

6. REPORT OF THE CONFERENCE ON THE DOMESTIC ABUSE BILL 2020

**Domestic Abuse Bill 2020 –
Conference Report received and amendments agreed**

The Hon. Member for Arbory, Castletown and Malew (Mr Cregeen) to move:

That the Report of the Deputation elected by the House of Keys on the 15th May 2020 [PP No 2020/0135] be received and that the amendments be agreed to.

The Speaker: Item 6, report of the conference on the Domestic Abuse Bill 2020. I call on the Hon. Member for Arbory, Castletown and Malew, Mr Cregeen, to move.

Mr Cregeen: Thank you, Mr Speaker.

This Bill was last in the Keys on 15th May when the Keys agreed with all but four of the amendments made by the Legislative Council and resolved to seek a conference with the Council. I myself, Mr Hooper and Mrs Corlett were then elected as members of the Deputation of this House. We met with representatives of the Council on 9th June 2020 and the Report set out on the Order Paper before you was agreed.

Mr Speaker, Annex 3 of the Report sets out the compromise and the proposals arrived at. The proposals are that the ages in clauses 7 and 18 are amended from 18 to 14 and the age of the domestic abuse offence in clause 35 is changed from 18 or over to a person who is aged at least 16 or such other lower age as the Department may by order specify. Amendments 4 and 5 in Annex 3 of the Report give practical effect to the change to clause 35 and enable the age to be further lowered by order subject to Tynwald approval. The age at which a person becomes liable for the controlling or coercive behaviour offence in clause 36 is lowered from 18 to 16 by amendment 6 in Annex 3 to the Report. The age cannot be lowered below 16 in respect of clause 36.

The view of the conference was that it is important for children, if at all possible, not to be criminalised. Where there is a report of a domestic incident, the Police will want to see if the matter can be addressed by means of an appropriately framed notice until either the matter is swiftly resolved or can be brought to court for an order to be made setting out appropriate measures that help the child or young person and yet also protect the victim. The Department will be preparing guidance for the Police, courts and all relevant persons to assist them and ensure that the rights and needs of children, whether the victims or perpetrators of the abuse, are properly catered for. In preparing the guidance, the Department envisages consulting widely and not least with this Hon. House and Members of Tynwald.

I am profoundly aware of the harm done by domestic abuse and I am very much concerned that we do right by our children, whether they are victims or perpetrators. I know I have the support of my hon. colleague the Minister for the Department of Health and Social Care in promoting this compromise and believe that between the Police, the Department of Health and Social Care and other agencies we can find age-appropriate measures that protect people in our society and help our children to develop so they can live fulfilling lives as they grow into adulthood.

Mr Speaker, I believe we have here a tremendous opportunity to agree a compromise to get the comprehensive Domestic Abuse Bill on to the statute book.

I beg to move.

The Speaker: Hon. Member for Douglas North, Mr Ashford.

Mr Ashford: I beg to second and reserve my remarks, Mr Speaker.

The Speaker: Ms Edge, Hon. Member for Onchan.

Ms Edge: Thank you, Mr Speaker, and I thank the Minister for the words ... and that he has support.

I do have real concerns, on which I have briefly spoken to the Minister, with regard to criminalising the young. The Minister has said that it is not his Department's intention to criminalise our young. However, an order or a notice will stay on the record. There is no way within the legislation, that I can see, that that will be removed from a child's record. When you look at the Rehabilitation of Offenders Act, it is quite clear in there that a child is classified as 18 – not 14, not 16, it is 18 – so I need to seek reassurance that no record with regard to this will be with a child for life.

I have worked in an education setting with numerous children who have had difficulties with parents, and there is all sorts of involvement, and I genuinely believe that anything of this nature for a child under 16 years of age – I would say 16 is a fair age, which is what it was originally – should be dealt with appropriately by appropriate services, not necessarily the Police.

I feel that we do not have adequate services for our young, we do not have adequate services for our parents, for who they can turn to in a crisis, and I am very aware that there is nowhere to turn to in a crisis with a young child. I do have real concerns that we are going to be putting orders and notices in place for a child of 14 – and they are a child – and I do not believe any mother would have any intention, or father, to have a record on their child for life for this type of situation. I do understand that we have situations at present, possibly from 11-year-olds and 14-15-year-olds; however, I think it is totally wrong for us as a Government to be putting something in here that a child in their future life, because this could stay their record, could never travel to America, could never travel to Canada. I think it is totally inappropriate that 14 is on here.

I did say to the Minister that it would have been better to delay this and have further discussions around it, if possible. However, it seems there is pressure to have it on the Order Paper for next week. I do understand the whole Bill and I do appreciate that we do need to have this forward, but I really do feel that we should be erring with great caution of what we are doing and the possibilities and the implications for the future of our children if the Rehabilitation of Offenders Act is not tying up, and many other Acts where we know the age of the child is not tying back, to make sure that we have got the appropriate legislation for our young on the Island.

Thank you, Mr Speaker.

The Speaker: Ms Edge, you mentioned the age of 14 there. Is it your intention then to have amendments 1 and 2 voted on separately from numbers 3 to 6?

Ms Edge: That would be helpful, Mr Speaker.

The Speaker: Does any other Member wish to speak? If not, I will call on the mover to reply.

Mr Cregeen: Thank you, Mr Speaker.

I totally understand the Member's concerns. What we have here is that it will be a civil matter; it will not be a criminal matter. This is actually a better process for us to go through than what we currently have. Currently, we would have the Police going in and the only way that they would be able to deal with it is to charge the individual. We are trying to get away from criminalising young people. This will be a civil matter. It must be a desperate state when a family has to call the Constabulary to deal with a domestic issue. It will be the last thing that the people –

Ms Edge: Mr Speaker, would the Member just give way for a second?

The Speaker: Will the Hon. Member give way?

Ms Edge: Thank you, Minister.

I think sometimes – and this is what I tried to explain originally – there is nowhere else for parents to turn to on the Island at a time of crisis, perhaps after five o'clock at night. Most people, if they need help in a crisis, turn to our Police because they are there for the security of the whole of the Island. I think it is the lack of services and provision for people outside of that that is the problem. I appreciate that you are saying it is civil, but there is no reassurance anywhere in this for me that that civil record will be extinguished from a child's record.

The Speaker: Minister.

The Minister: Thank you, Mr Speaker.

I would hope on these occasions that if the Constabulary are called to an incident like this they will be aware of where they can actually go, because one of the things that we have committed to, the Minister for Health and Social Care and myself, is to work on the guidance before we get the Appointed Day Order on this legislation. I hope that we will be able to have that and the consultation with Hon. Members to ensure that we have actually got that safety net in there for the young people before it is enacted. I would hope that if the Police do attend an incident they may be able to go through the guidance and get assistance before actually having to ... It is a stepping stone.

I understand the concern, Hon. Members, but this is a big move forward. It saves us having to go straight to criminalising young people.

With that, Mr Speaker, I beg to move.

The Speaker: Thank you.

I put the motion that the Report of the Deputation elected by the House of Keys on 15th May be received and that the amendments be agreed to.

In light of Ms Edge's comments, I put to you first the amendments numbered 1 and 2 on the Order Paper. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Putting to you amendments 3, 4, 5 and 6, those in favour, please say aye; against, no. The ayes have it. The ayes have it.

That concludes the Report on the Conference on the Domestic Abuse Bill 2020 and indeed the business of the House this morning. We therefore stand adjourned until 2.30 on Friday in Tynwald Court.

Thank you, Hon. Members.

The House adjourned at 11.38 a.m.