

Domestic Violence - Coercive Control

l e g a l – e a s e

Edited by Catherine Ryan



An Bord Um
Chúnamh Dlíthiúil
Legal Aid Board

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Editorial

The issue of Domestic Violence is never far from the headlines. The Irish Times announced in November 2020 that there has been a – *“Sharp increase in numbers of women and children seeking support from Domestic Violence services during the first six months of the covid pandemic”*. In Feb 2021 it was reported that *“the domestic violence crisis during the pandemic is worsening according to NGO’s”*. In December 2020 Women’s Aid announced that calls to their service had increased by 41% since the start of the pandemic. More recently in January 2021 Ireland had the first conviction and sentencing for the relatively new offence of Coercive Control.

The Legal Aid Board occupies a central role in domestic violence cases. We issue legal aid certificates on a priority/urgent basis giving both applicants and respondents access to quick legal advice and representation. No legal aid contribution is payable but a means test still applies to avail of our services. Solicitors are provided either directly through law centres throughout Ireland or through our Private Practitioner panels. In 2020 the Legal Aid Board issued 3,626 District Court Legal Aid Certificates where Domestic Violence was recorded. This figure is slightly down from the number of certificates issued in 2019 at 3,682. Even though media headlines have shown a significant increase in demand for support services in this area it has not translated into increases in legal aid certificates for Domestic Violence. However, we did experience a significant increase in the number of certificates issued since 2017. 2,300 Legal Aid Certificates for Domestic Violence were issued that year in comparison to last year’s total of 3,626 which is a significant 27% increase. Interestingly, this increase coincided with the abolition of any legal aid fees payable for any domestic violence District Court certificates from January 2018.

Protection through the courts in the form of Barring Orders has been on the statute books since 1976 and we have come a long way since then with the enactment in Jan 2019 of the Domestic Violence Act 2018. This has paved the way for a new era in how domestic violence is to be treated in our Justice System both in the Criminal and Civil context. This edition of **Legal Ease** focuses on how this issue is viewed from many different perspectives. Following on from a webinar hosted by the Legal Aid Board in January 2021 many of the contributors are included here.

About the Editor

Catherine Ryan is Managing Solicitor of Law Centre (Limerick).

Vinakshi Chawla and Arthur Denny give us the perspective of the Child and Family Agency and how they manage these cases. Patrice Cooney, Solicitor marries her hands-on experience in the District Court with a piece of the law in this area. Owen O’Neill identifies the services of MOVE (acronym for Men Overcoming Violence). Gemma Hughes outlines how coercive control impacts clients of Aoibhneas, Domestic Abuse Support. Professor Jane Monckton Smith, a leading academic in this area sets out a stark picture of coercive control and its very real consequences. Carmel Donnelly gives us insight as to the role of

the Probation Service dealing with perpetrators. Detective Sergeant Laura Sweeney sets out the pivotal role of the Gardai who deal proactively with Domestic Violence. The Office of the Director of Public Prosecutions (DPP) outlines the prosecutorial landscape.

In addition to these excellent contributors we have an article by Susan Fay Solicitor who examines the effect of Domestic Violence on Travellers. Angela Keaveney, Psychotherapist Longford Women's Link provides practical tips for practitioners in identifying trauma and its effects in decision making. Teresa Blake SC sets out the law in her paper previously provided for The Family Lawyers Association. Rachel Murphy mediator provides an interesting case study on the role a mediator may have in this arena where appropriate. Ann O'Brien, Clerical Officer, Family Mediation Service provides information about the impact of power and control in Domestic Violence.

This edition is weighty, analogous to the matters affecting our clients, families, children and society at large. It deserves all the attention it gets and it behoves us in digesting this material to understand its complexity and the unfortunate reality of its ephemeral nature. The Legal Aid Board has a duty to its clients to get under the skin of this issue and to uphold the rule of law in both instituting and defending applications. We also have a duty to our clients to better understand how they may perceive their own situations and how it may affect their decision making capacity. It is hoped this edition broadens our perspectives and increases our awareness.

Catherine Ryan

Editor

April 2021





P A R T O N E



DOMESTIC VIOLENCE ACT 2018



An Bord Um
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1. Domestic Violence Act 2018: Two Years On

- Patrice Cooney, Solicitor

The Domestic Violence Act 2018 came into force on 1 January 2019 so at this point we are ideally poised to reflect on its impact on Irish society in the last two years and in particular the protection of victims of domestic violence.

The topics covered in this paper will be;

1. History of Domestic Violence legislation
2. Caselaw
3. A Review of some of the new provisions introduced by the 2018 Act
4. Coercive control
5. A few other matters
6. Conclusion

1. History of Legislative Development

It would be informative at this juncture to briefly chart the development of Irish legislation in this area up to the commencement of the 2018 Act. The first statutory entitlement to apply for a Barring Order was included in the Family Law (Maintenance of Spouses and Children) Act 1976. The first “Domestic Violence” Act was the Family Law (Protection of Spouses and Children) Act 1981 which added the “Protection Order which is still such an important remedy to this day.

Prior to the 2018 Act the most groundbreaking piece of legislation in this area was the Domestic Violence Act 1996 which introduced the safety order which was effectively a more permanent protection order and the Interim barring order which could be granted ex-parte where the court felt a Protection order couldn’t adequately protect the Applicant up to the hearing of the case. The act also extended the protection to non-married persons. Other family relationships including parents against their children and in some cases siblings were also offered protection.

The 1996 Act ran into some stormy waters after the turn of the century when the ex-parte Barring Orders fell foul of the Supreme Court in *DK v Crowley* (2002 2IR 744) for not having more stringent procedures and time limits but these deficiencies were remedied by the Domestic Violence (Amendment) Act 2002 and in particular a Respondent to an ex-parte Order can have the matter reviewed after no later than 8 days.

The 2010 Civil Partnership and Certain Rights and Obligations of Cohabitants Act added “Civil Partners” to the Applicants category. Against this background the 2018 Act was to be the Holy Grail of Domestic Violence Legislation and its chief objective was to consolidate the law on Domestic Violence and provide clarity for everybody. It also brought some Amendments and added new remedies most particularly the Emergency Barring Order.

In the sphere of criminal law its most important innovative aspect was the creation of

About the Author

Patrice Cooney is a solicitor in the Board’s Popes Quay Law Centre, Cork. This is a paper delivered at the Domestic Violence Conference in January 2021. It reflects the author’s personal views and observations on the operation of the 2018 Act since it came into force.

2018

Consolidation of law

The First Objective of the Act was to consolidate the Law on Domestic Violence in Ireland. There is no doubt that the 2018 Act and the statutory instrument relating to it have offered a high degree of clarity on the operation of the Laws against Domestic Violence in Ireland. As set out above there were a number of acts and amendments but now all provisions are consolidated in one piece of legislation.

a new criminal offence of coercive control which I will come back to later. I now propose looking in more detail at the 2018 act to establish if it has achieved its objectives in the two years it has been in force.

2. Caselaw

There is no doubt that the 2018 Act and the statutory instrument relating to it have offered a high degree of clarity on the operation of the Laws against Domestic Violence in Ireland. As set out above there were a number of acts and amendments but now all provisions are consolidated in one piece of legislation.

The “factors” set out in section 5 which the court must take into account in granting an order are of great assistance in clarifying the areas which an applicant needs to cover in order to have an entitlement to take a case under the act. However the act does not set out the standard of proof required and the principles in the “Old Reliable” case OBvOB which was back in 1984 (1984 IR 182) remain in force and you still need to satisfy the objective rather than the subjective test and adduce evidence to a standard which goes above and beyond the normal wear and tear of family life.

Two more recent cases also highlight the principles which underlie the operation of the act and are useful reading for anybody who wants a better understanding of the seriousness of this piece of legislation.

The first case DPP v RK 2019 1EHC 852 is a criminal case where there was a prosecution for breach of a Barring Order. The evidence was that the Defendant had been informed of the existence of a Barring Order and in fact acknowledged that he was AWARE of it, but there was no proof that the Actual Copy Order had been served on him as required by the act. The court noted that in civil enforcement by way of attachment and committal there was a stringent 2 tier process required - personal service of the Order with the Penal Endorsement followed by a separate personal service of the enforcement proceedings. If this procedure is required for proceedings which are essentially only civil in nature then there would have to be extremely stringent service requirements for the service of proceedings that not only carry a potential criminal sanction but which also give the gardai the power of arrest without warrant and the court declared that the Service here was deficient.

Again the serious nature of the domestic violence legislation was reiterated in a recent decision Mr Justice Barrett which was delivered just before Christmas C v C 2020 IEHC 691. In this case the District Court granted a Barring Order against Mr C Who then proceeded to bring High Court Judicial Separation proceedings and an application for access by way of interim application under these proceedings and section 11 of the Guardianship of Infants act. As part of this application, Mr C asked the High Court to vary or modify, if necessary the terms of the District Court Barring order so as to facilitate this access. He argued that as the High court has originating jurisdiction this gave it control over the actions of the lower courts. Again however Mr Justice Barrett noted the seriousness of orders under the domestic violence act. If the general powers under section 11 of the Guardianship of Infants

Act 1964 for the court to make whatever direction it saw fit to on a question affecting the welfare of a child could extend to an exclusion order against a parent (or in this case, the opposite, the modification of an exclusion or barring order) then the Oireachtas wouldn't have needed to introduce the suite of domestic violence remedies from 1976 onwards that I have set out earlier. He said the Domestic Violence order took precedence and while he did grant access he put a stay on his order until Mr C went back to the District Court to amend the terms of the Barring Order.

3. A Review of some of the new provisions introduced by the 2018 Act

I now propose to look at some of the NEW aspects of the 2018 Act and examine how they have operated in practice.

3.1 Emergency Barring Order

One of the main innovations of the Act was the emergency barring order which was somewhat akin to the interim-barring order with an eight-day lifespan but is open to applicants where the property interest requirement was not met. However the Interim Barring order can be renewed or ultimately converted into a longer order but the Emergency Barring is stand alone and expires after 8 days and in the normal course cannot be renewed for at least a month after its expiry. I think the theory behind it was that it would give someone a breathing space to plan their next move. However the amount of work involved in preparing the paperwork including getting the proofs together to get the order, is disproportionate to the amount of time achievable and so makes it unrealistic. I have been unable to identify any actual Order sought or made from my network enquiries in this area. Some of the finer details of the 2018 act however have been more impactful.

3.2 Prohibition on Communication

One of the most significant changes in the 2018 Act was expansion of the prohibited activities under Barring/Safety/Protection Orders to the prohibition on communication (including by electronic means) with the applicant or dependent person. I was in court yesterday with a lady who has a 5 year safety order against her ex-partner. It's a complex family dynamic where she is caring for his 2 daughters age 12 and 14. Just before Christmas he (among other things) put a post on Facebook calling her a tramp. This caused anxiety to the 12 year old and she brought her to the GP who in turn referred her to the school counselor. Because he had breached this condition in the Safety Order she was able to make a statement to the Gardai and the matter is currently under investigation. I think this example adequately illustrates the point

3.3 The Meaning of "Prior"

In the 1996 act you had to prove that you had co-habited with the other party for 6 out of the 9 months prior to the application for a barring order. The 2018 act removed this time period. A similar time period structure for safety orders had been changed in 2011. I had a case where the parents had split before their son born and he was now 18! The case didn't turn on that point ultimately but I did wonder about it!!!! Could she have applied for relief

based on the relationship 18 years ago?

3.4 “Shall” v “May”

Sections 6 (2) and 7(2) changed the word may grant an order to shall grant an order and colleagues that I have discussed this with are positive about the clarity and predictability this has brought to decision making which again is a welcome developmentunless of course you are acting for the Respondent.

3.5 Court Accompaniment

Section 26 is provided that the applicant may be accompanied by individual who may be a support worker. This has already become common in some district court areas but in others the Judges are concerned about ensuring that the support workers meet certain standards regarding their understanding of the in camera rule ect so it is still a work in progress in these areas. Covid restrictions on having as few people as possible in and about the court have further inhibited advancing the practical application of this section

3.6 Views of a child

Section 27 of the act provides that the views of the child's can be ascertained by the court where the Order is being sought on behalf of a child. However again I haven't seen the section used much in practice because mostly the views of children are sought in relation to custody and access cases and I am not going to go into here the massive deficiencies at the moment trying to progress the children's wishes and best interests in family law cases as we presently operate.

3.7 Video Link Evidence

Section 25 allows video link evidence. I haven't come across it but I understand there is a pilot project on this in the Midlands where one of the support services have a video link from their offices to the courtroom. They say the camera never lies but I think Judges would prefer to see the “JIB” of both parties especially when you are trying to establish which one is telling the truth!

3.8 Service of Copy Information and Note of Evidence

Sections 8 (13) and 10 (9) in the 2018 act provide that for all ex-parte applications ,a copy of the sworn information together with a note of the evidence given has to be produced and furnished to the other side. This enhances the additional safeguards added to the Interim Baring Orders following the 2002 case and extends them to Protection Orders. I have to say however that when legal aid applications come in we are lucky to get court papers, very lucky to get a copy of the information and I have NEVER seen a note of the evidence!!!

3.9 Requirement to Give Reasons for Certain Decisions

Section 17 requires the court to give reasons for its decision to grant or refuse the order. Again I have never seen this which is a pity as it would provide additional clarity and consistency in this area.

3.10 Convening Special Court Sitings

Section 24 provided for the special emergency hearing courts which could have been out of hours. At the beginning I recall a few of these but that didn't continue.

3.11 Hearing of Prosecutions in Private

Section 36 the new legislation provides that criminal hearings for breaches of the order would be heard in camera and I think this is a very innovative and useful development and I suspect it suits both complainant and also the Defendant.

4. Coercive Control

The other significant aspect of the 2018 act was the introduction of the offence of coercive control and at this stage there have been a number of cases already in this area.

4.1 DPP v Kevin Dunleavy

DPP v Kevin Dunleavy reported in the Irish Times on 11 February 2020. I think this was the first case but there was a plea and therefore the report I read was from the sentencing hearing at Letterkenny Circuit Court. Mr Dunleavy was jailed for 21 months. The court heard that he made 5,757 telephone calls to Ms Caoimhe Crossan's his ex-partner between March and June 2019 and became obsessed with his then girlfriend to the point that he forced her to take her phone everywhere so he knew where she was.

This case also shows the overlap between coercive control and physical abuse. The Times went on to report that on one occasion Dunleavy came into the Travellers Inn in Milford and pulled Ms Crossan out by the collar of her jumper gave her a beating. He also burnt her clothes and broke her straightener to prevent her from going out. It came out later that she had in fact visited him in prison, given him €100 and allegedly sent him a love letter. This was put forward as a mitigating factor in the sentencing hearing but the investigating Detective Garda quickly replied that this could in fact be a sign of the coercive control that Dunleavy had over Ms Crossan!!!

4.2 Recent case – identities withheld

The pattern was the same in the November 2020 conviction which recently came back before the court and the sentencing hearing is ongoing. The Victim in this case had chosen anonymity so accordingly the perpetrator was not named in the media but the matter was widely reported. This case is the first case where the person was convicted following a jury trial. In addition to physical assaults - burning her foot /cutting her with a pizza slicer - there was also emotional abuse - saying demeaning things /using aggressive language being made sit naked in a room while he berated her.

This couple were also in communication while he was in prison but this time the calls were recorded which caused him additional charges for perverting the course of justice by trying to get her to withdraw the charges by, among other things, threatening to send explicit images of the victim to her father and brother unless she withdrew. (note: after the conference a 10.5 year sentence in this case was handed down).

4.3 Protective Services Unit

Garda Investigation in this area is led by the protective services unit in each Garda division. I attended a presentation from the Cork PSU pre-covid when we used to go to conferences and I was totally impressed by their focus on this area and willingness to take on complex/ time-consuming / painstaking / intrusive investigations and send a case for coercive control to the DPP.

I've checked in with the Cork City Office in preparing for this presentation and they are currently working on a number of cases and they believe that the imminent implementation of the "Revenge Porn" legislation will significantly strengthen their investigative armour in tackling crimes of Domestic Violence.

4.4 DPP v Cormac O'Sullivan

I wasn't surprised when I found a report of a case co-investigated by the West Cork PSU and the Macroom Gardai reported in the Irish Independent on 27th of June 2020 regarding the charging in court of a Mr Cormac O'Sullivan who ended up charged with threatening to kill his ex-wife after he was arrested by Gardai investigating coercive control. The matter remains before the court but is further indicative of the excellent work going on in this area empowered by the recent legislative changes.

5. Other Matters

5.1 Impact of Covid-19

Obviously there is grave concern that one of the impacts of the current health crisis is an increased risk of Domestic Violence. I have observed the following: Protection Orders are being granted and extended where necessary. The Philosophy behind this is that it helps allows parties in challenged relationships stay together by keeping apart. There is a certain reluctance to grant Barring Orders and particularly Interim Barring Orders as the Respondent is more limited as regards alternative accommodation options. A lot of cases are being adjourned due to court lists being cancelled and lack of certainty is putting increased pressure on the parties (justice delayed justice denied etc).

5.2 Network Network Network

There is a very active domestic violence inter-agency network in Cork for many years and Solicitors in our office have been involved. At Pope's Quay Law Centre we have built up very close connections with the various stakeholders and this is something we give absolute priority to as it is essential that all agencies in this area work together on behalf of their clients.

6. Conclusion

The 2018 did bring huge clarity and effectiveness to the operation of Domestic Violence Law in Ireland and with the rollout of investigation and now the beginning of convictions for coercive control it is clear that since 1 January 2019 the country is a safer place for Domestic Violence Victims.

There is a very active domestic violence inter-agency network in Cork

CLOSE CONNECTIONS WITH THE VARIOUS STAKEHOLDERS IS SOMETHING WE GIVE ABSOLUTE PRIORITY TO AS IT IS ESSENTIAL THAT ALL AGENCIES IN THIS AREA WORK TOGETHER ON BEHALF OF CLIENTS.



About the Authors

Ms. Vinakshi Chawla BL and Mr. Arthur Denny, Solicitor, The Child and Family Agency, the dedicated State agency responsible for improving wellbeing and outcomes for children. It represents the most comprehensive reform of child protection, early intervention and family support services ever undertaken in Ireland.

2. Coercive Control & The Work of the Child & Family Agency

- Vinakshi Chawla BL & Arthur Denny, Solicitor

i. Introduction

The Child & Family Agency is a statutory authority established pursuant to the Child and Family Agency Act, 2013. Section 3 of the Child Care Act, 1991 obliges the Agency to vindicate the safety and welfare of children who are not receiving adequate care and protection. Section 3 imposes a broad duty and the precise means by which this duty can be executed are statutorily defined. Accordingly, new legislation that has the potential to impose additional powers, or assigning a new means by which the Agencies duty can be applied, will always be considered with scrutiny. It was in this context that particular focus was paid to the introduction of the **Domestic Violence Act, 2018**.

By far, the most significant provision of this new Act is Section 39(1). This section introduces a new criminal offence of “*Coercive Control*”. It is this introduction that has attracted, justifiably, the most public interest. In that context, this paper will assess any possible impact the introduction of 39(1) might have on the work of the Child & Family Agency. This will be done by, firstly, exploring the general and specific duty of the Agency. Then Section 39(1) itself will be examined and, finally, the probable indirect impact of this new statutory offence on the Agencies work will be determined.

ii. General & Specific duties of the Child & Family Agency

Section 3 of the Child Care Act, 1991 provides as follows, “*It shall be a function of every health board to promote the welfare of children in its area who are not receiving adequate care and protection*”². This articulation clearly imposes a broad and general obligation on the Agency to protect and vindicate the best interests of children, but only if they are not receiving appropriate care.

The wide spectrum afforded by Section 3 was best described by Mr. Justice Barr in MQ –v- Gleason³. Therein, Justice Barr provided that, “..... *a health board cannot stand idly by but has an obligation to take appropriate action in circumstances* ”⁴. Clearly, the spectrum of the duty based on Section 3 and as envisaged by Justice Barr, is quite significant.

Section 7 of the Children’s First Act, 2015 further requires the Agency to, “..... *regard the best interests of the Child as the paramount consideration*”⁵. Additionally, Section 9(1) of the Child & Family Agency Act, 2013 obliges the Agency, when making decisions to, “*have*

1 <http://www.irishstatutebook.ie/eli/2018/act/6/section/39/enacted/en/html#sec39>

2 <http://www.irishstatutebook.ie/eli/1991/act/17/section/3/enacted/en/html#sec3>

3 MQ –V- Gleason. [1998] 4 IR

4 MQ –V- Gleason. [1998] 4 IR, Judgment delivered the 13th day of February, 1997, Par. 24

5 <http://www.irishstatutebook.ie/eli/2015/act/36/enacted/en/pdf>

*regard to the best interests of the child in all matters*⁶.

iii. Statutory powers available to the Child & Family Agency

Readers of this Paper will undoubtedly be familiar with the various Care Orders for which the Agency can apply. For the purposes of this Article, we will now set out the thresholds required for specific Orders and consider same against the possible existence of a coercively controlling situation to which a child is exposed.

Section 13 of the Child Care Act, 1991 provides that the Agency can apply for an *Emergency Care Order*, where⁷ :-

- i. Where there is an immediate and serious risk to the health or welfare of a child which necessitates the child being placed in the care of the Agency, or
- ii. Where there is likely to be such a risk, if the child is removed from the place where he is for the time being.

Additionally, the Child & Family Agency may make an application to the District Court pursuant to Section 17 of the 1991 Act for an *Interim Care Order*⁸ :-

- i. The child has been, or is being assaulted, ill-treated, neglected or sexually abused, or
- ii. The child's health, development or welfare has been or is being avoidably impaired or neglected, or
- iii. The child's health, development or welfare is likely to be avoidably impaired or neglected.

The Child & Family Agency can also seek a *Full Care Order* under section 18 of the Child Care Act, 1991. In order for this application to be successful, the court must be satisfied that⁹ :-

- i. The child has been, or is being assaulted, ill-treated, neglected or sexually abused, or
- ii. The child's health, development or welfare has been or is being avoidably impaired or neglected, or
- iii. The child's health, development or welfare is likely to be avoidably impaired or neglected.

Accordingly, if a Social Work Team is faced with a scenario where a parent of a child demonstrates controlling or coercive behavior towards that child, or indeed the other parent,

6 <http://www.irishstatutebook.ie/eli/2013/act/40/enacted/en/html>

7 Section 13(1) of the Child Care Act, 1991

8 Section 17(1)(b) of the Child Care Act, 1991

9 Section 18(1) of the Child Care Act, 1991

to the point that it is deemed the thresholds outlined above are reached, then an Emergency, Interim or Full Care Order can be applied for¹⁰.

Further, parental behavior directed at another parent, that is controlling, coercive and has a serious effect could also have a negative effect on a child's health, development or welfare. Were this to be so, this behavior, in conjunction with other concerning circumstances, may reach the threshold that would necessitate a District Court Application for a Full Care Order, as outlined above.

Another statutory provision available to the Child & Family Agency is to apply for a Supervision Order in respect of a child pursuant to section 19 of the Child Care Act, 1991. The threshold for this is as follows¹¹:-

- i. The child has been or is being assaulted, ill-treated, neglected or sexually abused, or
- ii. The child's health, development or welfare has been or is being avoidably impaired or neglected, or
- iii. The child's health, development or welfare is likely to be avoidably impaired or neglected.

Upon being granted a Supervision Order, the Child & Family Agency is authorised to visit a child on periodic occasions, as it considers necessary, in order to satisfy itself as to the welfare of the child. Therefore, a Supervision Order would allow the allocated social worker to assess the child's setting and consider whether there are child protection concerns which statutorily warrant the Agency to act.

iv. Does Section 39(1) of the Domestic Violence Act, 2018 have an impact on the role of the Child & Family Agency?

The simple question now posed, is, does the Child & Family Agency have a role or function in terms of the criminal offence of coercive control. Consideration of this fundamental question requires detailed analysis of Section 39(1) of the Domestic Violence Act, 2018.

Section 39(1) provides as follows: -

"A person commits an offence where he or she knowingly and persistently engages in behavior that—

- a. *is controlling or coercive,*
- b. *has a serious effect on a relevant person, and*
- c. *a reasonable person would consider likely to have a serious effect on a relevant person".*

¹⁰ Section 13 Emergency Care Order, Section 17 Interim Care Order, Section 18 Full Care Order, respectively.
¹¹ Section 19(1) of the Child Care Act, 1991

The provision clearly creates a criminal offence. As can be construed from the wording applied to the provision this was the legislature's intent to create the Section accordingly. Such roles fall exclusively within the competence of An Garda Síochána.

Further, Section 39(4) of the Act is particularly instructive. Therein it is provided as follows: -

“..... a “relevant person” in respect of another person if he or she—

- a. *is the spouse or civil partner of that other person, or*
- b. *is not the **spouse or civil partner** of that other person and is not related to that other person within a prohibited degree of relationship but is or was **in an intimate relationship** with that other person”.*

This provision is particularly apposite when considering the Criminal Offence within the context of the role of the Child & Family Agency. As noted above, the statutory authority of the Agency is confined to child related issues. If that proposition is correct, then Section 39(4) effectively excludes the Agency from any active role in the execution of Coercive Control prosecutions. This is so, as the definition of “*relevant person*” exclusively applies to those in a *romantic relationship*, (or a spouse / civil partnership), with the potential Defendant. This, it is suggested, distinguishes children from the scope of the provision. Accordingly, there is no direct role for the Agency within the context of “Coercive Control”.

However, it would be inaccurate to say that the emergence of this new criminal offence has had no impact on the work of the Agency. Its creation has undoubtedly placed into the consciousness of Social Work Teams the existence of a family based “*coercively controlling situation*”. Simply put, the Agency is now aware of the concept of “*Coercive Control*”. It will strive to identify if coercively controlling situations exist while it exercises its normal duties. Indeed, such situations may, in conjunction with other identified risk factors, combine to compel applications for particular Court Orders, as was discussed above.

v. Conclusion

This Paper has set out why “Coercive Control” as a criminal offence does not bestow upon the Child & Family Agency direct and express powers or obligations. It will be a matter for An Garda Síochána to investigate and prosecute matters as they arise under Section 39(1) of the Domestic Violence Act, 2018.

However, the Paper also has explored the possible soft and indirect impacts of the newly established concept of “*Coercive Control*” on the work of the Child & Family Agency.

"it would be inaccurate to say that the emergence of this new criminal offence has had no impact on the work of the Agency. Its creation has undoubtedly placed into the consciousness of Social Work Teams the existence of a family based “coercively controlling situation”.

3. Domestic Violence Act 2018:

Presentation to Family Lawyers Association 19th January 2021

- Teresa Blake SC

Teresa Blake, Senior Counsel examines the legislation and case law surrounding Domestic Violence in a reproduction of the slides of her presentation to The Family Lawyers Association made on the 19th January 2021.



**An Bord Um
Chúnamh Dlíthiúil**
Legal Aid Board

DOMESTIC VIOLENCE ACT 2018

Teresa Blake SC

Member of the Inner Bar.

Presentation to Family Lawyers Association 19th January 2021.

OVERVIEW

Objectives of Change in Legislation to satisfy
Ireland's International obligations.

Domestic Violence Act 2018 –integrated response,
introduced the required changes in national law.

Orders under the Act 2018.

Offences

Learnings -Recent High Court Judgments.

Q and A. – Still Here Campaign

OBJECTIVES OF CHANGE

Recognition of the human rights protection issues raised by gender based violence required enhanced protection and enforcement at national and international level.

Paradigm shift in responding to domestic violence required legislative, administrative and policy changes.

Convention on Preventing and Combating Violence against Women and Domestic Violence (the Istanbul Convention) Council of Europe (2014)

EU. Victims of Crime Directive-The Criminal Justice (Victims of Crime) Act 2017 puts victims at the heart of the Irish criminal justice system. Criminal proceedings are deemed to have commenced 'the moment a complaint is made'.

Key Changes reflected in - **Domestic Violence Act 2018.**

INTEGRATED RESPONSE -LEGISLATION- STATUTORY AGENCIES – NATIONAL POLICIES – GARDAI, +

Section 11. Powers of Child and Family Agency as applicant

Response of an Gardaí.

Sec 12 Directions from the Court in respect of investigations and applications under Child Care Act 1991.

Sec 13. Applications under Family Home Protection Act 1976 removal of property-chattels.

Section 15. Court can hear applications under Act together –without proceedings being formally instituted under e.g. Guardianship.

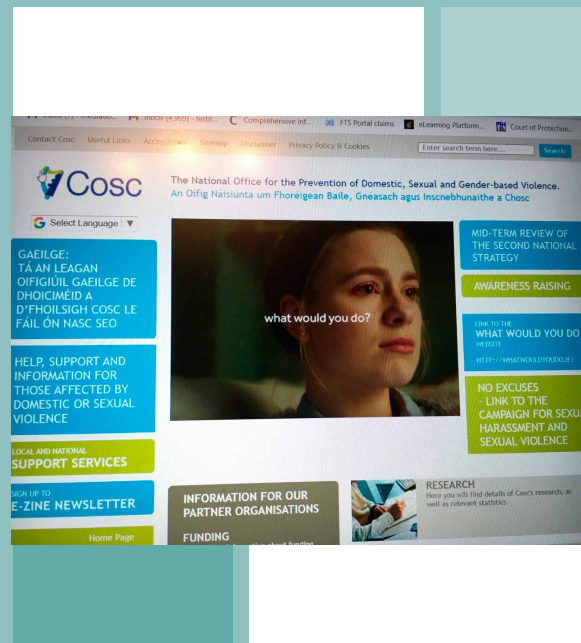
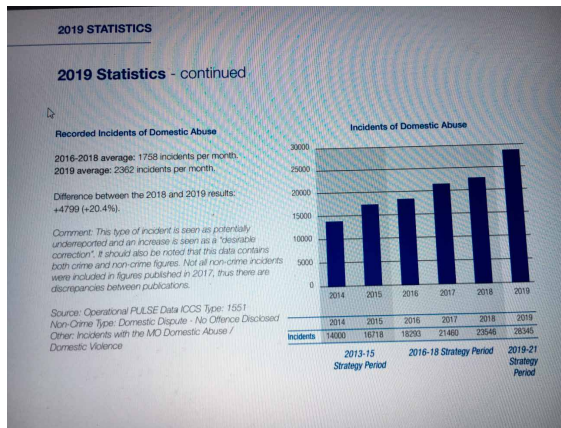
Sec 24. Need for out of hours protection for victims -Power of a Garda Sergeant to request court services to arrange a special sitting out of hours for an application for IBO, PO, or EBO,

Sec 26. Right to be accompanied in court by support worker in certain circumstances.

Sec 28. Courts Service duty to provide information on and contact details for support services for victims of crime.

Sec 29. Recommendation for engagement with services.

'WHAT GETS MEASURED GETS DONE'



DOMESTIC VIOLENCE
ACT 2018
NEW APPROACH
LESS OBSTACLES
ALL PARTNERS IN AN
INTIMATE RELATIONSHIP
ELIGIBLE TO APPLY
NEW RELIEFS;
NO MINIMUM PERIOD OF
COHABITATION
INTEGRATED RESPONSE
FROM STATE AGENCIES

Section 2 (1)-defines

Specified orders - safety order, barring order, interim barring orders, Emergency barring order, protection order; and order varying or discharging those orders.

Spouse includes a person who was a party to a marriage that has been dissolved, -recognised as valid in the State.

Welfare includes physical and psychological welfare;

meaning of a dependent person, civil partner, child

Sec 2(3) relationship does not cease to be intimate -by reason that it is no longer sexual in nature.

BARRETT J, X V. Y [2020] IEHC 525, AT PARA. 47

An appeal from IBO granted in Circuit Court- High Court refused.

“There is no context in an intimate relationship in which domestic violence is permissible....A party to an intimate relationship should never have to live in the fear and/or with the actuality of domestic violence being perpetrated upon that party. There are no ‘ifs’ or ‘buts’ in this regard, no exceptions, no mitigating circumstances. Domestic violence and/or the threat of domestic violence (even where no actual violence ensues) is always unacceptable.”

SECTION 5 2(A-R)—FACTORS
OR CIRCUMSTANCES THE
COURT SHALL CONSIDER IN
DETERMINING AN APPLICATION

AND ANY OTHER MATTER
THAT APPEARS TO THE COURT
TO BE RELEVANT TO THE
SAFETY OR WELFARE OF ANY
DEPENDENT PERSON

- History of violence, convictions for violent crime or threat of violence against any person, previous orders under DV legislation
- Increasing severity in level of violence towards the applicant, Exposure of children to violence, recent separation of parties,
- perception of risk by the applicant, access to weapons;
- Destruction or damage to personal property of another or any place where they live
- Any action not being a criminal offence -causing another fear for their safety or welfare.
- age and state of health of applicant and dependents; evidence of deterioration of state of health physical /psychological of the applicant; substance abuse issues;
- History of animal cruelty,
- fraud offences that involve loss to applicant or child; economic dependency ,

PROTECTION ORDER SEC 10

On application for a safety or barring order or between the making of the application and its determination

is of the opinion that there are reasonable grounds for believing that the safety or welfare of the Applicant or dependent person so requires.

Ex-parte application – necessary or expedient in the interests of justice to do so. Sworn statement /affidavit.

Prohibited conduct - Respondent cannot

(a) use or threat of the use of violence, molesting or putting in fear ..

(b) attending watching or besetting..

(c) following or communicating with- including by electronic means- the Applicant or a dependent person

PO ceases to have effect on the determination of application for SO or BO.

INTERIM BARRING ORDER SEC 8

where the court is of the opinion

(a) there is an immediate risk of significant harm to the applicant or a dependent person and

(b) the making of a protection order would not be sufficient to protect the applicant or dependent person.

The court shall by order

(i) Direct the Respondent -to leave that place

(ii) prohibit the respondent from entering the place

may also prohibit (a) use or threat of the use of violence, molesting or putting in fear ..

(b) attending watching or besetting..

(c) following or communicating including by electronic means the Applicant or a dependent person.

Property test applies

Court Shall not make an interim barring order

8(5)-App no legal interest in property NO IBO;

Applicant's interest less than respondent's R No IBO

A belief property interest =R admissible

IBO ceases to have effect on determination of BO application.

IBO (CONTINUED)

Ex-parte application where the courts considers it necessary or expedient to do so in the interests of justice.

Sec 8(13) –note of evidence to be made forthwith –copy served on Respondent

Sworn statement or affidavit needs to include information whether the property the applicant seeks to bar the Respondent from is a place of business for the Respondent.

Duration IBO 8 working days.

No minimum period of cohabitation required

No need to be committed relationship

Satisfy the property test

Includes all former partners, spouse cohabitant etc.

EMERGENCY BARRING ORDER SEC 9.

The Applicant has no legal or beneficial interest in the place where applicant resides - is not spouse or civil partner but lived in an intimate relationship [does not satisfy the property test]

.....the court is of the opinion that there are reasonable grounds for believing there is **an immediate risk of significant harm if the order is not made immediately**

Require Respondent to leave a place

Prohibit the Respondent from entering a place

prohibit (a) use or threat of the use of violence, molesting or putting in fear ..

(b) attending watching or besetting..

(c) following or communicating including by electronic means the Applicant or a dependent person

Duration 8 days.

Ex parte –sworn statement /served –state if a place of business.

Sec 9(16) re apply for EBO only after expiration of one month after ending of previous EBO, unless there are exceptional circumstances.

SAFETY ORDER SEC 6(2)

the court is of the opinion....there are reasonable grounds for believing that the safety or welfare of the applicant or dependent person so requires...

Make a safety order

Duration 5 years maximum or period as court decides.

Variation and renewal of orders.

Prohibiting the Respondent from (a) use or threat of the use of violence, molesting or putting in fear .. the applicant or dependent person

(b) Attending at.. watching or besetting where the person resides

(c) following or communicating including by electronic means the Applicant or a dependent person

BARRING ORDER SEC 7.

Where the court is of the opinion having taken into account any order made or likely to be made under 15. 2(a)or(d)

there are reasonable grounds for believing that the safety or welfare of the applicant or dependent person so requires...

It shall by order

(i) Direct the Respondent if residing at a place where the applicant or dependent resides -to leave that place

(ii) Whether the Respondent is or is not residing there prohibit the Respondent from entering the place

BARRING ORDER

also prohibits certain conduct if court thinks fit

(a) use or threat of the use of violence, molesting or putting in fear .. the applicant or dependent person

(b) Attending at.. watching or besetting where the person resides

(c) following or communicating including by electronic means the Applicant or a dependent person

Subject to exceptions, variation and renewal.

Duration maximum 3 years.

SEC 8 –IBO -X V. Y [2020] IEHC 525.

Barrett,J.

40. First it is the “risk of significant harm” that needs to be “immediate”, not the “harm”.....the widest possible interpretation falls to be given to what is “immediate” in any one case.

41. Second, the more the court focuses on the word “significant”, the more it considers that, at most, that word can only mean to exclude harms that are so utterly and completely trivial and/or contrived in nature or substance that a reasonable-minded person would conclude that in truth no harm had been suffered at all – and in deciding whether a harm is so trivial or contrived in nature a court should ever be mindful that the scale of a harm is not just measured by a discrete act complained of but rather is informed by all the behaviors and circumstances that surround and inform that act, as well as the fear of future reoccurrences of same. In truth, once any harm is established the court would expect that in practice there will be few if any real-life circumstances in which such harm is found not to be a “significant harm”.

The narrowest reading of the word “significant” is, it seems to the court, especially appropriate and merited in the context of the purpose of the Act of 2018, a measure which seeks not just to address domestic violence but to seek also to eliminate what the Oireachtas clearly perceives to be a pernicious evil.

42. Third, as to the concept of “harm”, the court respectfully considers that, consistent with the purpose of the Act of 2018, a measure which seeks not just to address domestic violence but to eliminate what the Oireachtas clearly perceives to be a pernicious evil, the word “harm” falls to be given the widest possible reading, so as to embrace (to borrow from the Oxford Online English Dictionary) any “[e]vil (physical or otherwise), [or] hurt, [or] injury, [or] damage, [or] mischief”.

PROCESS –PROVISIONS

Sec 16 Protection against cross examination by applicant and respondent in person.

Children giving evidence in DV application in person cannot be cross examined by either party

in the case of an adult giving evidence court may prohibit self representing alleged abusers from cross examining an applicant.

Act provides legal representative can be assigned to carry out cross examination.

Section 25: Evidence by TV and Video link.

Sec 26 Right to be accompanied by support worker in court in certain circumstances.

Sec 27 : Children's views on orders sought on behalf of a child – court can appoint an expert to assist it.

Sec 28 recommendation as to engagement by Respondent with certain services. DV programme, Addiction services....

OTHER PROVISIONS

Sec 17 – Requirement to give reasons for decision

Sec 18 Taking effect of orders

- on notification, produce a copy, if sitting in court,
- Court can order that any of the orders under Act are served by an Gardai to the Respondent ensure no avoidance of service or for other good reason. Can have Applications for variations, appeals, renewals and discharge,

Section 19 – shall send copies of order to certain persons – Gardai emphasis on protection of victim of crime. Domestic violence Policy.

20(2) An appeal from PO, IBO, EBO, does not stay the operation of the order.

OFFENCES — PART 3 —POLICY OF AN GARDAI

Section 33 —A respondent who contravenes an order — or who refuses to permit a person to enter in and remain in a place or tries to prevent a person from entering a place to which an order relates commits an offence

Liable on summary conviction fine, imprisonment or both. — without prejudice to any other liability that could arise.

Restrictions on the conduct of those proceedings not in public.

Sec 35 Arrest without warrant -where a garda has reasonable cause an offence is being /has been committed — when complaint is made by or on behalf of applicant

Member may enter if needs be by force and search a place where with reasonable cause he suspect the Respondent to be .

OFFENCES CONTINUED.

Section 38 Offence of Forced Marriage

Includes removing a person from Ireland for the purpose of a forced marriage.

Section 39. Offence of Coercive Control-knowingly engages in behaviour that is (a) controlling or coercive, (b) has a serious effect on a relevant person, (c) a reasonable person would consider it so likely-a fear that violence will be used; serious alarm or distress that impacts on day to day activities.

INSIGHTS FROM EVIDENCE IN REPORTED CASES.

App Ms X would get up at about 6.30am, get herself ready for work, then get the children their breakfast and ready them for school,

Res:Mr Y would come downstairs and sit on a couch directly across from the breakfast counter, or sometimes, it seems, at the breakfast counter, supping on a vitamin drink and just looking on, saying nothing.

But the best way to avoid an argument would have been simply to head off for a cup of coffee or a walk around the nearest park, not to sit as a silent person staring on as successive breakfasts unfolded. The court accepts Ms X's evidence that she found this silent staring discomfiting; it must have been.

INSIGHT FROM THE CASES

Mr Y then began shouting again and told Ms X that she would get her “comeuppance”, phraseology which alarmed Ms X and made her fear for her safety.

14. At or around this time Ms X had contacted Women's Aid, an organization that seeks to help women and children faced with domestic abuse. Through them she had learned what options were available to her, and so she went to the District Court on 4 June and, the District Court being very busy, attended again on 5 June and obtained a protection order against Mr Y. The court finds it very difficult to believe that a woman would twice attend at the District Court in a state of some angst to seek protection from a husband unless she was genuinely possessed of a level of fear. Ms X holds down a good job, is a responsible woman and a sensible mother; it just does not ring true that she would take herself off to the District Court and tell a pack of lies (with all the risks that telling lies in court entails) in order to get a protection order to which she knew herself not to be entitled, all in a calculated and protracted bid to put Mr Y out of the family home. Maybe the person exists who would act so; Ms X did not seem to the court to be such a person.

CONTINUED.

15. Ms X was advised by the District Court registrar to deliver a copy of the protection order to her local Garda station. She did so, explained that she was fearful about serving the protection order personally, and the Gardaí undertook to do so, and did so that night. (The Gardaí consistently come across well in how they dealt with both Ms X and Mr Y).

passive-aggressive triumphalism following on Mr Y's return.

X v Y although issues relevant to an application can always be raised "one does not squander all entitlement to privacy on entering a courtroom". para 49 sexuality.

Y v Z —facts harrowing.

and it has the undeniable history that Ms Z eventually fled the family home and moved ten times in nine months with her children, spending some of that time in a women's refuge – what woman would put herself and two young children through such misery if she was not genuinely living in fear of her husband?

BEHAVIOURS - M V S 2020 IEHC 562- 'REASONABLE'

". That any such orders have been vacated and/or varied does not mean that they have never issued. And that such orders had to be made is a serious matter

And it does not much improve matters that a court is subsequently satisfied to accept an undertaking in lieu of an interim order; it would, presumably, only see a need for such an undertaking if it thought there to be a risk that the actions which it is undertaken not to do might otherwise be done.

Para 20 . Referring to mean spirited behaviour of Respondent- when couple living in partitioned home.

All these behaviours count with a court; for if a man is inclined to self-centeredness and/or selfishness in his general behaviour he will find himself facing an uphill battle in seeking to establish his being more generally a reasonable man.

BARRETT J, A V B 2020 IEHC 610 *WHAT DOES THIS JUDGMENT MEAN FOR YOU [POSTSCRIPT]*

To begin with, I was and continue to be taken aback by Mr B's behaviour towards Ms A throughout the hearing. I have never before seen such a sustained and bitter attack by one person on another. It does Mr B no credit that he acted so. Ms A is the mother to Mr B's children and a good mother too: she deserves respect for that alone. But for any human to verbally attack any other human as Mr B did in court is uncalled for. It left me in no doubt as to how frighteningly unpleasant home life must have been when Mr B was around and what a toll his behaviour must have taken on Ms A and the children. That Mr B struck Ms A during their marriage is awful; that he sought to explain this away in court was, I regret to say, shameless.

22/12/2020	C -v- C	High Court	Barrett J.	High Court did not have power to vary BO made in the District Court on motion in Family Law Act 1995 proceedings
26/11/2020	Y -v- Z	High Court	Barrett J.	Harrowing details of abuse—DVs made for serious reasons. Disparaging of her past mental health issues
25/11/2020	A -v- B	High Court	Barrett J.	17/12/2020 Lay litigants' –appeal CC,-recording in Family home, past relationship –child. Unfounded allegations against woman.
06/11/2020	M -v- S	High Court	Barrett J.	Divorce Ancillary Orders - mean spirited behaviour reference 'baggage' to past sexual matters.
21/10/2020	X -v- Y	High Court	Barrett J.	Appeal of IBO rejected. Party now in same sex relationship attempt to demean same.by R condemned by court.



P A R T T W O



SUPPORTS & SERVICES



4. Practical Tips to Developing a Trauma Informed Approach to Working with Victims of Domestic Violence/Coercive Control for practitioners in the legal system

- Angela Keaveney, Psychotherapist

Director of Counselling and Domestic Violence
in Longford Women's Link

The information in this piece comes from our Domestic Violence services in operation in Longford since 1995. The information is based on the experiences of working with victims of domestic violence/abuse and coercive control cases who were supported to maximise their safety and the safety of their dependants.

Here are some specific tips that may be useful to consider when working with people who are impacted by trauma.

Firstly, what do we mean by trauma? Trauma in domestic violence is the impact of being attacked as a human being over a period of time by an intimate partner that know exactly how to hurt the victim in a personal way that can do the most harm. Domestic violence/abuse is complex but in short is that attack on someone's dignity.

Ask if your client is afraid of respondent/applicant - In client intake procedures have a universal question on all family law client intake forms where you ask if domestic violence (abuse) is/was part of the relationship. Asking a simple question like "are you afraid of this person now or were you in the past? If so, what is this fear stopping you from doing in your day to day life now or might stop you doing in the future?

Communication in a trauma informed way

Trauma victims may have hearing and/or language difficulties as parts of the impact of chronic distress and experiences of prolonged fear. Victims may not grasp the information you're sharing with them at the time so a summary of the decisions or key information shared in the consultation or court hearing is important. Some clients would benefit from a text message reminding them of appointment or court times. Others would find leaflets or fact sheets on the operation of the court, the order or the steps they will be taking in your practice a perfect way to help understand what's happening for them. Being mindful of the words we use and the way we use it can make the difference when communicating. Keep your descriptions simple and explain complex legal language before the case because the victim may not be able to take it all in on the day of the hearing. Try to keep away from Acronyms - they are confusing at the best of times but very confusing when a victim's brain is flooded with fear.

About the Author

Angela Keaveney is a psychotherapist working in the area of complex trauma for over 20 years. She has also worked as an advocate for victims of domestic violence especially as a court accompaniment specialist in court districts 2 and 9.

Ms. Keaveney is currently the Director of Counselling and Domestic Violence in Longford Women's Link.

Managing expectations

Victims of trauma may have been given inaccurate information and/or being misinformed to create fear to assist the abuser control you client. When you're meeting your client it is important to be very clear what you can do, what you can't do and what you know are the facts of the process you are both about to enter. Fear often silences victims, they may not seek clarification so it can be important to state the obvious as this may help your client become clearer in their thinking and therefore better able to work with you.

**“For a victim, coming to you
can be as hard as going to
court.”**

Other Tools that might help for some:

Your office space - you may not have control on the environment of the courts or their halls but you can do your bit to assist the victim feel a little calmer in the spaces you can control. Keep your waiting area calm and relaxing, try and have your office bright and clutter free, try not to have the client waiting too long and let them know as soon as you can that their appointment or hearing is cancelled.

Having a photo of the court room layout, a photo of the Judge or other signpost materials can assist the victim feel less distressed and a little more in control. In some cases suggesting they could sit in in open court hearings might assist those whose cases are complex.

Supporting the victim keep safe

Meeting an abuser in court, in the hall, on the bus on the way there or after the hearing can be very dangerous for you client. In you consolation with the victim before the hearing, ask them if they have a plan for this.

Confidentiality is difficult to keep in court halls so try to have explored plenty of options with your client before you go there. If you have to consult with them outside of a private consultation room ask them to identify a safe place to stand to talk. They know who is a risk to them.

If you are using interpreters please check with the client that they are not linked in any way to the abusers. It is often not safe to use family or friends of you client either. Is better if the interpreters you use have training in working with trauma victim's to ensure they are accurately representing the communications of your client.

We would strongly recommend you find out who your local Domestic Violence service provider is and meet up with these specialist and find out how they can help support victims

of domestic violence/abuse. Women's organisation can be found through Safe Ireland at safeireland.ie.

Finally, take care of yourself. Working with the impact of trauma in our society is emotional and mentally draining. Your clients need you to be able to hear them and stand with them so it is important for you and your firm to have trauma informed practices as part of your everyday practice.

Helpful Resources:

Dr. Karen Treisman's website is <http://www.safehandsthinkingminds.co.uk/>

Her work is very useful as many other professional organisation in Ireland have used her expertise to assist them form functional policy and procedures around a trauma informed organisation and her use of easily digestible language on the issue of trauma for people of all ages.

Insight Exchange is another useful site <https://www.insightexchange.net/follow-my-lead/>.

This is an Australian website with excellent material on the views of victims of domestic violence from the victims themselves and for practitioners in the legal system there has been some excellent research compiled by Linda Coates, PhD on language and its operation around the issue of domestic violence.

Beacon House is another great resource at <https://beaconhouse.org.uk/resources/>.

It's a UK service but again has very palatable information on trauma and plenty of information in ordinary language and useful visual aids.

Local organisation like **Safe Ireland**, **Women's Aid** and the **national service providers for male victims** have excellent information on the specific issue of Domestic Violence.





About the Author

Gemma Hughes is a Community
and Volunteer Co-Ordinator
Aoi bhneas Domestic Abuse
Support for Women and Children

5. Domestic Abuse and Coercive Control: Understanding, Recognising and Referring - Gemma Hughes, Community & Volunteer Co-Ordinator Aoibhneas

Aoibhneas is a voluntary organisation based in North Dublin which provides support to women and children who are experiencing or have experienced domestic violence and abuse. Aoibhneas was established over 30 years ago, initially as a crisis refuge accommodation service and has expanded to meet the needs of women and children to include a community outreach and prevention support service, a court accompaniment service, and a 24-hour freephone helpline service.

Aoibhneas offers various supports of which include one to one support, group support and holistic therapies. In 2019, Aoibhneas supported 1,226 women and children through direct support provision and facilitated 8,181 helpline calls¹. Year on year, Aoibhneas observe an increase in women and children seeking support regarding their experiences of domestic violence and abuse.

Domestic Abuse affects thousands of people in Ireland each year. Statistics and research shows us that 1 in 4 women have experienced abusive behaviour of a physical, sexual or emotional nature from a partner.² Professionals engaging with families play an essential role in supporting women through the various stages of her experiences of domestic abuse inclusive of through the legal processes. As such, it is essential that all professionals working with women and children experiencing domestic abuse understand domestic abuse and coercive control, how to recognise domestic abuse and how to refer a woman experiencing domestic abuse to specialist support agencies.

The An Garda Síochána Domestic Abuse Intervention Policy defines Domestic Violence as a *“pattern of physical, sexual, financial, emotional or psychological abuse of one person against another who is a family member or is or has been an intimate partner, regardless of gender or sexuality”*.³

From working with women experiencing domestic abuse, I have come to the understanding that domestic abuse falls under the umbrella of power and control whereby a perpetrator will employ various tactics of power and control to maintain dominance over the victim. This can be inclusive of emotional abuse, isolation, financial abuse, and coercive control.

The Domestic Violence Act 2018 has provided for the criminal offence of coercive control. The Act describes coercive control as a persistent pattern of controlling, coercive

1 Aoibhneas Domestic Abuse Support for Women and Children Annual Report 2019- <https://www.auibhneas.ie/reports>

2 Watson, D. and Parsons, S. (2005) Domestic abuse of women and men in Ireland: Report on the national study of domestic abuse-<http://www.cosc.ie/en/COSC/Abuse%20Report%20NCC.pdf/Files/Abuse%20Report%20NCC.pdf>

3 An Garda Síochána (2017). Domestic Abuse Intervention Policy. Pg 3

Aoibhneas

Aoibhneas specialises in supporting women and children who experience domestic abuse, for this reason the below piece focuses only on women and children and their experiences of domestic abuse. We acknowledge that males also experience domestic abuse and we do not infringe on the same.



and threatening behaviour including all or some forms of domestic abuse (emotional, physical, financial, sexual including threats) by a boyfriend/girlfriend, partner, husband/wife or ex-partner. This can result in fear of violence, or serious harm or distress that has a substantial adverse impact on the victim's usual day-to-day activities.⁴

Coercive control can be seen to be the core of domestic abuse. Coercive control makes the victims world smaller; it reduces her liberties and her freedoms. The abuser achieves this through implementing a deliberate pattern of abuse over an extended period, creating fear and dominance over the victim. These may include various tactics inclusive of emotional abuse (name calling and humiliating her), threats and coercion (making her do something through threatening her, making her drop charges) and intimidation (making her afraid using looks and body language, putting her in fear by displaying weapons). Women presenting for support with Aoibhneas disclose experiencing multiple, over lapping forms of abuse inclusive of coercive control.

Domestic abuse and coercive control can happen to anyone. It does not discriminate, occurring across all socio-economic status, age, sexuality, ethnicity, religion, and gender. Domestic abuse and coercive control can be difficult to comprehend particularly for a woman who has been living within an abusive relationship. Domestic abuse may have become a norm for the woman, she may not recognise what she has been experiencing to be that of domestic abuse or coercive control.

Recognising coercive control can be challenging. When seeking to recognise coercive control, it is important to watch for signs of; how the abuser monitors the victim, how has the victim's world become smaller, what does the abuser do to make the victim fear him,

⁴ Irish Statute Book (2019). Domestic Violence Act 2018. Sec 39.

how does the abuser intimidate the victim, how has the victim's support network become smaller, what are the repercussions should the victim not do as the abuser wants.

The impacts of domestic abuse and coercive control can be long lasting on the victim, impacting adversely on mental health, relationships, independence, and parenting capacities. Domestic abuse does not cease after the legal processes are finalised - the impact of the abuse remains. As such, it is important to ensure that a woman who has disclosed domestic abuse is linked with a domestic violence service to provide them with the specialist support to assist them in managing and overcoming their experiences of domestic abuse.

To refer a woman to a domestic abuse support service, Aoibhneas can be contacted on our freephone helpline of 01 867 0701 or Women's Aid on 1800 341 900.





An Bord Um
Chúnammh Dlíthiúil
Legal Aid Board

6. Particular Issues Affecting Traveller Women Experiencing Domestic Violence

- Susan Fay, Solicitor

Women of all backgrounds and ethnicities experience domestic violence, however the intersection of the gender and ethnic discrimination experienced by Traveller women creates an increased risk of obstacles to accessing adequate supports. Structural inequalities caused by discrimination resulting in poverty, social disadvantage and isolation compound the difficulties faced by Traveller women in violent relationships. It is very important as lawyers that we are familiar with the particular issues affecting Traveller women especially when representing Traveller women seeking legal protections from domestic violence.

On 1 March 2017 Enda Kenny formally recognised Travellers as a distinct ethnic minority group in the Dail,¹ this was long campaigned for and was a symbolic moment in Traveller history, however, significant challenges remain for Travellers in Ireland. Members of the Traveller community face multiple forms of discrimination and disadvantage and are more likely to be unemployed², have low income and be dependent on social welfare. Census 2016 found that, *“Of the 10,653 Travellers in the labour force in 2016, 8,541 of those were unemployed (an unemployment rate of 80.2 per cent among the Traveller population).”*³ Travellers fare poorly on all social indicators relative to their settled counterparts; Travellers have much lower life expectancies⁴, experience a suicide rate that is six times higher than the general population⁵ and are much less likely to have completed second level education. In Census 2016 it was found that 54.4% of Traveller women were educated to at most primary level education in contrast to 11.7% of the general population, this has an inevitable impact on literacy levels, which should be noted by legal practitioners.

The particular needs of Traveller women in seeking protections from domestic violence, along with the need for state agencies to adopt specific targeted measures for Traveller women, has been recognised by the United Nations Committee on the Elimination of All Forms of Discrimination Against Women Concluding Observations on Ireland (UN CEDAW, 2017), which recommended that Ireland should *“Intensify existing efforts to combat gender-based violence against women, including domestic violence, by ensuring that prosecutors and the police are properly trained to identify, investigate and prosecute cases of gender-based violence, including domestic violence, particularly targeting Traveller, Roma and migrant women and girls;”*⁶

About the Author

Susan Fay is a solicitor in the Legal Aid Board's Law Centre in Athlone.

1 Travellers formally recognised as an ethnic minority (irishtimes.com) retrieved 30 March 2021

2 fra-2020-roma-travellers-six-countries_en.pdf retrieved 30 March 2021

3 Irish Travellers - Socio-economic Aspects and Housing - CSO - Central Statistics Office retrieved 1 April 2021

4 CSO in Census 2016 <https://www.cso.ie/en/releasesandpublications/ep/p-cp8iter/p8iter/p8itd/>

5 “There were 451 Irish traveller males aged 65 or over representing just 2.9 per cent of the total, significantly lower than the general population (12.6%); the equivalent figures for females were 481 persons which represented just 3.1 per cent of the total, compared with 14.1 per cent for the general population.” retrieved 31 March 2021

6 <https://www.gov.ie/en/publication/b9c48a-all-ireland-traveller-health-study/> retrieved 30 March 2021

Microsoft Word - CEDAW_C_IRL_CO_6-7_26048_E.doc (jfmresearch.com) retrieved 30 March 2021

2017

Joint Shadow Report to the UN Committee on the Elimination of Discrimination Against Women

"Traveller women who experience domestic violence face great difficulties with accessing private rented and public housing, and are often forced to stay in abusive homes or face homelessness."



Leaving an abusive relationship presents practical challenges to the survivor of the abuse, however Traveller women encounter additional challenges. The lack of availability of alternative mainstream and Traveller specific accommodation that can cater for families of a larger family size norm⁷, mistrust of state agencies and services that at times are lacking an appreciation of cultural sensitivities together with widespread structural and societal discrimination are among the key challenges faced by Traveller women we as legal practitioners represent seeking barring and safety orders in the Courts. This paper seeks to discuss these three broad issues and their impact on Traveller women.

Accommodation issues

The continuing failure to provide sufficient levels of accommodation to Travellers has a direct impact on Traveller women seeking to leave violent relationships, this was referred to in the Joint Shadow Report to the UN Committee on the Elimination of Discrimination Against Women submitted by Pavee Point Traveller and Roma Centre (Pavee Point) and the National Traveller Women's Forum on 20 January 2017 where it is submitted *"Traveller women who experience domestic violence face great difficulties with accessing private rented and public housing, and are often forced to stay in abusive homes or face homelessness."*⁸

Traveller women are also far more likely to face discrimination when seeking to access alternative accommodation. In 2018, the Irish Human Rights and Equality Commission in its report *Discrimination and Inequality in Housing in Ireland*, shows – *"Members of the Traveller community also experienced the highest levels of discrimination. They are almost nine times more likely to report discrimination in access to housing as compared to the White Irish population."*⁹

7 CSO in Census 2016 <https://www.cso.ie/en/releasesandpublications/ep/p-cp8iter/p8iter/p8itd/>
"Among Traveller women aged 40-49 (the age by which women have typically completed their fertility). Nearly half had given birth to 5 or more children, in stark contrast to just under 1 in 20 (4.2%) of women overall in this age group."

8 <http://www.paveepoint.ie/wp-content/uploads/2015/04/Pavee-Point-NTWF-2017-Joint-Shadow-Report-to-CEDAW-Committee-19012017.pdf> retrieved 23 March 2021

9 *Discrimination and Inequality in Housing in Ireland* (ihrec.ie) retrieved 1 April 2021

The insufficient and inadequate provision of accommodation to Travellers has been found to be in violation of European Social Charter. On 1 December 2015 the European Committee on Social rights found unanimously that Ireland was in violation of Article 16 of the European Social Charter on the grounds of insufficient provision of accommodation for Travellers.¹⁰ The Committee in its assessment and follow up which was published on 24 March 2021 stated *“The Committee notes that Ireland has made progress in the provision of accommodation for Travellers, access to housing and refurbishment of Traveller accommodation. However, despite this progress there is still a substantial shortfall in the provision of accommodation for Travellers.”*¹¹ It further noted that the situation in Ireland has *“still not been brought into conformity with Article 16 of the Charter”*¹²

Relationship between Travellers and An Garda Síochána

An Garda Síochána plays a central role in the protection of women living with domestic violence whether orders under Domestic Violence Acts are in place or not. The EU's Fundamental Rights Agency's 2020 Six Country Report on Traveller and Roma communities¹³ found that Travellers' trust in the Gardaí is the second lowest compared to the five other European countries surveyed.¹⁴ This mistrust can obviously create barriers for Traveller women seeking to enforce Barring and Safety orders.

The National Traveller Women's Forum in its 2018 submission to the Commission on the future of Policing¹⁵ submitted that *“a history of mistrust and a lack of understanding by Gardaí is often cited by Traveller women as a barrier to their safety, and an inhibiting factor when seeking help with many Traveller Women disclosing incidents where the Guards were not a support to them. Traveller women living in Traveller specific accommodation find it challenging in particular to reach out to the Gardaí for support because of a perception and in some cases past experience that the responding Guard might use the opportunity to deal with other policing issues which puts further pressure on the Traveller women who is already in a crisis situation.”*

There have been positive developments within An Garda Síochána to address these issues and the Irish Traveller Movement (ITM) submission to the United Nations Universal Periodic Review¹⁶ states that there is broad ambition in the Garda Diversity & Integration Strategy 2019-2021, but ITM argues that a focus on internal policing practice is needed.

The importance of human rights and equality training particularly in relation to racial discrimination issues being provided to public officials and those involved in law enforcement was highlighted by the UN Convention on the Elimination of Racial Discrimination Committee

¹⁰ European Roma Rights Center (ERRC) v. Ireland, Complaint No. 100/2013, decision on the merits of 1 December 2015, Resolution CM/ResChS(2016)4

¹¹ <https://rm.coe.int/findings-ecrs-2020/1680a1dd39> retrieved 29 March 2021

¹² <https://rm.coe.int/findings-ecrs-2020/1680a1dd39> retrieved 29 March 2021

¹³ fra-2020-roma-travellers-six-countries_en.pdf retrieved 30 March 2021

¹⁴ TRAVELLERS IN IRELAND: KEY RESULTS FROM THE ROMA AND TRAVELLERS SURVEY 2019 (euro-pa.eu) retrieved 30 March 2021

¹⁵ National Traveller Womens Forum.pdf (policereform.ie) retrieved 30 March 2021

¹⁶ Submission to (itmtrav.ie) retrieved 30 March 2021

in its concluding observations on Ireland in December 2019.¹⁷

“49. While noting the information provided by the State party, the Committee regrets the lack of detailed information on human rights and equality training, particularly relating to racial discrimination issues, provided for public officials, including the police and law enforcement officials as well as on the implementation of the duty by public bodies under Section 42 of the Irish Human Rights and Equality Commission (IHREC) Act (art.7). 50.

50. The Committee recommends that the State party strengthen human rights and equality training, particularly relating to racial discrimination issues, for police officers and fully implement Section 42 of the IHREC Act. It requests the State party to provide information in its next periodic report on the impact of Section 42 of the IHREC Act.”

Impact of discrimination on accessing domestic violence supports

In the EU’s Fundamental Rights Agency’s 2020 Six Country Report on Traveller and Roma communities, Ireland had the second highest rate of reported discrimination within EU countries surveyed – *“In the year before the survey, overall discrimination (when looking for work, at work, in education, health, housing and other public or private services) among Irish Travellers (65%) is one of the highest among all survey groups from the different countries. There is little difference between men and women”*.¹⁸

Pavee Point submits in its 2013 Submission to the Joint Oireachtas Committee on Justice, Equality and Defence on the issues of domestic violence,¹⁹ that for a Traveller woman seeking to leave a violent and abusive relationship, leaving may, in certain circumstances, due to the lack of Traveller specific accommodation, result in her leaving her community, culture and natural support networks. In the submission, Pavee Point goes on to say that due to the widespread discrimination experienced by Travellers, Traveller women leaving abusive relationships are at a greater risk of social isolation and direct discrimination in seeking to become socially and financially independent of their abusive partners.

The National Traveller Women’s Forum in its 2018 submission to the Commission on the Future of Policing²⁰ argues that fear of the settled community can act as a deterrent to Traveller women experiencing gender-based violence seeking external supports and legal remedies.

As set out above, legal practitioners should be mindful when representing Traveller women of the systemic issues affecting Travellers’ lives. The challenges presented by these issues have been found by the EU Fundamental Rights Agency (EU FRA) to have been exacerbated since the onset of the Covid 19 pandemic.²¹ In 2020, the EU FRA report on

¹⁷ https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/IRL/INT_CERD_COC_IRL_40806_E.pdf

¹⁸ TRAVELLERS IN IRELAND: KEY RESULTS FROM THE ROMA AND TRAVELLERS SURVEY 2019 (europa.eu) retrieved 30 March 2021

¹⁹ Microsoft Word - 12 July- Pavee Point Submission to the Committee on domestic violence-1.doc

²⁰ National Traveller Womens Forum.pdf (policereform.ie) retrieved 30 March 2021

²¹ IE report-Covid-19 Impact on Roma-FRANET SR 33 (europa.eu) retrieved 30 March 2021

Traveller women leaving abusive relationships are at a greater risk of social isolation and direct discrimination in seeking to become socially and financially independent of their abusive partners.

PAVEE POINT

Submission to Oireachtas Committee on the issues of domestic violence

the impact of the Covid-19 pandemic on Traveller and Roma communities²² sets out that Travellers are particularly at risk as a result of the pandemic largely due to the fact that many Travellers live in over-crowded accommodation often with a lack of running water and no sanitation. Traveller women experiencing domestic violence are singled out as being particularly at risk *“for Traveller and Roma women who experience domestic violence, extant structural barriers and experiences of discrimination are likely to increase negative outcomes vis-à-vis domestic violence. Covid-19 restrictions will likely impact on those who have been subject to domestic violence, not only through increased stress and implications of same, but also in the ability for people to seek help and safety.”*

If and when a Traveller woman seeks our representation or advice in relation to domestic violence issues, it is essential that as lawyers we consider the particular issues that woman has faced prior to seeking representation and will face following orders being granted. I personally have seen Traveller women in the Courts being treated insensitively for seeking to discharge Barring Orders, which is most regrettable. It is extremely important when dealing with Traveller women before the Courts in these circumstances that the particular issues affecting Traveller women are always taken into consideration in order to ensure meaningful access to justice for them and their families.

22 IE report-Covid-19 Impact on Roma-FRANET SR 33 (europa.eu) retrieved 30 March 2021

Our vision is “Families and relationships, safe and free from abuse in all its forms”.



7. Men Overcoming Violence

- Owen O'Neill, MOVE Ireland

Move Ireland delivers a Domestic Violence Intervention Programme (DVIP) for men who are abusive in their intimate relationships. The service is funded by the Department of Justice and Póibál. It has been working in the area of Domestic Violence for 30 years.

We do this work to make the lives of partners and their children safer. We believe that abusive men can change their behaviour if given the opportunity to reflect on their behaviour. The learning takes place mostly in a group context where men are challenged about their attitudes and behaviours.

However, not all men are suitable for our programme. The following factors must be present when assessing whether the programme is suitable for a man.

- There is a pattern of acknowledged domestic abuse.
- He is able to accept responsibility for the abuse and violence in his intimate relationships and show a willingness to want to change the way he behaves.
- He is ready and able to work in a group setting. Language difficulties, mental health and substance misuse problems often mean that the man would not be capable of participating effectively.

To put it another way, if the man's only motivation for attending is to increase his access to his children or comply solely with a court order, he is unlikely to be accepted. His reasons for attending need to be centred on his desire and an acknowledgement that he needs to stop being abusive.

Men typically are involved with Move Ireland between 8-10 months. The programme is challenging but also supportive. Attendance is monitored and some men will be required to repeat if their attendance is unsatisfactory. The group sessions take place weekly and the total number of individual sessions and group sessions that men are required to attend is 33 sessions. Much of this work is cognitive behavioural focusing on motivation, responsibility, safety, and acknowledgment.

The programme is divided into modules on particular themes which help men to:

- Learn about the effects and consequences of domestic abuse on partners and children.
- Talk openly about their behaviour and the people affected by it.
- Identify the beliefs and attitudes which underpin violence and abuse.
- Cope with their behaviour and feelings in difficult situations.
- Learn how to react without being abusive.
- Learn about respect and responsible parenting.

Partners either ex or current of the men referred to the service are also offered support. This is entirely voluntary. Although many women are appreciative of the support, others choose not to get involved. For some it is the first time that they will have spoken to anyone

Contact

MOVE Ireland
National Office
Unit 2
1st Floor, Clare Rd
Business Centre
Clare Rd, Ennis, Co.
Clare
Tel: 065 684 8689
Email: move@moveireland.ie



about the abuse that they have received. The support also helps women to access other services and helps them to be realistic about the potential for change. Through this process, some women have made significant changes in their lives irrespective of whether their (ex) partner has changed. Unfortunately, our programme is not suitable for child to parent violence, abusive behaviour in same sex relationships or people who wish to attend an anger management programme.

REFERRALS

- Men can be referred to a MOVE Ireland programme by a professional or agency e.g., probation, TUSLA, counsellor, GP, or the court. (See below for contact details)
- The person referred to MOVE Ireland should not have committed sexual offences against children or be subject of a current investigation in relation to child sexual abuse.
- Self-referrals are also accepted. In fact, over 50% of referrals to the service are from individuals.

PROGRAMMES ARE DELIVERED IN THE FOLLOWING AREAS AND ARE FREE OF CHARGE:

- *Cork City*
- *Dublin (Tallaght, Swords and Dublin Central)*
- *Kerry (Tralee)*
- *Galway City*
- *Limerick City*
- *Meath (Navan)*
- *Midlands (Athlone)*
- *North Tipperary (Nenagh)*
- *Sligo Town*

The same programme is delivered by the Men's Development Network in the South East by MEND at www.mensnetwork.ie and the North Eastern Domestic Violence Programme (NEDVIP) in Louth Tel: 042 9359755.

What men and partners have said about the impact of attending our service.

“I mean my children never saw the violent episode. But I only realized afterwards that they’re being quiet and withdrawn almost after we had an argument or something. So, to open your eyes up to how your kids perceive it is scary, but you have to do it. I think you have to go through it to get over it.”

“There’s no more shouting or looking for an argument or going off to my bedroom and mulling everything over and winding myself up whereas now I can just sit there and wind myself down.”

“You know I don’t feel that he will jump down my throat whenever I’m asking him a question. And yeah, I feel a lot more free in the relationship now and I look forward to events now. I don’t dread even alcohol related events now where I would have been nervous at weddings or at night-time events whereas now, I look forward to them so much.”

“It has changed for the better, the abuse has stopped, there’s no danger, there’s no immediate harm. It’s changed so much for the better yeah.”

For queries about programmes operating in specific areas contact the following designated numbers:

- MOVE GALWAY, SLIGO, MIDLANDS - Contact: 085 874 8108
- MOVE CORK - Contact: 086 604 4047
- MOVE DUBLIN, MEATH, TALLAGHT, SWORDS - Contact: 086 414 9591
- MOVE LIMERICK, NORTH TIPPERARY, KERRY - Contact: 086 414 9613

For more information, please visit our website www.moveireland.ie

8. Louise and Gerry – A Case to illustrate Mediation Practice when Domestic Abuse is present

- Rachel Murphy, Mediator

Family Mediators are constantly on the alert for domestic abuse in mediation and work within an established Policy framework for such cases set out by the Board. Through their skill and experience, specialised family mediators put client safety at the heart of our work and hopefully, this case provides a useful example, for mediators and non-mediators alike, of how family mediators work when domestic abuse presents itself.

Background

- 1 November 2020 Louise as a lay litigant obtained a protection order against her son's father Gerry. Safety order to be heard on February 22nd 2021.
- Louise's predicament lies in the fact that she relies on Gerry to take their son, Ben (6), when she is working, and she fears that he will not take him now as he will be so angry about the protection order. He often makes changes to arrangements for no apparent reasons. She does not want to talk to him directly but she needs to figure out what set access arrangements can be put in place that he will have to stick to.
- Louise talks with Court Service staff who inform her that she cannot make an application for access; it is Gerry's responsibility. They recommend contacting a solicitor to assist her or to consider mediation which is available on a walk-in basis in Dolphin House.

Mediation Process

- Louise makes contact with the Board's Mediation Service by phone saying she wants to try mediation. She provides initial information including Gerry's contact details.
- Mediation Service writes to Gerry to enquire if he is interested in mediation. He subsequently phones to obtain brief information on mediation and indicates he is willing to start the process.
- Individual telephone mediation appointments are offered to both to establish if mediation is appropriate in their circumstances and to screen for domestic abuse.
- Mediator conducts telephone pre-mediation sessions with Louise and Gerry.
- No commitment is given to either party for mediation will proceed until the mediator has made an assessment during these meetings. It is crucial to preserve the safety of all involved that it is the decision of the mediator around whether to proceed not the parties. This mitigates against one party blaming the other for not proceeding.
- Mediator makes assessment on whether mediation is appropriate and informs clients appropriately in a safe manner.

Pre-Mediation Meeting with Louise conducted by telephone

"Louise lives with her 6 year old son, Ben who is in Senior Infants. She was in a relationship with Gerry on and off for 6 years. They lived together for 6 months prior to Ben being born and periodically for 5 years after. They split up once and for all in June 2020. Gerry

About the Author

Ms. Rachel Murphy, B Sc., MA,
MII Advanced Practitioner,
Dip in Mediation and Conflict
Intervention, Dip in Family Law.
Rachel is a Mediator, with the
Legal Aid Board Family Mediation
Service based in Dolphin House,
Dublin 2.

is Joint Legal Guardian by way of SI 5 completed soon after Ben was born. No formal access agreement is in place.

Louise lives on her own with Ben in her original family home since her Father went into a nursing home last year. She works part-time in a telecoms call centre where the hours are variable. She struggles to get childcare in COVID with the schools on/off and she's worried about having to give up her job. She has no immediate family support.

Normally, Gerry sees Ben on Wednesday evenings and 1 or 2 afternoons over the weekend. This is not consistent, and Gerry often does not turn up or makes changes to the times for no apparent reason. She feels this is deliberate to unnerve her and to create problems for her work. Recently, she was terribly upset with Gerry when he brought Ben over to his friend's house where she knows they take drugs alot. She denied Gerry access to Ben and turned him away. Gerry got incredibly angry and started shouting and verbally accusing her of being unstable and unfit. Gerry knows she has suffered from anxiety in the past and she feels he uses this to make her feel bad. She called the guards on this occasion and they advised her to get a protection order. Since the order was granted Gerry has only taken Ben on Wednesday's. He has also stopped giving her the €65 cash for Ben each week until the "safety thing" is sorted and while she is ok for money at the moment she needs it for the future.

Louise is now desperate to get a set arrangement in place for Gerry to take Ben so that she can go to work and not spend all her money on childcare. Louise needs Gerry to 'step up' to his responsibility. She acknowledges that Gerry is a good Dad and wants him in Ben's life but does not want to have to deal with him herself. She is fed up with how unreliable he is. She has heard that mediation can help her do this without having to fight with Gerry in court which she thinks he will manipulate anyway because he is so charming, and she struggles to express herself well.

As the Mediator probes further to assess the effect of what she experiences as Gerry's abusive and manipulative behaviour on Louise, it emerges that during the years they were together he was always putting her down and making her feel bad. She has only realised this after recently confiding in friends whom she had lost touch with when living with Gerry. She is determined to stand up to him this time. Despite this resolve and having the protection order in place Louise is very overwhelmed and acknowledges that she finds things very confusing.

She has contacted the Legal Aid Board to get a solicitor and while she is eligible, they may not be able to help until just before the Safety Order court date in 4 months' time. She cannot afford a private solicitor.

Pre-Mediation Meeting with Gerry conducted by telephone

"Gerry wants a structured access agreement which cannot be changed whenever Louise gets her work hours. He wants to have Ben more during the week collecting

him from school some days and every second weekend including overnights so that he can maintain his bond with him. Louise has stopped overnights 4 months ago when they had the fight over his friends. She even took a protection order against him in November even though it was her who refused him access. He got really annoyed that time and shouted at her in front of the neighbours and she called the guards who were very sound about it all but said they had to side with her. They recommended that he get a solicitor to get access to Ben.

Gerry is getting really frustrated about not seeing Ben enough, he has only taken Ben during the week when Louise seem calmer and his Mam organises things for him with her. Louise has been sending abusive messages and while he does not feel threatened physically, he thinks she has 'lost the plot with her anxiety' now. He wants mediation to work, but his solicitor has warned him about the protection order being breached if he communicates directly with Louise. His solicitor has made an application for a Safety Order against Louise and an application for access, which will all to be heard on the same day in February 2021. In the meantime, he is worried about Ben not bonding enough with him.

Probing further with Gerry, about whether there was always conflict between him and Louise he maintains that Louise has always suffered from anxiety and that he used to 'take over things' when they were living together. They broke up eventually because he was fed up with her jealousy when he went out with his friends. He doesn't really get upset by Louise's texts anymore, but his solicitor has recommended that he applies for the safety order to get her to stop."

Mediator's Assessment

In mediation intake sessions, the Legal Aid Board's Family Mediators always apply their specialised training to screen for domestic abuse by exploring many different aspects of both parties presented narrative. These include described abuse toward either parent or children, single incident/patterns etc., current and historical levels of relational conflict, impact on both patterns of decision-making and power imbalances in the relationship, involvement of children in the parental conflict, need for a safety plan/support now and in the past, current and previous court orders in place, network/referrals or other social/legal interventions that have taken place.

Mediators do not depend on whether they believe one side or another; specialised training requires making an assessment around whether mediation is appropriate and whether people have the capacity to mediate on an equal footing taking all the factors into account above.

Mediation was not considered appropriate in this case at this time for the following reasons:

- While Louise is not in immediate physical danger and there is a protection order in

place, she continues to experience significant on-going psychological abuse and coercive control, and this will affect her capacity make good decisions for herself in mediation.

- Economic abuse is present in the withdrawal of maintenance.
- Louise is only now coming to terms with the impact of past control and abuse and she lacks the functional capacity to mediate.
- She has minimal familial support and has not yet reached out to any domestic abuse support service to provide help and on-going support.
- There is no acknowledgement from Gerry that there is an abusive or controlling pattern of behaviour.
- On reflection Louise concurs with the recommendation for no mediation.

Despite mediation not proceeding, Louise's contact with the mediation service provided her with an avenue to review and assess her current position in a non-judgemental environment and to access the experience of a mediator to find a more realistic path to getting a resolution to her situation. In this case, the mediator provided details of Women's Aid, a referral to the Board's Law Centre and further information on shared parenting for the future.

For Gerry, the mediation intake meeting provided him with an opportunity to review and assess his position and to establish how he might pursue his goals of spending more time with his son without resorting to abusive episodes. He too received information about Men's Aid support services and shared parenting.

This case illustrates a commonplace predicament facing parents, how to sort parenting time where abusive behaviour and abuse is prevalent. *It begs the question about whether mediation is ever appropriate?* Based on the Family Mediation Services' experience there are some very limited circumstances where specialised mediation MAY be appropriate and useful to parents. Based on the information derived from intake discussions these circumstances may include where:

- Both parents fully acknowledge abuse and agree to safety procedures, separate meetings and staggered meeting times etc.
- Safety Orders are in place and being adhered to.
- The abused person has support structures in place, such as Womens Aid, legal representation, advocates, counselling etc.
- The abused person has the ability to identify his/her own needs and not minimise them due to past control and abuse.
- The abused person has no fear of retribution.
- Economic abuse is not present to undermine the ability to mediate and live separately. Ongoing assessment of appropriateness for mediation occurs.

Rachel Murphy
Family Mediator
Legal Aid Board
Dolphin House

Note: All names and specific details of the parties have been changed.



COERCIVE CONTROL

P A R T T H R E E





Power and Control Wheel

source: <http://www.stopdomesticviolence.org.uk/violence-wheel/>

9. Power and Control: abstracts from an assignment - Ann O'Brien

- *The following is an extract from an assignment carried out by Ann O'Brien, Student of the BTEC : Higher National Diploma in Health and Social Care at Inchicore College Dublin*

There are lots of different forms of domestic violence in our society including male victims of domestic violence in intimate relationships, and sibling abuse, plus same sex intimate abuse, elder abuse and violence against children, but this research is focused on adult female victims of domestic violence/ Coercive control.

Power and control of the victim is what the perpetrator needs to achieve in order to sustain the relationship, this power and control is done in stages and is known to domestic violence survivors and domestic violence support workers as a wheel of control.

Power and Control Wheel

This is a diagram that supports domestic violence workers to explain to a woman the way the power of events can lead to a domestic violence relationship. The diagram includes information on using coercion and threats, using intimidation, using emotional abuse, using isolation, minimizing denying and blaming, using children, using male privilege, using economic abuse.

"Since 1996, there have been 191 women murdered in the Republic of Ireland. 117 women (61%) were killed in their own homes".

(Women's Aid Female Homicide Media Watch, June 2013)

Another 50 (35%) women were killed by someone they knew (e.g. brother, son, neighbour, acquaintance). Thus, a total of 125 women (89%) were killed by someone known to them. In all of the resolved cases, 99% of perpetrators were male and 1% was female. (Women's Aid Female Homicide Media Watch, June 2013)

In the UK between 2001 and 2002, 46% of female homicide victims compared with 5% of male homicide victims were killed by a current or former partner. Over 2 women a week were killed by a former or current partner during this period.

(Flood-Page et al, Crime in England and Wales 2001/2002: Supplementary Vol, Home Office, 2003)

40 - 70% of women who are murdered worldwide are killed by their current or former husband or boyfriend. (World Report on Violence and Health, WHO, 2002).

In 2007, 45% of female homicide victims in the US were murdered by a male partner or ex-partner, compared to 5% of men.

(Female Victims of Violence, Bureau of Justice Statistics Selected Findings, September 2009, USDOJ)

About the Author

Ms. Ann O'Brien is a Clerical Officer employed with the Legal Aid Board's Family Mediation Office in Tallaght., Dublin 24.

10. Coercive Control

- Professor Jane Monckton Smith

Professor Jane Monckton Smith is a criminologist specialising in domestic homicide. A former police officer, she is professor of public protection at the University of Gloucestershire, and is recognised for her groundbreaking work on coercive control. The slides from Professor Monckton's presentation given to an event hosted by the Legal Aid Board in January 2021 are reproduced here with her kind permission.



An Bord Um
Chúnamh Dlíthiúil
Legal Aid Board

COERCIVE CONTROL

Professor Jane Monckton Smith



CONTEXT

- A UK Home Office consultation in 2012 concluded that coercive control was the best framework for understanding domestic abuse
- Coercive control was criminalized as a result in England and Wales (Serious Crimes Act 2015), Scotland (Domestic Abuse (Scotland) Act 2018); Ireland (Domestic Violence Act 2018 (Ireland))
- Although the legislation is new, the research surrounding coercive control as the most dangerous and damaging form of IPA is not
- The pattern is linked to aggressive child custody, abuse of process and vexatious litigation
- Coercive Control is also considered to be the most significant high risk marker for potential homicide

CONTEXT

- Coercive control is the most common form of IPA for which victims seek help or assistance - characterizes approximately 60% to 80% of the cases in which women seek outside assistance
- It has been found that domestic abuse in intimate relationships occurs in two key contexts: *situational domestic violence* or *coercive control*
- The difference is mainly in the level of control or subjugation achieved
- 20% of cases there is no known physical violence
- The aim of coercive control is domination of a partner rather than merely to win compliance on particular issues
- It accomplishes this with tactics that deprive victims of basic rights, resources and liberties



COERCIVE CONTROL

A broad range of non-consensual tactics used over an extended period to subjugate or dominate a partner

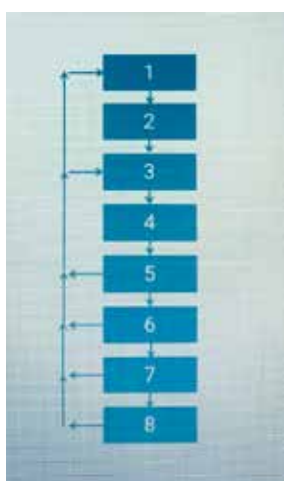
It has been likened to a 'hostage situation'

It's a motivation and an 'end game'

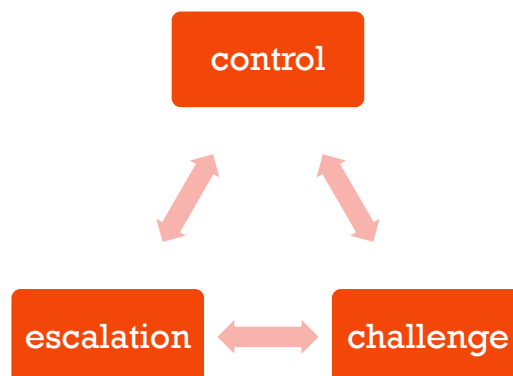


WHAT IS COERCIVE CONTROL?

- Coercive control is a pattern of abuse and a motivation or aim
- All abuse tactics work together to create the compliance, subjugation and entrapment
- There are consequences for any challenge – the most dangerous of which is separation



COERCIVE CONTROL CIRCLING



CONTROL (3)

- A situation where compliance has been achieved and may be increasing
 - Victims will be more or less compliant depending on their experience of the perpetrator
 - The perpetrator sets in their minds the 'price' of their resistance (Stark 2009)
- *Dawn was living in an isolated location, no contact with family or friends, told what she could do, eat, wear etc.*

TRIGGER (4)

- There is resistance to the control or a challenge to it (Micro trigger)
 - This could be anything from saying the wrong thing, to breaking the rules
 - If it is a macro trigger (something that is a serious challenge to the perpetrator) the consequences could be significant
 - Humiliation
 - Challenge
- *Dawn's husband knew she was going back to her volunteer job after a period of illness – this was a challenge/trigger he did not like her going out, he wanted to be the sole focus for her life*

ESCALATION (5)

- This is the response to the trigger:
 - Violence, Threats to pets, children or others, Financial punishment, Removing of resources, Menace, Sulking, Temper tantrums, Sexual abuse
- *Dawn's husband beat her making sure he left bruises on her face. He knew she wouldn't go out*
- *He saw himself as the victim, even when he severely beat her (as in the photo) he said to her 'see what you've done, you've got me arrested'*

COERCIVE CONTROL GROOMING PROCESS

- In the early stages of a relationship the behaviours will be different, but will be about establishing control. They will start early.
 - So-called 'love bombing'
 - Testing boundaries and then pushing those boundaries
-
- Jealousy code
 - Loyalty code

JEALOUSY CODE

Introducing control through appeals to 'jealousy'

Jealousy is interpreted as love and not control

Once a control has been complied with, it becomes a 'challenge' if it is not complied with in the future

LOYALTY CODE

Loyalty is crucial to perpetrators of control

Series of tests to prove loyalty

Perceived disloyalty can provoke the most intense consequences

Loyalty is required at all times

ROUTINE AND RITUAL



- Routines are set up to be followed – gives control and alarm system
- Ritual is the way a routine is carried out
- Both the routine and the ritual may change at a moment's notice
- A test of the control

COERCIVE CONTROL, STALKING AND MONITORING

- Stalking (monitoring and tracking) very common
- Occurs before and after a relationship
- Cyber monitoring and tracking
- Physical tracking
- After separation – to instill fear, to instill themselves as 'protector', to monitor, to punish



- Abuse of process
- Vexatious litigation
- False accusations
- Civil and criminal courts



- This is particularly common
- If there has been any coercive control in the relationship and then a separation, child custody battle is inevitable even if not necessary
- Controlling people are all about winning
- The children are used to achieve victories
- They are used to enable monitoring
- They are used to continue contact with victim
- Accusations of coercive control, or evidence of it, should be taken seriously as children are at risk
- Professionals can be deceived by these arch manipulators



Risk of consequences is real and is what CC is based on

What are the consequences?

What have they been in the past? How menacing are they? How determined is the perpetrator?



- How much time is invested in the control or the stalking
- The time invested will tell you something about the determination and obsession
- Is it a full time or part time job for the perpetrator?

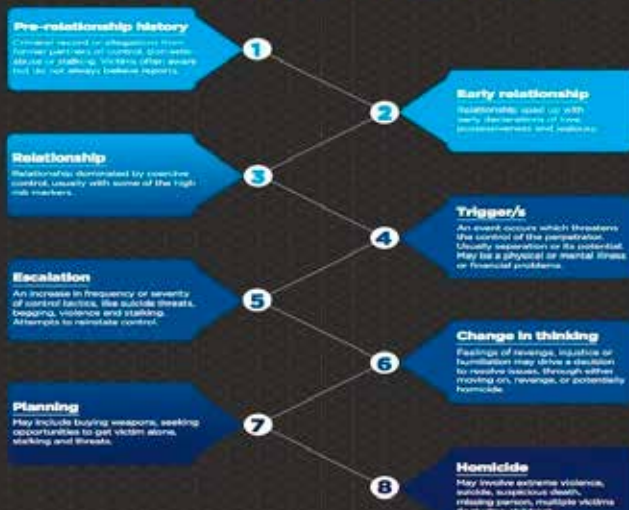
COERCIVE CONTROL AND IMPACT ON THE VICTIM

- Fear – chronic and immediate
- PTSD
- Depression, anxiety, paranoia,
- Suicidal ideation

COERCIVE CONTROL AND OTHERS

- Perpetrators may be in more than one relationship - control will be present in all
- Perpetrator may be promiscuous and manipulative with other people
- Perpetrators will control their children – male and female – dominating choice and activities where they have control
- Perpetrators often have histories of abuse of their mother or parents – most menace directed towards female members of the family
- Manipulation of those outside of their sphere of control – try to bring them in – or try to distance them
- Manipulation of professionals

HOMICIDE TIMELINE



(MACRO) TIMELINE

This is the macro level timeline that shows the patterning that can lead to homicide

4

P A R T F O U R



THE JUSTICE AGENCIES



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11. The Role and Work of the Probation Service in Domestic Abuse cases

- Carmel Donnelly, Probation Service

The Probation Service is an agency within the Department of Justice which is committed to working for safer communities and fewer victims through offender rehabilitation.

It is an organisation with a national remit whose role is to contribute to public safety through the management of Court orders and supervision of community sanctions. With the objective of reducing offending rates, offender integration and reparation is a central role and this is achieved by challenging and addressing the underlying causes of offending behaviour which are multi-faceted and complex.

That said, the service is also sensitive to victim concerns and is conscious of the harm caused by crime, and our practice is informed and underpinned by the Criminal Justice (Victims of crime) Act 2017 and the Victims of Crime Charter. At every stage of their work Probation Service staff endeavour to make good the harm done through evidence based interventions with offenders.

The Probation Service provides services to the Courts, prisons and local communities. During 2019 the Service managed over 16,000 offenders in the community, prepared over 12,500 Probation reports for the Courts and worked with in excess of 2,600 prisoners in custody/detention.

All our initial interventions with offenders, including domestic abuse perpetrators involves a comprehensive assessment of the needs and risk factors pertaining to each individual referred. Probation Officers have specific expertise in assessing risk and use approved risk assessment instruments in conjunction with their social work training. Many offenders referred to the Service present with substance misuse, mental health, literacy issues and social skills deficits to name but a few of the factors that contribute to their offending behaviour.

Pre-sanction assessment reports are regularly requested by the Judiciary as these assist in the formulation of sentencing decisions, however, assessment reports are also provided on request to The Parole Board, The Department of Justice, The Irish prison Service and other bodies as appropriate.

The management of Court directed supervision orders and post release supervision orders involves the development of case management plans and the use of targeted interventions aimed at addressing identified risk factors/needs with a view to reducing recidivism rates.

The work of the Probation Service in the field of domestic violence is underpinned in legislation ,the most recent being the Domestic Violence Act 2018 which improves the

About the Author
Carmel Donnelly, Regional
Manager, Probation Service.

protections of available to victims under both civil and criminal law. The new offence of coercive control sends a clear message that this behaviour constitutes a serious offence and the legislation recognises the cumulative harmful impact of repeated patterns of often subtle abuse/control as opposed to a single incident of violence.

As a Service we do not operate in a vacuum but instead contribute to a cross sectoral response which aims to minimise the occurrence of domestic abuse by holding perpetrators to account through purposeful interventions, supporting victims and collaborating with key stakeholders. As such, The Second National Strategy on Domestic, Sexual and Gender based Violence 2016-2021 outlines a range of actions to be implemented by statutory, voluntary and community organisations and the Probation Service holds particular responsibility for the provision of sex offender treatment programmes, victim offender mediation and domestic violence perpetrator programme development

A key element of the Probation Service approach centres on the risk assessment and management of domestic abuse cases referred by the Courts. Probation Officers working in the area of domestic abuse have received specific training and are equipped to recognise, understand and respond to domestic abuse/coercive control and work with convicted perpetrators in order to reduce the risk of future offending behaviour. Upon request a comprehensive assessment will be undertaken and communicated to the Courts in the form of a Pre-Sanction Report.

Where supervision is ordered this assessment will form part of the ongoing case management process along with the ongoing monitoring of risk acknowledging the ever changing and dynamic nature of same.

Red flags are raised for instance where there is a recent or imminent separation by partners in domestic abuse situations, pregnancy or deterioration in perpetrator mental health.

The supervision process aims to target the domestic abuse risk factors particular to individual perpetrators in order to interrupt the destructive effects and cycle of domestic abuse. To this end as part of their work Probation Officers liaise and collaborate in the delivery of perpetrator programmes whilst holding offenders to account for their abusive behaviour, challenging denial and motivating offenders make positive changes.

Domestic abuse is a complex issue and as such the Probation Service recognises the importance of a joined up approach with statutory agencies for example An Garda Síochána and Tusla in addition to the community and voluntary sector as this is critical if we are to achieve a comprehensive, co-ordinated and effective response to this ever pervasive societal problem.

The promotion of an interagency/integrated approach is also acknowledged as good practice to ensure victim safety and we regard the rights and needs of victims as central to the process of perpetrator accountability. In practice every effort is made by Probation

Service staff to support partners and ex-partners by linking them with appropriate specialist victim support services.

Finally, the Probation Service recognises the detrimental impact that domestic abuse has on individuals, families and communities and we promote an awareness of domestic abuse issues within our own organisation and through partnerships with other stakeholders /NGOs in order to achieve better outcomes for all concerned.



12. Prosecuting cases involving Domestic Abuse

- Office of the Director of Public Prosecutions

In January this year, the Legal Aid Board hosted a Domestic Violence/Coercive Control Inter-agency Webinar. Participants included speakers from An Garda Síochána, the Office of the Director of Public Prosecutions, the Probation Service, Tusla and Aoibhneas. The agencies provided insight into the services they provide and their experiences dealing with families where domestic violence and coercive control are apparent.

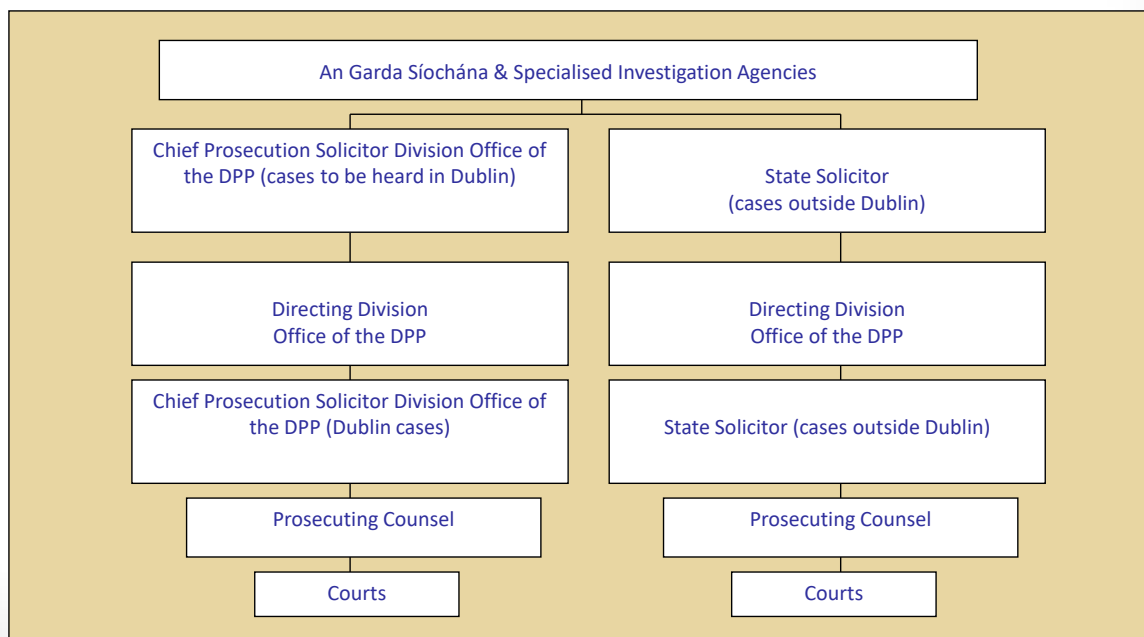
The set of slides of the respective presentations given on the day by the Office of the Director of Public Prosecutions and An Garda Síochána are reproduced here with permission.



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Prosecuting cases involving Domestic Abuse

Criminal Prosecution Process



Statistics - Files received relating to Domestic Violence

- 2019 – 465
- 2020 - 937

Developments in the Prosecutorial Landscape

Criminal Justice (Victims of Crime) Act 2017

- S19 Special Measures during Criminal Proceedings
- S20 Power to exclude the public
- S31 amends existing legislation and provides a victim with the right to address the Court orally or in writing pre sentence

Developments in the Prosecutorial Landscape

Domestic Violence Act 2018

- Introduced coercive control at S39
- S34 provides for the exclusion of the public from proceedings
- S36 prohibits publication of the identity of the accused
- The relationship between perpetrator and victim is an aggregating factor in certain offences, S40

Developments in the Prosecutorial Landscape

Practical Developments

- Vulnerable victims list
- Adopting a consistent approach
- Use of special measures
- Cooperation with other stakeholders in approach

How challenges can be being met

- Offences arising during Covid 19 pandemic
 - priority cases and recognised as such
- Occasionally there can be challenges in securing witness attendance
 - Listing all matters with the same complainant on the same day
- Overlap family & criminal
 - particularly in relation to access to children

Decision to Prosecute or Not

- Strength of evidence
- Public interest

Offence of coercive control

Section 39(1) of the Domestic Violence Act, 2018 provides that:
A person commits an offence where he or she knowingly and persistently engages in behaviour that –

- (a) is controlling or coercive,
- (b) has a serious effect on a relevant person, and
- (c) a reasonable person would consider likely to have a serious effect on a relevant person.

A “serious effect” according to subsection (2) is a fear that violence will be used against the person, or serious alarm or distress that has a substantial adverse impact on the person’s usual day-to-day activities.

Statistics – Cases where offence of coercive control charged

- 2019 – 2 cases
- 2020 – 5 cases
- 2021 – 1 case

Types of behaviour

- Assaults and criminal damage or threats to kill or cause harm to victims or family members or to damage property.
- Monitoring and/or controlling the victims’ social media accounts, e-mail accounts and phones. Confiscating or destroying phones.
- Monitoring and/or controlling movements of victims. Secretly installing apps on phones, tracking devices in vehicles. Confiscating car keys.
- Monitoring and/or controlling online bank accounts and/ or access to money.
- Belittling and verbally abusing victims often in front of children.
- Further isolating victims by creating hostile atmosphere in the home that deters visitors.
- Controlling what victims watch on TV or read. Controlling clothing worn by victims.
- Blaming victims for problems in relationship and for perpetrator’s behaviour.

Publications

- Guidelines for Prosecutors 5th Edition (2019)
- Information Guides for Victims and Witnesses

13. Garda National Protective Services Bureau Domestic Abuse Intervention & Policy Unit - Detective Sergeant Laura Sweeney, An Garda Síochána

The Garda National Protective Services Bureau (GNPSB) provides advice, guidance and assistance to Gardai investigating the following: Sexual Crime Investigation; Online Child Exploitation Investigation; Child Protection, Domestic Abuse Intervention and Investigation; Human Trafficking Investigation; Organised Prostitution Investigation; ViCLAS; Specialist Interview; Sex Offender Management; Missing Persons; Missing Persons in Care; and, Support for Victims of Crime. The bureau leads the investigation in more complex cases.

The bureau also liaises with relevant Government Departments, State Bodies and voluntary groups, embracing the essential multi agency approach to tackling these crimes and their causes. Primary considerations in these cases are the protection and welfare of the victims, while ensuring the proper investigation of the alleged activities.



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An Garda Síochána
Garda National Protective Services Bureau
Domestic Abuse Intervention & Policy Unit
Detective Sergeant Laura Sweeney

Garda National Protective Services Bureau

- ▶ Sexual Crime Investigation
- ▶ Online Child Exploitation Investigation
- ▶ Child Protection
- ▶ Human Trafficking Investigation
- ▶ Organised Prostitution Investigation
- ▶ ViCLAS (Violent Crime Linkage Analysis System)
- ▶ Specialist Interviewing
- ▶ Sex Offender Management
- ▶ Missing Persons
- ▶ Missing Person in Care
- ▶ Victim Support
- ▶ Domestic Abuse

Domestic Abuse Intervention Policy Unit

- ▶ Legislation & Policy
- ▶ National Strategy
- ▶ Engagement with Statutory and Non Statutory Agencies
- ▶ Risk Assessment Tool
- ▶ Pilot Schemes - car kits, child trauma kits
- ▶ Monitoring of incidents nationally
- ▶ High risk victim and offender management
- ▶ Tecos - DMR only
- ▶ Presentations - internal and external
- ▶ Liaison, Guidance and Advice to districts and divisions
- ▶ PQs
- ▶ Statistical Analysis
- ▶ Data Quality
- ▶ Training

Domestic Abuse

The physical, sexual, financial, emotional or psychological abuse of a person against another who is a family member or an intimate partner regardless of gender or sexuality.

Degradation – Isolation & Control – Physical & Sexual
Violence – Intimidate & Stalking

Domestic Abuse is not one single event, it is a cycle of events with horrific consequences

The Extent of Domestic Abuse

Figures According to Pulse – Not Accurate Societal Picture

- ▶ 500 to 600 domestic abuse calls weekly
- ▶ 30,000 annually
- ▶ Every 17 minutes

Covid 19

- ▶ 17% ↑ Calls for Service
- ▶ < 20,000 contacts/Attempts
- ▶ 15% ↑ Detections on Breach of Order Offences

Femicide (Women's Aid Femicide Report 2020)

- ▶ 235 women and 16 children killed between 1996-2020
- ▶ 88% of females knew their killer
- ▶ 56% by current or ex- partner
- ▶ 80% by sons if killed by male relative

High Risk Indicators

- ▶ Coercive Control
- ▶ Stalking
- ▶ Assault – physical or sexual
- ▶ Strangulation or choking
- ▶ Weapons used
- ▶ Abuse during pregnancy
- ▶ Killing pet or animal
- ▶ Gone on arrival offender
- ▶ Injured party leaving or preparing to leave the relationship

Domestic Violence Act 2018

- ▶ Came into Law on the 01.01.2019
- ▶ Orders – Safety, Barring, Interim Barring, Emergency Barring, Protection Order
- ▶ Special Sitting of the District Court
- ▶ New Offences
- ▶ Prohibition on Publication or Broadcast
- ▶ Forced Marriage
- ▶ Coercive Control
- ▶ Relationship between defendant & Victim an Aggravating Factor

Coercive Control

Section 39 Domestic Violence Act 2018

Knowingly and persistently engages in behaviour that is:

- ▶ Controlling or Coercive
- ▶ Has a serious effect on a relevant person
- ▶ A reasonable person would consider it likely to have a serious effect.

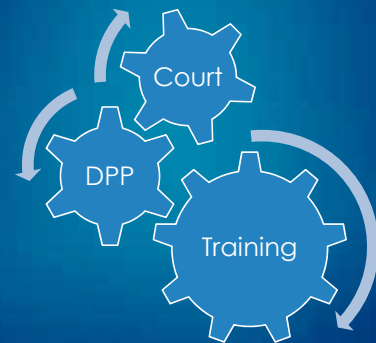
Serious effect means:

- ▶ To fear that violence will be used against him or her, or
- ▶ Serious alarm or distress that has an adverse impact on his or her day to day life

Proofs

- ▶ Knowingly & Persistently
- ▶ Controlling & Coercive
- ▶ Serious Effect – fear of violence/serious alarm or distress that has an impact on day to day activities
- ▶ Relevant Person (spouse/civil partner/is or was an intimate partner)
- ▶ A reasonable person would consider the behaviour to have a serious effect on a relevant person

Understanding Coercive Control



Underpins All Abuse



Coercive Control

- ▶ To be controlled, is to be abused.
- ▶ Involves impacting on a person's liberty
- ▶ Examine patterns not incidents

Intervention can happen at any stage and alter the course of a homicide

Coercive Control

- ▶ Micromanaging victim's actions or interactions
- ▶ Monitoring behaviours
- ▶ Isolation
- ▶ Emotional & psychological abuse
- ▶ Deprivation of basic daily needs
- ▶ Economic abuse
- ▶ Threats and intimidation
- ▶ Stalking and Harassment via technology/surveillance
- ▶ Criminal damage
- ▶ Sexual abuse
- ▶ Physical violence

Possible Signs to Look for - Victim

- ▶ Appearing withdrawn, defensive or concerned about engaging with police
- ▶ Appearing frightened and scared of the suspect and what they might do (even if they are not present)
- ▶ Being isolated from friends and family
- ▶ Having low self esteem
- ▶ Making excuses for their partner's abusive behaviour
- ▶ Ask about the "or else" – how did the victim know the consequences for doing or not doing something



Coercive Control

- ▶ Arrestable Offence
- ▶ Recommend investigation prior to arrest
- ▶ File for DPP directions – unless a juvenile offender & the JLO process will be adhered to

Risk Evaluation Tool



Challenges

- ▶ Trying to safely engage with victim
- ▶ Distraction Techniques
- ▶ Victim does not want to proceed
- ▶ Behaviour Offence ≠ Evidence
- ▶ Gardaí not understanding or seeing CC
- ▶ Lack of understanding in CJ sector
- ▶ Inconsistent approach for repeat victims

Legal Ease

The Legal Aid Board has a duty to its clients to get under the skin of this issue and to uphold the rule of law in both instituting and defending applications.

We also have a duty to our clients to better understand how they may perceive their own situations and how it may affect their decision making capacity.



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**“It is hoped this edition
broadens our perspectives and
increases our awareness.”**

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