

SECTION 1: ABOUT YOU

Question (a):

I am responding as... *(Please tick one option only)*

A member of the Public

On behalf of an organisation

Other.....*(Please specify)*

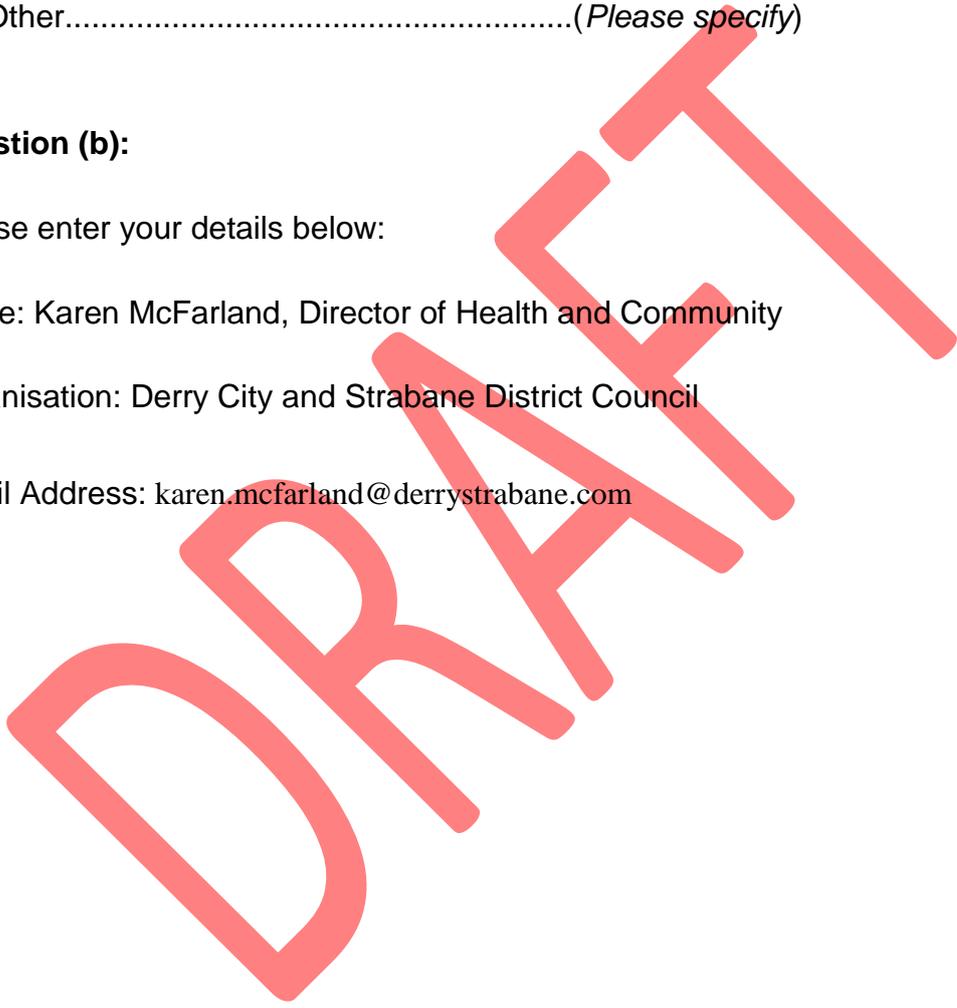
Question (b):

Please enter your details below:

Name: Karen McFarland, Director of Health and Community

Organisation: Derry City and Strabane District Council

Email Address: karen.mcfarland@derrystrabane.com

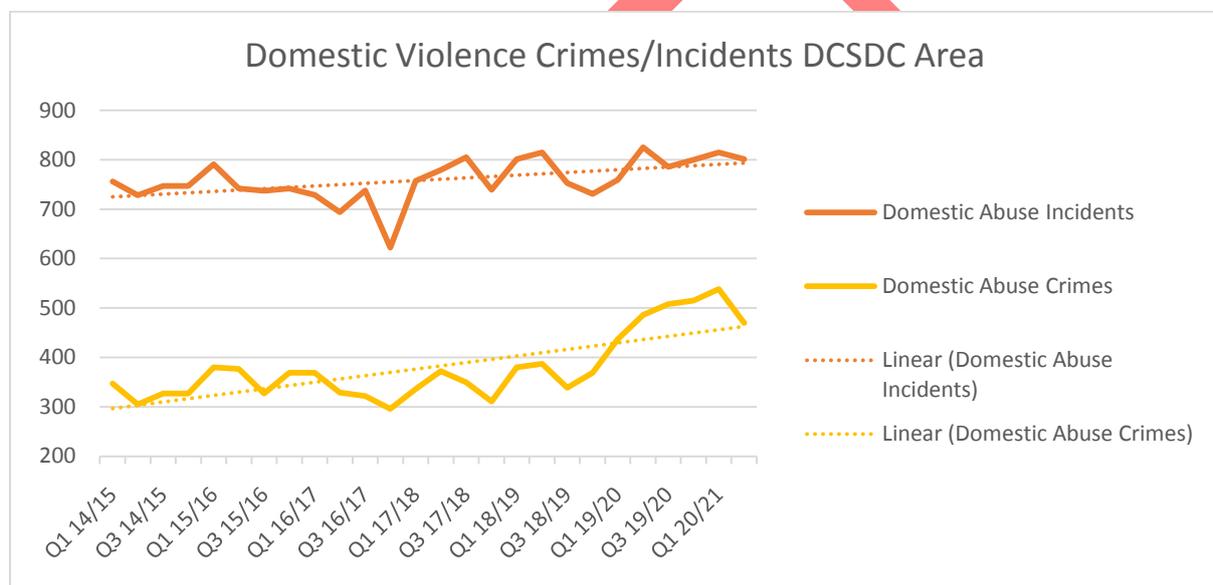


Question 1: Do you agree that we should introduce Domestic Abuse Protection Notices and Domestic Abuse Protection Orders?

- Yes
 No
 Don't know
 No answer

Please advise and give reasons for your response

Domestic abuse is often a hidden crime with the victim too terrified to report this behaviour to the relevant authorities. The abuser is often a partner, ex-partner or a family member who exerts coercive control over the victim. In our own Council area recorded domestic abuse incidents and crimes have been rising steadily since 2014 with 801 domestic abuse incidents and 470 domestic abuse crimes recorded by PSNI between April and September 2020.



The Justice Minister is now bringing forward proposals for new Domestic Abuse Protection Notices (DAPN) and Orders (DAPO). Domestic Abuse Protection Notices will provide immediate, short-term respite for the victim by allowing a perpetrator of domestic violence to be immediately removed from the victim's home for up to 48 hours following an incident or threat of violence. DAPNs will be brought forward by police officers. Domestic Abuse Protection Orders would provide longer term protection to those subjected to abusive behaviour or at risk of this (whether physical or non-physical) and will prevent the abuser from returning to the home and having contact with the victim for up to 28 days. The DAPOs could be applied for by the police, victims, third parties (social workers, housing officers, employers etc.) or made by the Courts as part of proceedings. Provision was made in the Justice Act (Northern Ireland) 2015 to implement these proposals, however, they have not yet been implemented here, in part as a result of the previous absence of a legislature.

Similar powers are being introduced in Scotland under the Domestic Abuse (Protection) (Scotland) Bill in October 2020.

Council agrees that DAPNs should be available for all types of domestic abuse including where there is violence, threats of violence as well as non-physical abuse (including controlling and coercive behavior and/or harassment). The issue of a DAPN would prohibit the alleged perpetrator from being abusive to the victim and would allow the PSNI to immediately remove the alleged perpetrator from the victim's home for a short period of time until an order, providing longer term protection, is in place. It is appropriate that the consent of the victim would not be required where it is considered that there is a risk to the individual as victims are sometimes reluctant to press charges against a family member or ex-partner.

Question 2: Do you agree that the proposed Domestic Abuse Protection Notices and Orders should apply to not only physical violence and threats of violence but also non-physical abusive behaviour?

- Yes
- No
- Don't know
- No answer

Please advise and give reasons for your response

Council agrees that DAPNs and DAPOs should apply to not only physical violence and threats of violence but also to non-physical abusive behaviour. Domestic abuse crimes now account for 19.1% of all PSNI recorded crime with the largest volume increase being in harassment offences that increased by 49.8% or 1,270 additional harassment incidents related to domestic abuse recorded. Indeed, for the period April to September 2020 when 18,885 domestic violence crimes were recorded in NI, 5,875 related to violence without injury (31.1%) and 3,821 related to harassment (20.2%). The issue of parental alienation should also be considered as a justification for the issue of a DAPN and/or DAPO.

Question 3: What length of time should a Domestic Abuse Protection Notice be valid for before the police have to apply to a magistrates' court for a Domestic Abuse Protection Order, the suggestion being up to four days?

- Up to 4 days
- Up to 7 days
- Other (please specify)
- Don't know
- No answer

Please advise and give reasons for your response

Council believes that a period of up to 7 days is a valid length of time to allow police to apply to a Magistrate's Court for a Domestic Abuse Protection Order (DAPO). On a practical level, the limited number of magistrates' courts sitting at weekends could lead to a higher risk of a DAPN lapsing if the time limit was only 48 hours. However, there is also the need for sufficient time to be available for an adequate assessment of any conditions that should be imposed on the alleged perpetrator as part of the DAPO and this may well take in excess of 4 days. Council would rather err on the side of the victim and ensure that all relevant documentation/information is available for the magistrate to issue the DAPO in order to adequately protect the victim and their family.

Question 4: Do you agree that there should be multiple routes via which an application for a Domestic Abuse Protection Order can be made?

- Yes
- No
- Don't know
- No answer

Please advise and give reasons for your response

Council believes that the multiple route approach for applying for a DAPO is appropriate as long as those mandated to make the application are appropriately trained and understand the detail of the legislation. Victims of domestic abuse are often not willing to report this abuse to PSNI as they fear for themselves, children and/or family. The victim may also have more of a rapport/trust with a social worker, housing officer or employee of a voluntary agency. The fact that DAPOs can be made across family, civil and criminal courts should provide a more flexible and comprehensive response to domestic abuse right across the justice system. The process of enabling police and potentially other specified service providers to apply for a DAPO on the victim's behalf, and by allowing courts to make an order of their own volition, should make the process less arduous and daunting for victims, especially for those who feel intimidated or unable to make an application on their own behalf. The multi-agency approach also sends a clear signal that tackling domestic abuse and protecting victims from further harm is a shared responsibility for all – not just police and its justice partners.

Question 5: Do you agree that regulations should specify the 'relevant third parties' who potentially would be able to apply for a Domestic Abuse Protection Order?

- Yes
- No
- Don't know

No answer

Please advise and give reasons for your response

Council believes that the legislation should specify what organisations/individuals would potentially be able to apply for a DAPO. It is clear that statutory guidance will be required, as part of the introduction of DAPNs and DAPOs, to provide clarity on the various routes for obtaining these orders. Council agrees that where any power is to be potentially exercised by third parties it would need to be specified in the regulations and individuals exercising this power must be adequately aware of the legislation and trained in the application of DAPOs.

Question 6: Which individuals/organisations should be identified as potential 'relevant third parties'?

- Yes
 No
 Don't know
 No answer

Please advise and give reasons for your response

Potential relevant third parties could include:

1. Social workers
2. Health professionals
3. Support services e.g. Women's Aid, Nexus, Men's Advisory Project, Men's Action Network etc.
4. Housing Officers including NIHE Patch Officers and housing association officials
5. Council officers including Building Control Officers, Environmental Health Officers, Planning Officers
6. Advisory Services E.g. Citizen's Advice Bureau, Resource centres etc.

Question 7: Do you agree that courts should be able to make Domestic Abuse Protection Orders of their own volition during other proceedings, including in criminal trials?

- Yes
 No
 Don't know
 No answer

Please advise and give reasons for your response

Council is in favour of courts being able to make Domestic Abuse Protection Orders of their own volition during other proceedings, including criminal trials. By enabling these orders to be made across family, civil and criminal courts, Council hopes that it will provide a more flexible and comprehensive answer to domestic abuse across the

justice system. The fact that courts would be able to make a DAPO where no application for an order had been made by the police, the victim or by specified third parties means that the judicial system is prioritizing the protection of individuals who have been identified as at risk. It is also important to provide this authority to the courts to protect the victim where there is reason to believe that the accused is likely to harm or intimidate the victim in order to make them withdraw the application, or where the abuser may deliberately seek to evade the court proceedings.

Question 8: Following the introduction of Domestic Abuse Protection Orders across Northern Ireland more generally, and in the longer term, do you agree that courts should be able to impose positive requirements as well as prohibitions as part of the conditions attached to the proposed order?

- Yes
- No
- Don't know
- No answer

Please advise and give reasons for your response

Council agrees that the courts should be able to impose positive requirements as well as prohibitions as part of the conditions attached to the proposed order. Behavioural change programmes are an important element in the justice system as the perpetrator needs to understand the impact that their abuse is having on the victim, the family and the wider community. Rehabilitation and breaking the cycle of coercive control can only be achieved when the abuser acknowledges the hurt they are causing and makes a commitment to change their attitude and behaviour. In some instances this unacceptable behaviour is learned from parents or guardians and is regarded as 'normal' by the abuser. The justice system needs to recognize the impact of adverse childhood experiences (ACE) on the perpetrator and include trauma informed practices as part of the positive, restorative requirements. Men's Action Network, based in Derry, has had reasonable success in counselling perpetrators of domestic abuse both when they are imprisoned and on their release. Their programmes have ensured successful rehabilitation of a number of offenders from the Northwest.

Question 9: Do you agree that courts should be able to require individuals subject to a Domestic Abuse Protection Order to notify personal details to the police?

- Yes
- No
- Don't know
- No answer

Please advise and give reasons for your response

Council agrees that the courts should be able to require individuals subject to a DAPO to notify personal details to the police. It is well recognized that domestic abusers are serial offenders and carry their abusive behaviours on to new relationships. Notification of abusers details to the police will help protect future partners/family members from undergoing the same trauma as the current victim. It will also allow police to track repeat offenders as they move in and out of the jurisdiction. Anything that protects victims of this horrific abuse, whether current or future is to be welcomed.

Question 10: If so, what personal details should the courts be able to require individuals to provide to the police?

Please advise and give reasons for your response

Offenders should be required to provide:

Name

Date of Birth

Current address

Previous addresses

Employment address (both current and previous)

National insurance Number

Electronic device details e.g. mobile phones, laptops, tablets to prevent online abuse

Current relationship/partner details

Previous relationship/partner details

Any convictions

Vehicle details

Names and ages of all family members

Any attendance at rehabilitation/behavioural change programmes and the details of the delivery agent

Question 11: As well as enabling conditions to protect the victim, should it be open to the courts to impose conditions within the Domestic Abuse Protection Order requiring the alleged perpetrator not to approach or contact any associated children?

Yes

No

Don't know

No answer

Please advise and give reasons for your response

Council agrees that it should be open to the courts to impose conditions within the DAPO requiring the alleged perpetrator not to approach or contact any associated children. However, Council feels that this should only be imposed in the worst cases as parental alienation can be utilized by either party to isolate children from their parents or guardians. If these conditions are imposed they should be monitored closely by police/courts and removed/reduced as behavioural change progresses. Council believes that it is dangerous to use the withdrawal of contact with children as further punishment for the abuser. However, if the offender is using children to alienate the victim then it may be appropriate to withdraw/reduce contact with children until the abuser commits to positive behavioural/attitudinal change.

Question 12: Should provision be made that would, in the longer term, enable courts to be given an express power to impose electronic monitoring as a condition of a Domestic Abuse Protection Order?

- Yes
- No
- Don't know
- No answer

Please advise and give reasons for your response

Council believes that electronic tagging of domestic abusers should be an option under the DAPO especially if the court has imposed conditions in relation to restricting the movement of the offender i.e. not to come within a certain distance of the victim's home or workplace or has imposed a curfew. Electronic monitoring can also be used to track an alleged perpetrator's location with the aim of preventing stalking or intimidation. Tagging has proved an effective reduction tool for other offences and should be considered in domestic abuse cases.

Question 13: What safeguards should be put in place relating to any use of electronic monitoring with Domestic Abuse Protection Orders?

- Yes
- No
- Don't know
- No answer

Please advise and give reasons for your response

Electronic tagging of domestic abuse offenders should be subject to the same safeguards as those currently utilised to monitor the movements of other criminal offenders. Tagging of offenders should be proportionate and fair.

Question 14: Do you agree that breach of the proposed order should be a criminal offence?

- Yes
- No
- Don't know
- No answer

Please advise and give reasons for your response

Yes, Council agrees that any breach of the proposed order should be a criminal offence and treated similar to any breach of bail conditions. Domestic abuse is a serious offence and the justice family needs to send a clear message to offenders that their behaviour will not be tolerated by society. The proposed maximum penalty should be similar to that for a breach of a non-molestation order to ensure that it sends a strong message that non-compliance will be taken seriously. Council also agrees that any DAPO would have effect throughout the UK as it would be an offence to breach it while in another part of the UK. Council would also suggest that the Department works closely with its counterpart in the Republic of Ireland and with An Garda Síochána (AGS) to ensure that the orders can be enforceable across the island. This is particularly important for domestic abuse victims in our council area given its border location.

Question 15: If you do agree that breach of the proposed order should be a criminal offence, should it be possible for breach to alternatively be punished as a contempt of court?

- Yes
- No
- Don't know
- No answer

Please advise and give reasons for your response

Council agrees that any breach of the proposed order could alternatively be punished as contempt of court. To ensure that the possibility of criminal action does not deter victims from applying for a DAPO, or from reporting breaches, it is proposed to allow courts to deal with a breach as a contempt of court which would not result in a conviction. This should be an option if the victim requests this approach and the court considers that to be in the victim's interests. Council notes that a similar model is already used for breach of non-molestation orders in domestic abuse cases. However, Council would caution that the court would need to be satisfied that the victim had not requested that the breach be dealt with as a contempt of court because they were being coerced or intimidated by the abuser to do so.

Question 16: Do you agree that courts should have flexibility in determining how long to impose a Domestic Abuse Protection Order for?

- Yes
- No
- Don't know
- No answer

Please advise and give reasons for your response

Council agrees that courts should have the flexibility in determining how long to impose the DAPO for. Council feels that it is important for the courts to have flexibility in their response to domestic abuse and for them to be able to make orders for a length of time which they deem appropriate, taking account of the particular circumstances of the case. The court is best placed to determine the duration of the DAPO as the court will be making this decision once all information and circumstances have been considered.

Question 17: Do you agree that courts should be able to vary or discharge Domestic Abuse Protection Orders either of their own volition or at the request of the victim, or alleged perpetrator, or the applicant?

- Yes
- No
- Don't know
- No answer

Please advise and give reasons for your response

Again, Council considers that the variance or discharge of a DAPO is the responsibility of the court. Courts are already able to vary or discharge occupation and non-molestation orders on application by the victim or offender. However, Council would caution that where a victim has requested that an order be reduced or made less burdensome for the offender we would expect the court to be satisfied that the victim had not been intimidated or coerced to make this request. Likewise, where an offender requests that an order be less onerous or strict, Council would expect the court to seek the views of the victim and/or the third party before any relaxation or variance to the order.

Question 18: What safeguards should be put in place to ensure that the Domestic Abuse Protection Order is not varied or discharged because the victim is being pressurised by the alleged perpetrator?

Please advise and give reasons for your response

There is always the potential that orders are relaxed, varied or discharged as the result of the victim being coerced, intimidated or pressured by the offender. In order

to reduce the risk of this the court should only relax or discharge the order when it is totally satisfied that it is appropriate to do so. If the order is relaxed or discharged and the abuser reoffends then a new DAPO should be introduced with more stringent conditions. The victim should always be at the centre of any court decisions and any variance to the order should be to the benefit of the victim. Testimonials should be received to vouch the behavioural/attitudinal change of the offender before any change to the DAPO is agreed.

Question 19: Do you have any views about how the Domestic Abuse Protection Notice/Order process can contribute to better perpetrator management?

- Yes
- No
- Don't know
- No answer

Please advise and give reasons for your response

In order to prevent domestic abuse, it is essential to manage the offenders risk to the victim and to others. The introduction of DAPNs and DAPOs intend to ensure that action can be taken to address situations where an individual is being abused, or there is a risk of abusive behaviour. It is important to note that they don't require the victim to take action, should they not wish to. Under the proposed arrangements this could be done by the police and courts as part of proceedings or on application. The new notices and orders may require an offender not to contact the victim; not to come within a certain distance of their home; not enter their home; or to leave the victim's home. In the longer term, provision can also be made to include positive actions by the offender to address abusive behaviour. The proposed enhanced legal protections for victims has the potential to both support the victim and also contribute to better perpetrator management. The courts can now make orders to ensure that the offender complies with a number of stipulations aimed at protecting the victim and their family. These orders can be strengthened by the court if the abuser does not comply and could potentially result in the offender being imprisoned.

Question 20: How can we ensure that the alleged perpetrator is not able to use the DAPN/DAPO process to further abuse a victim?

Please advise and give reasons for your response

Council understands that the primary aim for the introduction of DAPOs is to shift the onus, at least in part, from the victim having to take legal action to protect themselves to the police, the courts and potentially third party specified service providers acting to protect the victim. Council hopes that this will send a clear message that domestic abuse is not a private matter, encourage victims to report abuse and that there is a number of partners that have a responsibility to prevent it

from continuing and escalating. Council also hopes that these enhanced powers will ensure that victims are not left unprotected if they are too frightened of, or too restricted by, the offender's controlling behaviour to be able to initiate action on their own behalf. Council is hopeful that the notices and orders will enhance the protection of victims of domestic abuse and hold abusive individuals to account through the full rigors of the law.

Question 21: It is intended to pilot DAPNs and DAPOs in two geographical locations. Do you have any views on this?

- Yes
- No
- Don't know
- No answer

Please advise and give reasons for your response

Derry City and Strabane District Council is keen that our district is one of the two geographical pilot areas. Our Council area has a substantial urban population surrounded by a large rural hinterland. The district has a regional hospital and a university campus situated in a border location. The area also has a number of highly proactive and pioneering support organisations such as Foyle Women's Aid, Men's Action Network, Nexus, La Dolce Vita etc. This year the city hosted an international conference on parental alienation (organized by La Dolce Vita), initiated the Family Justice Centre (through Foyle Women's Aid) and piloted the use of body worn video by PSNI which has now been extended to all police districts. Our area has a proactive PCSP that supports a number of programmes to tackle domestic abuse and Judge McElholm has initiated a number of unique initiatives to support local victims of domestic abuse. Our Council area consistently records high levels of domestic incidents and crimes with 1,616 domestic incidents recorded in the 6 months of April to September 2020 and 1,008 domestic abuse crimes recorded during the same period. We strongly recommend that the Derry City and Strabane District Council area should be one of the locations to pilot DAPNs and DAPOs.

Question 22: Do you have any views as to the two locations that Domestic Abuse Protection Orders could be piloted in, possibly Belfast and one 'more rural' area (dependent on numbers)?

- Yes
- No
- Don't know
- No answer

Please advise and give reasons for your response

As outlined above we strongly believe that the DCSDC area should be the location for one of the pilots. Council would also like to be informed of the criteria that the Department utilised to suggest that Belfast should be one of the pilot locations

Question 23: Do you have any other comments you wish to make regarding the introduction of Domestic Abuse Protection Notices and Orders?

- Yes
- No
- Don't know
- No answer

Please advise and give reasons for your response
It would be helpful if you reference which part of the document you are commenting on.

Question 24: Do you have any comments to make on the potential implications the introduction of Domestic Abuse Protection Notices and Orders may have on equality, in terms of the impact of the proposals for different groups?

- Yes
- No
- Don't know
- No answer

Please advise and give reasons for your response
Council would ask that regional balance is considered by the Department when identifying the pilot areas

Question 25: Is there an opportunity to better promote equality of opportunity or good relations as part of the proposals?

- Yes
- No

- Don't know
- No answer

Please advise and give reasons for your response

Yes, again consideration of regional balance to achieve equality of opportunity.

Question 26: Do you have any comments on the potential implications the introduction of Domestic Abuse Protection Notices and Orders may have on human rights?

- Yes
- No
- Don't know
- No answer

Please advise and give reasons for your response

Question 27: Do you have any comments on the potential implications the introduction of Domestic Abuse Protection Notices and Orders may have in rural areas?

- Yes
- No
- Don't know
- No answer

Please advise and give reasons for your response

Council is aware of the historic under reporting of all crimes in rural areas and feels that this is even more the case in relation to domestic abuse. The limited access to services and rural isolation leaves the victim of domestic abuse even more alone and vulnerable.

Question 28: Do you have any comments you wish to make regarding the financial impact of the introduction of Domestic Abuse Protection Notices and Orders?

- Yes
- No
- Don't know
- No answer

Please advise and give reasons for your response

DRAFT