, it will be necessary to demonstrate that Saint Helena has developed and implemented relevant policy, procedural and legislative changes in order to support victims of domestic abuse and to reduce the number of incidents. This will be more difficult without some provision in the law to protect victims.

## **Impact of the Proposed Legislation**

16. Whilst the enactment of legislation will not eliminate domestic abuse, it will provide measures to:
  - a. Reduce further incidents of abusive behaviour;
  - b. Enable the Police to arrest a person who continues to be abusive after the intervention of the court; and,
  - c. Assist victims and their children to rebuild their lives and to look forward to a future free from abuse.
17. The potential number of applications for protection orders is difficult to gauge. There are likely to be more applications soon after this Bill is brought into effect as those suffering long-standing abuse become aware of it. However, once that initial surge has been dealt with, the number of applications is expected to settle at a relatively low number. This is not expected to exceed 5 applications per year.
18. The implementation of this bill would also demonstrate that Saint Helena has developed and implemented relevant policy, procedural and legislative changes to support victims of domestic abuse and to reduce the number of incidents.

### **Proposed Timescales**

19. This legislation is needed as soon as possible in order to provide effective protection to victims of domestic abuse and their children.
20. The funding for the Safe Haven was provided for a period of 3 years. A Code of Practice is required to be submitted in December 2017 demonstrating that Saint Helena has developed and implemented relevant policy, procedural and legislative changes to support victims and to reduce the number of incidents. It would assist in any application for further funding if this Bill has been approved by then.

Nicky Adams, Dave Honan and Christine Cooper