

Maureen Macmillan

Response to the proposed *Civil Protection Orders and Access to Justice (Scotland) Bill*

I strongly agree with the principles of this Bill. I hope it will remove any barriers which still prevent those who have been subject to abuse or harassment being able to access robust protection from further incidents. It is important to recognise that abuse can be emotional and psychological as well as physical. It should also be made clear that this legislation can be accessed by any person subject to harassment or abuse. Harassment and abuse of people with disabilities was highlighted at a recent conference by People First, Highland, but there seemed to be no awareness of remedies.

Question 1

I agree that if the courts have to have a history of at least two convictions before a non-harassment order is issued, then the bar has been set too high, and it puts victims in unnecessary danger. While the definition of harassment does include the idea of more than one incident, it is surely the duty of the justice system to prevent a recurrence by recognising the likelihood of a second incident through evidence from the victim and others (eg of verbal threats) and other expert evidence.

Question 2

Victim's safety

Questions 2, 3

Agree that no-one should have to pay for protection against abuse, no matter what their income. Women, for example, have not taken out Protection Orders, even if in theory they could afford it, because their legal aid contribution would be a burden on their family at a time of uncertainty in their lives. Removing legal aid contributions would also send a strong message regarding how seriously society views abusive behaviour.

Questions 5, 6

This was an issue that was debated at length in the Justice and Home Affairs Committee during consideration of the Protection from Abuse Bill. (See Paragraphs 22,23,24 in the Committee Report). It was decided not to criminalise Breach of Interdict, so that the abused person had control over what happened next and any chance of reconciliation was not compromised. It was also of concern that if sheriffs felt that “trivial” behaviour was being criminalised, they might be unwilling to agree to interdicts in the first place.

However, we now have a situation where the consequences of the breaching of an interdict are often slight, and thus deterrence is minimal. I feel we must consider making breach of interdict under the Protection from Abuse Act a criminal offence. I would like to think that there is now more understanding by the courts of the nature of domestic abuse, and realisation and understanding that what may seem on the surface to be a trivial incident may cause genuine fear and alarm, and be intended to do so; but I fear that the concerns expressed by JHAC about the possible attitude of the court still have relevance and it may be necessary to issue strong guidance on this.

Maureen Macmillan