

## Order of the Day

### 1. Domestic Abuse Bill 2019 – Second Reading approved

Miss August-Hanson to move:

*That the Domestic Abuse Bill 2019 be read for a second time.*

**The Acting President (Mr Cretney):** Thank you, Hon. Members.

We move to Item 1 on our Agenda Paper, Domestic Abuse Bill 2019, and I call upon Miss August-Hanson to move the Second Reading.

**Miss August-Hanson:** Thank you.

20 I would like, in the Second Reading, to just run through any changes to the thematics on clauses that we have discussed previously and I have highlighted previously, and sent across to Members. And also just to address some of the questions that were raised on First Reading of this Bill.

25 I will go to that first actually, and just in response to Mrs Lord-Brennan's and Mrs Sharpe's comments in *Hansard* about the age of criminal responsibility, this Bill makes no statement about the age of criminal responsibility; but what it does say is that the civil Domestic Abuse Protection Notice (DAPN) and the civil Domestic Abuse Protection Order (DAPO) may only be issued in respect of persons aged 16 years or over, the age of criminal responsibility is irrelevant at this stage. Consequentially there is no criminalising of youngsters. If, however, a 16-year-old or over is given a DAPN or DAPO and breaches either, then they are liable to criminal proceedings. Furthermore if a child at, or over, the age of criminal responsibility, 10 years old, commits either the domestic abuse offence or the controlling or coercive behaviour offence then they become liable to prosecution. However, the Police and the courts do have, as always, other options and would only prosecute if there was sufficient evidence and it was necessary 'in the public interest', which is a phrase that is well understood by Police and prosecutors.

35 There was a question about the voices of children being heard as well, something I personally agree with. In relation to the 'voices' of children, clauses 9, 19 and 32(3)(e) – the variation – require the welfare of children to be considered; and clause 32, as mentioned, provides for a person acting on behalf of the child to apply for the variation or discharge of an order. Earlier in the process one would imagine a responsible adult would articulate to the Police the views of the child.

40 In relation to Mrs Lord-Brennan's reference to UK court Practice Notes in relation to children, I note those, but do not believe they are a matter for legislation. It is for the court to make rules to govern its procedure and the judiciary to issue their own Practice Notes as they see fit. Doubtless, the Manx judiciary will refer to relevant Practice Notes and guidance from other jurisdictions to help them in their deliberations.

45 Mrs Poole-Wilson asked about training for the Isle of Man Constabulary's officers, perpetrator interventions and places of safety for victims. Training is important and it is a matter for the Constabulary and other professional agencies to arrange. The Legislation and Policy Manager from the Department of Home Affairs will be working with the Constabulary to assist the Constabulary in understanding the training needs that they have, as they apply to the police function. The perpetrator interventions and places of safety are a matter for the domestic abuse strategy, as I will talk about now.

55 Mrs Poole-Wilson asked about the Domestic Abuse Strategy and I am able to report that the strategy was delayed while Public Health completed the needs assessment, which has now been completed. It is hoped to publish the strategy soon, as it is currently being worked on.

60 Mrs Poole-Wilson asked how DAPOs interlink with other proceedings. The Department envisages that this be taken forward in guidance. However, there could well be, to take one example, a court case – we will call this a criminal court case – where the defendant is convicted of an offence but where the court, on hearing the evidence, concludes there is a domestic abuse element or situation that has been uncovered, and whilst the index offence merits only a non-custodial penalty there are reasons to consider that the DAPO might offer protection to another person and prevent the defendant from engaging in domestic abuse – in that particular instant, the secondary matter. Accordingly, the court may sentence the offender to a community order and add to that a DAPO with such conditions as the court considers appropriate, usually with the assistance of the prosecution, but the court may act on its own motion.

70 Family proceedings are not within the expertise of those who have been working on this at DHA. However, just as the court may make a DAPO in criminal proceedings to sit alongside any sentence or acquittal of the court, so a family court may place non-contact and other conditions in a DAPO that would sit alongside the family judgment, and these may run concurrently. In all cases the idea of the DAPOs is that they can be applied for or imposed by whichever court is seized of the case at the relevant time and can deal with all matters in the round.

75 Mrs Poole-Wilson asked about what evidence would be made available to the court in relation to coercive and controlling behaviour and, in honesty, the Legislation and Policy Manager will be considering that when drafting the Department guidance that will go with the Bill or the Act. He has been made fully aware of the issues and concerns and does consider that surely in an offence such past evidence will be very, very highly important. It may be that Legislative Council believes a provision needs to be inserted into the Bill making it plain that in relation to the coercive and controlling offence evidence may be adduced that pre-dates the implementation of the DA Act.

80 Mrs Poole-Wilson asked about consultation to check the cross-examination in court provisions were fully workable. Whilst the Law Society were consulted, the Legislation and Policy Manager did not receive the benefit of their consideration, and has not done as of yet, so cannot comment on whether it is thought the provisions are fully workable. The Department will be chasing those again. The courts were consulted and have not told us there is any problem – they are glad that they have been listened to though, on the whole.

90 In terms of the post-25th July 2019 consultation, I have sent across to Members of this Council, a document just outlining some of those consultation responses and it has been agreed that we can actually share those. Because there were others that did make quite clear that they did not want their opinion shared, so those have been removed.

95 Just going on to the thematic clauses and when taking the Bill through the clauses stage I am still looking to open with clauses 1 and 2, dealing with title and commencement and then breaking down the Bill now into seven themes, not six. First with definitions and terms, so I will run back through these again, I know that some Members will have already heard some of this; however, I think it is very important that we actually get on the record precisely how this is going to form.

100 So on definitions and terms these are very significant, they set the boundaries of the Bill. They do it by defining what domestic abuse is, and who is or is not included. I propose to speak in broad terms but not to move clauses 3 to 6 until the end of the clauses stage. This is because if there are any changes proposed later on in the debate of clauses down the line, or themes down the line, I apologise, they may or will materially affect this Part and these clauses.

Protection and prevention, the second theme, is important because this is about how the Police and the courts may take measures to protect people. So the following clauses: 7 to 11, 14 to 25, 28 to 30 and 32 to 34 deal with the power to give DAPNs, apply for and make DAPOs, and

105 provide an opportunity to discuss and debate the issues of protection for victims and vulnerable people such as dependent children and/or vulnerable adults within the domestic setting.

On offences, which is the third theme, clauses 12 and 13 deal with the breach of DAPNs; clauses 26, and 27 and the Schedule, see 27(7), deal with breach of DAPOs; clause 31 with the breach of Notification Requirements; clauses 35 and 36 deal with the substantive domestic  
110 abuse offences; clauses 37 to 39, with behaviour outside of the Island, conviction of an alternative offence and the exception; clauses 40 to 42 deal with aggravating factors and we will look at those in some detail the clauses stage noting what could be included by order in that theme.

Following that, the issue of abusive cross-examination in court. Clauses 43 and 44 deal with that part, which was inserted in the Keys and is a significant public policy statement that promotes the message that proceedings will be fair for all parties, but there will be no tolerance of abusive questioning in court.

Accommodation: during the clauses stage and in Keys there were some amendments to deal with – DAPNs and DAPOs and their application. The UK draft Bill presumed the perpetrator would be living at the premises at the time of the Notice or Order but that is not necessarily so, which is why some amendments were made in Keys.

We move on to 6, which is guidance and consequential or minor amendments. Those are clauses 45, 46 and 47 dealing with regulations, a code of practice and guidance all issued by the Department dealing with the disclosure of information, the handling of information and data and the fundamental issue of guidance to all parties in how they should exercise their functions under the Act – these clauses are fundamental to how the Act would be made to work in practice. Clauses 48, 49 and 50 were thought to be connected with domestic abuse.

In part 7, in relation to the children and safeguarding we now have a new theme which we discussed adding last week. I propose we discuss particularly the factors surrounding what police, courts and others will take into account when considering the welfare of children in relation to their care, as well as accommodation requirements. The question of domestic abuse affecting those under 16 would be a *very* important factor, I have no doubt; and also, but not least, the issues surrounding adolescent-on-parent abuse and why the Bill does not empower the Police to issue DAPNs to under 16-year-olds, or the courts to issue DAPOs to under 16-year-olds.

Mr President, in relation to the children and safeguarding theme we discussed adding, I propose we discuss particularly the factors, and there will be interlinking between the themes as well, like accommodation requirements. I do think that it does warrant a further discussion in relation to children and safeguarding, though. So perhaps I might actually leave it there, as I have outlined.

I believe I have picked up on all of the questions that Members have asked, but if there is anything that I have not, please do just let me know. I am hoping that I have covered everything.

But, with that, I beg to move.

145 **The Acting President:** Thank you, Miss August-Hanson. Is there a seconder?

**Mrs Maska:** Thank you, Mr President.

I would like to second the Bill and reserve my remarks.

Thank you.

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**The Acting President:** Thank you.

Does any other Member wish to speak? Yes.

**Mrs Poole-Wilson:** Thank you; and thank you to the mover for comprehensively picking up on the points that were raised at First Reading.

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I just have a couple more questions almost coming off the back of that and for clarity if the mover would be able to assist or, if not with the detail at this Reading then certainly as part of the follow up.

160 I note that the mover said that guidance would be drafted to accompany the Bill and I think I am right in saying that you said that guidance in particular would assist with evidence, the issue of how evidence of coercive and controlling behaviour might be established and might be considered by a court. I just wondered whether she can provide any information at this stage on the likely – if I have missed it and you have already explained this, apologies – but any guidance on the timing of when the guidance is likely to be drafted and whether it is due to be consulted  
165 upon as well before it comes into effect?

I note actually on the issue of evidence regarding coercive and controlling behaviour that the mover has indicated that we might consider whether it is worth expressly including in the Bill a provision that acknowledges that a pattern of behaviour that predates the Bill might be taken into account in a future criminal case.

170 Thank you, as well, for the commentary on the consultation about the newest clauses in the Bill on cross-examination and I note that despite the Department reaching out to the Law Society there has not been an express response. I wonder whether for this Council, as these were late clauses and so had not had the benefit of going out to any form of consultation previously, that is an area that we might check that everybody is satisfied they are practically  
175 workable, particularly practitioners who will use those provisions on the ground.

Again, I would like to emphasise I am very supportive of the *policy* to prevent abuse of cross-examination. My interest is purely to make sure that what is in the Bill is actually workable in practice.

180 Thank you as well to the mover for outlining a little bit more the issue of age and when DAPOs and DAPNs may be issued, so to only those who are 16 and above. I think I am right in saying that the Bill also provides that they may only be issued *against* people who are 16 and above. So we are clear that these prevention tools can be used to protect people aged 16 and above and also to take measures against those who might be perpetrators who are aged 16.

185 I recognise that it is outside this Bill but I think it would be useful for this Council to be very clear on how this Bill interacts with the child protection landscape more broadly. So even if it is not through this Bill that those under 16 are directly protected by these mechanisms, and they cannot be used against people under 16 where there may be a concern that there is some abusive behaviour on their part, whether towards parents or in relationships perhaps under the age of 16. I think it would be very helpful to understand where the protections and the  
190 interventions do lie in other sources of law, so that we are clear there is a comprehensive picture in terms of all potential behaviours for those who may be under 16.

I recognise that the mover may not have all of that information to hand but I think it would be helpful to have clarity as we consider what is covered in this particular Bill. I think they were all the points I just wanted to raise now, but I would like to thank the mover for her detailed  
195 response so far to the questions initially raised.

Thank you.

**The Acting President:** Thank you, Mrs Poole-Wilson.  
Mrs Lord-Brennan.

200 **Mrs Lord-Brennan:** Thank you, Mr Acting President.

I would like to thank the mover for all of her responses this morning that built on some of the issues that came out in the First Reading. Although it is helpful to think in terms of themes, particularly to do with this legislation and how things will actually work, because they are  
205 dealing with matters of the home, matters to do with children, things to do with accommodation, clearly criminal responsibility and child protection; and a range of orders that might interlink with other orders that could be made to do with contact, or the house – it is very

210 helpful to think in terms of the themes – however, once we get to the clauses we are at a stage where we are really just considering those clauses, and there will not be a great deal of time to have much thought about those areas which is I think, from my point of view, a point of concern

I think over the course of the past week it has been helpful to look a little bit deeper at some of these issues. The most recent consultation responses also highlighted some helpful matters; I think some elements of the Scottish law were raised in that. It took me back to a time a few years ago – this Bill has been a long time in the preparation and I think it is all the more reason 215 to make sure we have legislation as good as it can be now. It took me back to some of the thinking that we had, or that was certainly around in the public, around 2018, where we were looking to elements of the Scottish law that actually were considered for various reasons. I think because of the pattern of behaviour and also I think it was to do with the standard of proof as well, it has made me reflect on some of those issues that were held forward as being important 220 at that time.

Given that some of this information has been received only recently, and I am very grateful that it has come forward, but we are really talking about a matter of days to consider some of this stuff. I have not had a chance, to be honest, to absorb it all and maybe do that detailed look and detailed comparison that I would hope we might afford in this place. So I raise that just by 225 way of saying thank you for that latest information, but also that it takes some time to figure out if we have got where we need to be with the legislation on the back of those consultations. And I would mention again that the original consultation responses, I do not think that those have really been made available publicly.

The reason I mention these things is because with this legislation, with this Bill, there was a lot of advocacy from the public and a lot of desire to make sure we took the opportunity to have the best and most suitable legislation that we can. So I think it is very worthwhile to talk about some of these themes; and I think things to do with accommodation might warrant a greater look. Clearly that is important.

I think there is an aspect where stalking is seen to be part of the missing picture for domestic abuse, and I recognise I think that either stalking is coming forward as part of the Justice Bill or, 235 if not, as a separate Bill. Looking back at some of the information I had when Tynwald Members had a visit from John Trott, who is the police trainer, he had mentioned about this important element as being important as part of the Domestic Abuse Bill. I think actually it could deal with some of the matters to do with how long somebody has been in a relationship, where I think there is a specification of 10 years at the moment and we are wondering whether that is 240 sufficient. The information I have is that by using stalking legislation provisions within the Domestic Abuse Bill it might help us with some of the other issues we have, although I absolutely recognise that stalking is not just to do with domestic abuse. Clearly it would be about the personal connections.

245 On the matters about those under 16, I actually find it quite curious then that if the orders – which would be obviously a mode of intervention that would be available to protect and to effectively warn perpetrators – are not available to those under 16, then I am slightly unclear or I think it warrants more thought on what is the point of having the offence being applicable to those under 16, by way of the definition.

250 My understanding is that this sort of thing attempts to deal with child-to-parent abuse, and also teenage intimate relationship abuse. Now, those are two distinct areas and I think that is what is being attempted to be dealt with in terms of having this offence available for under 16s; however, I have not seen those matters particularly articulated. The reason why they are important and they are articulated is so that we can understand exactly what the issues are that we are trying to solve, and actually what mechanisms would be available. I think that if you take 255 a bit of time to dig into it and look at it, there are concerns even for I think the UK position, or possibly just in the UK draft Bill, I am unsure.

It is important to note that the UK Bill, on which elements of our Bill is based, is effectively unproven. It is a Bill, it has not gone through that parliamentary process, it is the latest iteration;

260 and, arguably, some people would say a watering down of what was originally envisaged with domestic abuse legislation.

But the point I am trying to make is that there are concerns that having even the orders available and the offences available for 16- and 17-year-olds is a concern, because quite often when this is the case it is actually other intervention that is needed rather than effectively the same things applying for those over 18, that would be capable of an offence under the Bill. And issues come up about – ‘Well, what other help is that person getting?’

I am concerned that we are just putting in a legislative provision actually as a way of dealing with something in quite a blunt way without really understanding what else might be needed; and also the specific issues that it is trying to solve. So there are concerns about effectively the potential criminalisation of young people by way of this; and certainly in the UK there are those who would look at it and they would have concerns.

I have clearly taken an interest in this Bill because I think it is really important to get it right. I have a number of outstanding queries that I have got with the drafters or with the Department and various other people as well, because I think some were under a bit of a timescale issue. I just think we really need to do the best job, so although my inquiries in looking at this Bill are still ongoing I do not think I have got any particular other queries for the mover at this time. But I feel somewhat under pressure actually that we just get it done, as opposed to getting it absolutely right.

I think that maybe reconnecting again with some of the people who were in the public sphere who were putting forward various advocacies on this, it might be interesting to get their views. I have also been in touch with some experts in the UK who are specialists in this area, who might be able to give an outside picture. They are happy to give evidence to the Legislative Council.

I think that we are in a position where if we are seeking to support the House of Keys, and support the Department with everything that they are doing, it should really be about ensuring that we are improving things in the best way we can and we are absolutely sure on some of these elements.

On the guidance matter, which I think has also fallen into the point about how things are handled by the courts, it is an opportunity for this place to consider or to talk about what sort of things might go into guidance. Clearly down the line there will be fewer opportunities to debate this or to articulate issues that have been found elsewhere, to ensure that we do not repeat them in our systems over here. So I would like to see the opportunity to talk about the guidance as a way of potentially informing that, although I understand that actually how such matters are applied and how things like practice notes are actually drafted or applied are quite a separate issue, rather than it being dealt with in the law. But our role would be in terms of the guidance and putting across the consideration on that.

295 And I think that is my contribution for now. Thank you.

**The Acting President:** Thank you, Mrs Lord-Brennan.

Does anybody else wish to speak? Mrs Maska.

300 **Mrs Maska:** Thank you, Mr Acting President.

As I said, I am happy to second this Bill. I think it is so important that when this Bill leaves this hon. place it is as good as we can possibly make it, to protect those who have remained vulnerable and unprotected legally in the past. So again, like my hon. colleague Mrs Lord-Brennan, I think there might be opportunities to learn from other jurisdictions in a very short space of time.

I know I am keen that we look at patterns of behaviour and the issues they throw up. I know from my own research that other jurisdictions are gathering evidence and also supporting victims; and there is now evidence that there is an *absolute* classic pattern of the way domestic abuse can develop. It can start from simple, verbal abuse coming through to what you would call unreasonable conduct – economic abuse, making a victim feel worthless. That can lead then to

physical violence, and once that barrier has been crossed that is when you do not look back, I am afraid. From what I can see and from my own research and experience in the past from this very complex situation, the pattern is very difficult then to break.

315 It is important that when we do have guidance coming forward, and training, that whilst we obviously follow best practice and the best performance standards that anybody can adopt, that training recognises one of the critical times for a victim is after the suspected perpetration has happened and they are then supported from that time and are not left in a time where they then quite frequently change their minds and will not give evidence that might take matters  
320 forward. And that time, where that support is needed, from what I have learned through research, is that that also opens up the critical time for potential suicides in these victims.

So I really think as we approach clauses I would like to, as my own colleague has suggested, maybe gather evidence from other jurisdictions and from experts who might be able to advise us if there are any gaps in the legislation that we are hoping to bring forward.

325 I also agree that the matter of accommodation needs drilling down and looking at what we can put in place in the guidelines and any regulations or approach to this. And also, just in conclusion, the matter of the mental capacity of a victim I think we need to look, as we have in other debates, that the absence of this within our legislative tools is quite important and needs to be prioritised as soon as can be practicable. Although a victim may be able to rely upon a  
330 family member or a best friend to make a decision on their behalf, where they are distressed and incapable of making decisions, I would hate to think that someone acting in good faith may then suffer at a later date because they think they have made the right decision and in fact it has not been so. So I think we need to remind ourselves that the Mental Capacity Act and legislation needs also to come forward as a matter of priority.

335 And, as I said, I am happy to second the Second Reading; and that completes my evidence. Thank you.

**The Acting President:** Thank you, Mrs Maska.

340 **Mrs Maska:** Thank you, Mr Acting President.

**The Acting President:** Does anyone else wish to speak?  
Mrs Sharpe.

345 **Mrs Sharpe:** Thank you, Mr Acting President.

We have touched on the subject of the age of criminality and I understand that this Bill does not set an age limit, and that DAPOs and DAPNs would only be issued for perpetrators of domestic violence over the age of 16. But I still do not feel content that the Bill has perhaps dealt sufficiently with the fact that domestic violence perpetrated by a child or an adolescent against a  
350 parent is a very different issue to violence perpetrated within an intimate relationship between two adults. I wonder if the mover – although I realise maybe this lies outside of the Bill that we have in front of us, as it is written at the moment – might be able to talk a bit more about the fact that those two types of violence are very distinctly different.

355 Also, to talk a bit more about what kind of guidance may be available. I realise that the guidance is yet to be written but I suppose what I am saying is that I still do not feel comfortable with this issue regarding under-16s and 16-to-18 year olds.

Thank you.

**The Acting President:** Thank you, Mrs Sharpe.

360 If no other Hon. Member wishes to speak at this stage I will call on Miss August-Hanson to respond to the debate.

**Miss August-Hanson:** Thank you. I will try and cover everybody's comments and if I do not, please pick me up on a later date. I will endeavour to respond to all of your concerns.

365 Just starting then in that case, with Mrs Poole-Wilson, and just to thank her for her comments. Also, regarding guidance – and this from Mrs Poole-Wilson, Mrs Lord-Brennan and Mrs Sharpe – it will be consulted upon and that will probably end up falling around the end of 2020 towards 2021. It will be drafted, but the Bill will not be implemented without the guidance sufficiently already in place. I have had that assurance from the Department.

370 Patterns of behaviour: I think this is quite an important one that we need to pick up in perhaps one of the themes. I think it is something that needs to be borne out, because there is a difference between the UK Westminster draft and the Scottish legislation that was put in place in 2018. I think that the Scottish legislation was quite explicit about the patterns of behaviour and there is that difference between one and the other. So it is perhaps worth bearing out in  
375 debate.

Also, I think what I might do is pull together an additional note, an email, and send it around to Members with the Department's place on how this has come about – so this is post me having left the Department and it is why they moved from the Scottish explanation around patterns of behaviour or definitions around patterns of behaviour, into where they have moved into now  
380 and where they are at now. I will make sure that I get a response from the Department on that and I will send that around to Members.

Cross-examination: no, we do not have any response just yet. I am quite desperate for a response on that one and if Legislative Council wishes to take evidence from the Isle of Man Law Society on that, and you get a response, that will be absolutely fantastic! They are brilliant; you  
385 cannot fault them.

The 16 and above I think we have outlined, just going back to Mrs Sharpe. The guidance will be issued and it will be consulted on down the line, so it is something that we can perhaps bear out down the line in consultation. I do agree with you to an extent. I think that we have put all domestic relationships into this Bill and we tried to cover it as best as we can. But if you think  
390 that perhaps there is another way of doing it, that we have not really covered, then that is worth discussing. So please do arrange a meeting with the legislative manager and the drafter to sit down and bear that out. With being in Children and Families I think it is very important that we take evidence from them as well.

So regarding protections and preventions, I have actually made a note for myself as well to seek a little bit more advice on it and send another note out to Members just outlining the landscape there. But thank you very much to Mrs Poole-Wilson for her contribution there.

Just moving on to Mrs Lord-Brennan: there could be some discussion and debate perhaps as to whether or not – and maybe outside of this place – as to how we take the Bill through. There might be some manoeuvrability, let's just say, on an additional amount of time perhaps to make  
400 sure that we are actually getting some of this evidence through, because I think it is incredibly important. I know that you have spent an awful lot of time talking to people outside of the Island about the legislation that has been presented in the UK, the draft legislation, and I think it is incredibly important that we do actually take that evidence and we do hear what they have to say. I do not know anything about the suggestion that perhaps the legislation was watered  
405 down, but I do genuinely believe that if there is anything that is missing that perhaps these experts have picked up on, then it is definitely worth bearing out in debate and it needs to be heard in this place.

The Scottish legislation, just in case we have not discussed this in this place, I do not think we did at First Reading, but the Scottish legislation was consulted on to start with, and the Bill went out to consultation as the Diversion of Offenders and Domestic Abuse Bill. It went out to consultation with a question in there asking the public whether or not we should be following something similar to what the Scottish had put in place that year. The Scottish drafter was in a very fortuitous position because he spent a full year working on this piece of legislation and he was taken away from all other workloads and was specifically put on this project.

415 The main difference I suppose between the Scottish legislation and what we are currently  
proposing here is that this obviously has been based *very* much on the English draft legislation.  
Now, the Scottish, and the way that they legislate is about common sense, it is a common-sense  
420 approach. So there are things that they do not necessarily put into the legislation but they just  
assume – okay, the judiciary will be able to pick out where certain elements would be or would  
need to go. There is a very common sense, open approach to legislating and an interpretation;  
whereas it is quite prescriptive in Westminster in the way that they legislate in Westminster –  
they literally just lay out everything and try to keep things as tight as possible. They enable, but  
they do list. I think that the approaches between one and the other are quite different, but the  
425 way that we have typically dealt with legislation in the Isle of Man is quite similar to England and  
the way that they have. So I think that thought process did go into rationalising which piece of  
legislation we would end up leaning towards more than the other.

But also in the definition as well of domestic abuse – because the English draft had a better  
definition than the Scottish draft did, again because it was slightly more prescriptive in relation  
to economic financial abuse. That was the main thought process there, really. But I am more  
430 than happy to share contact details of the Scottish drafter if anybody just wants to have a  
conversation with him about what he did.

The public consultation: no, you are quite right it has only been circulated to Members, the  
2019 breakdown and yes, it was only circulated very recently. We tried to pull that together as  
soon as possible for Members following the first sitting of the Bill in this place. Obviously with  
435 limited resource in the Legislative Drafting and Policy team over at the Department of Home  
Affairs, there was a lot of effort and work that went into actually producing this for Members;  
and it was specifically for Members. But you are quite right, yes, it is not for public consumption  
and perhaps that needs a little bit of thought. But I will leave that up to the Department.

The stalking and strangulation elements that perhaps I think would be considered as part of,  
440 certainly on the whole, on the subject around domestic abuse. Strangulation legislation is being  
put into the Justice Reform Bill, which I am aware that Members have a draft of at present. It is  
in the Schedule, I believe. The 2009 stalking provisions as well, that have just come in in the UK,  
they will be going into the Justice Reform Bill as well. So both will be in there. All of these pieces  
of legislation, we all know that they started with the sentencing legislation, which is a very big  
445 piece that has been broken down into a number of others as justice reform, generally. They do  
cross over in certain areas and this is definitely one of those areas that it does cross over into,  
between sex offences, domestic abuse and justice reform.

It is perhaps helpful to look at the draft of the Justice Reform Bill, it is just my suggestion, and  
look at it in relation to the Domestic Abuse Bill and what provisions might cross-reference  
450 between one and the other. I think that might be quite illuminating.

I would like to thank the Member of Council, Mrs Sharpe. As I have said, hopefully that will be  
picked up in guidance, so I hope that I have answered your question there. If not, please do get  
back in touch with me, I am more than happy to help.

Just moving on to now my seconder, who I am *very* grateful has seconded the Bill. I really do  
455 appreciate it. I quite agree with her, I think that evidence needs to be taken by Members of this  
place, it is incredibly important and it does feed into making this Bill a better Bill, which is  
precisely what every single Member of this Council needs and wants for the people outside of  
this place. It is incredibly important that the legislation does actually fall into place at some  
460 juncture and, when it does, I would be very hopeful that the guidance will be there for the  
Constabulary and the judiciary, to ensure that it is properly enacted in exactly the way that we  
intended it would be, as legislators.

I think I have talked about the Scottish legislation but just moving on to mental capacity. Very  
much of the same opinion, hoping that piece of legislation will be in place extremely soon  
because cross-departmentally it is extraordinarily important and it does feed into domestic  
465 abuse, it feeds into sex offences, it feeds into so many pieces of legislation that we have going

through this place. So I am very much looking forward to the Department of Health and Social Care bringing up the goods on that one.

With that, I think I have answered all of the questions that need to be answered. But if I have not, please do get back in touch with me outside of this sitting.

470 I beg to move.

**The Acting President:** Thank you very much, Miss August-Hanson.

I shall now put the motion to the Council. The motion is that the Bill be read a second time. All those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

475 Now, Hon. Members, I understand that Miss August-Hanson does not intend to proceed the clauses stage. Are Members content with this?

**Several Members:** Yes, content.