



Ascent



Good Practice Briefing

Transforming the response to Domestic Abuse

March 2018

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Introduction

ASCENT - Support services to organisations

Ascent is a partnership within the London Violence Against Women and Girls (VAWG) Consortium, delivering a range of services for survivors of domestic and sexual violence, under six themes, funded by London Councils.

ASCENT – Support services to organisations, is delivered by a partnership led by the Women’s Resource Centre (WRC) and comprised of five further organisations: AVA, IMKAAN, RESPECT, Rights of Women, and Women and Girls Network.

This second tier support project aims to address the long term sustainability needs of organisations providing services to those affected by sexual and domestic violence on a pan-London basis.

The project seeks to improve the quality of such services across London by providing a range of training and support, including:

- Accredited training
- Expert-led training
- Sustainability training
- Borough surgeries
- BME network
- One-to-one support
- Policy consultations
- Newsletter
- Good practice briefings

Good practice briefings

The purpose of the good practice briefings is to provide organisations supporting those affected by domestic and sexual violence with information to help them become more sustainable and contribute with making their work more effective.

For more information, please see: www.thelondonvawgconsortium.org.uk.

This Good practice briefing was produced by **AVA (Against Violence and Abuse)** on behalf of the Ascent London VAWG Consortium. AVA is a leading UK charity aimed at ending gender based violence and abuse. We strive to improve services through our learning, resources and consultancy, and end violence against women and girls through our policy, research and prevention work. We have specific expertise on multiple disadvantage and children and young people.

For more information about AVA, please see: avaproject.org.uk.

This briefing

This good practice briefing is on the consultation 'Transforming the Response to Domestic Abuse' (HM Government, 2018)¹, launched by the Prime Minister, Home Secretary and Justice Secretary on 8th March 2018.

This briefing provides a resource to support services to respond to the [consultation](#). It presents an overview of the consultation, detail of its key proposals and key points for consideration.

This briefing builds on:

- The conversations held at AVA's Domestic Abuse Bill seminar (7th March 2018). The seminar was part of Ascent and funded by London Councils. 25 professionals attended the event. Professionals were from a range of sectors including VAWG, health, safeguarding, housing, and probation across London. The seminar provided the opportunity for delegates to engage in group discussion and a panel session with expert speakers (Appendix 1) ahead of the consultation launch.²
- Analysis of the Government Consultation Paper 'Transforming the Response to domestic abuse' (HM Government, 2018).³
- Relevant research and AVA's expert knowledge on domestic abuse (DA).

¹ HM Government (2018) *Transforming the response to Domestic Abuse: Government Consultation (full version)*. London.

² For more information see <https://avaproject.org.uk/domestic-abuse-bill/>

³ HM Government (2018) *Transforming the response to Domestic Abuse: Government Consultation (full version)*. London.

Overview of the Consultation paper

The consultation paper 'Transforming the response to Domestic Abuse' was launched on 8th March 2018. Plans for a DA Bill to be launched were outlined by the Prime Minister in February 2017, and then brought forward in the Queen's speech as part of government efforts to improve responses to domestic abuse.

The consultation paper proposes both a legislative and non-legislative package for tackling DA. The Home Office are consulting on both packages. The following key themes sit across both packages:

- promote awareness
- protect and support victims
- pursue and deter perpetrators
- improve performance in the response to domestic abuse.

The non-legislative package

Government have allocated £20 million to the non-legislative package. The consultation paper identifies key activities that government are taking to respond to Domestic Abuse, in line with the key themes. It then provides the opportunity for respondents to identify gaps, highlight any additional activities needed, and consider the best ways to allocate the assigned £20 million. Respondents are asked, for example, what additional steps can be taken to increase both young people and professionals understanding of domestic abuse, as well as which services areas should be given priority funding.

The legislative package

The following legislative commitments are outlined in the consultation:

- Enshrine a definition of Domestic Abuse in law.
- Introduce a new protection order to better protect victims from their abusers.
- Create a Domestic Abuse commissioner in law.
- Demonstrate a commitment to ratifying the Istanbul convention by extending extraterritorial jurisdiction over violence against women and girls related offences.

An additional proposal of recognising the harm domestic abuse inflicts on a child is also outlined, but with no attached specific legislation.

These proposals are explored in detail below, outlining what each element entails as well as the key opportunities and challenges at play.

Identifying key opportunities and challenges for women, VAWG services and Government

Introducing a new Bill

AVA's seminar highlighted that the Domestic Abuse (DA) Bill is largely welcomed, and is an important step towards protecting women. The Bill has provided the space for cross-governmental thinking around violence and abuse. At the seminar, for example, the Department of Health and Social Care identified opportunities for developing their response alongside other Government departments.

The DA Bill has raised the profile of VAWG, as well as the VAWG sector, helping to make abuse everyone's business. It has created a platform for important conversations as well as opportunities for further collaboration across the VAWG sector and further consultation with survivors.

The seminar also highlighted that there is still a long way to go to ensure a thorough and integrated response to VAWG. General concerns identified in the seminar include:

- A. The majority of survivors choose not access the Criminal Justice System (CJS) , and choose other pathways to disclose and seek support (if at all) (Office for National Statistics, 2016)⁴. This is particularly true for Black Minority and Ethnic (BME) and migrant women, who are likely to be the most vulnerable (Imkaan, 2017)⁵. The non-legislative package will need to ensure its scope acknowledges this, and provides pathways for all women to disclose and access support in ways that work for them. Measures that consider intersecting inequalities and complex needs, and that take a gendered, trauma informed approach, will be crucial.

- B. The DA Bill's focus on Domestic Abuse is narrow, and does not account for the wider issues around VAWG and the contexts of abuse and inequality. The experiences of many women and girls are therefore not considered or covered in the Bill. A focus on DA sits contrary to Government's integrated VAWG strategy (HM Government, 2016)⁶ and the National Statement of Expectations (Home Office, 2016)⁷.

⁴ Office of National Statistics, (2016). *Intimate personal violence and partner abuse*. London.

⁵ Imkaan, (2017). *Safe pathways? Exploring an intersectional approach to addressing violence against women and girls*. London: Ascent (London VAWG Consortium)

⁶ HM Government (2016). *Ending violence against women and girls strategy 2016 - 2020*. London

⁷ Home Office (2016). *Violence Against Women and Girls National Statement of Expectations December 2016*. London

- C. A narrow focus also demands a simple approach to issues that are often complex. Considerations of, and responses to, women's multiple disadvantages are essential, and survivors must be at the heart of any approach taken (AVA, 2017)⁸.

- D. The question of how women with no recourse to public funds will be protected was raised. Anticipated immigration legislation following Brexit, for example, may prevent women from disclosing.

- E. The proposed Bill must be paired with, or ensure, that VAWG services are properly resourced and have sustainable funding. £20 million will not be sufficient funding to do this. This is especially true if the DA Bill successfully enables more women to disclose, as the VAWG sector and support services will face increased demand in order to support women. Additional funding is needed to build up an extensive picture of support. For example, advanced provision for a first point of contact in healthcare settings, access to adequate housing and other welfare services are needed.

⁸ AVA, (2017). *The core components of a gender sensitive service for women experiencing multiple disadvantage: A review of the literature*. London.

Proposal 1: Enshrine a definition of Domestic Abuse in law

What does it mean? A proposed legal definition of Domestic Abuse (see Appendix 2). The definition of Domestic Abuse recognises ‘controlling’ and ‘coercive’ behaviours, acknowledging that such behaviours often sit at the heart of VAWG. The definition lists specific types of abuse, and notably this includes ‘economic abuse’, rather than ‘financial abuse’. It is also notable that the definition applies to those aged 16 and over only.

Key points for consideration:

- The definition seeks to broaden understandings of Domestic Abuse. By including the term of ‘economic abuse’, the definition recognises a wider range of abusive behaviours - for example, victims may be denied access to basic resources, or forced to take out loans. There is an opportunity for women experiencing these forms of abuse to seek justice. Recognising coercive control and ensuring it sits at the heart of our understanding of domestic abuse is essential, and will help ensure that we are not criminalising victims. The definition provides the foundations to encourage professionals to understand coercive control, and therefore identify it.
- In order to be effective the foundations must be built on. Professionals at every stage of the Criminal Justice System (CJS) as well as health and social care sectors, need training to help them to confidently identify and respond to coercive and controlling behaviours. Trauma, and how it presents, must also be fully recognised and understood.
- Efforts to improve understanding of, and prevent, coercive and controlling behaviours must be made in education settings, and included in the statutory curriculum.
- Despite the definition, victims could still be criminalised and put under investigation, as victims do not currently have any distinct rights. Their right to privacy is trumped by the perpetrator’s right to a fair trial. Victims can also be cross examined in the courtrooms - a highly traumatic process, especially considering that the courtroom setting can be used by perpetrators to access the victim and continue to abuse.

Proposal 2: Introduce a new protection order to better protect victims from their abusers

What does it mean? A new Domestic Abuse Protection Notice (made by police) and Domestic Abuse Protection Order (made by courts), based on the new definition of Domestic Abuse (Appendix 1). These would *replace* the existing *domestic violence* protection notice and order. Other existing orders such as restraining orders and occupation orders would still exist.

Key points for consideration:

- The consultation provides detail of how the new DA Protection Order will provide greater flexibility than other orders. They would be able to be made in family, civil *and* criminal courts, and with specific conditions attached. Courts would also be free to decide their length and, crucially, a breach of the order would be a criminal offence.
- Protection orders can be effective tools for protecting women and increasing safety (United Nations, 2010)⁹. With increased flexibilities and additional powers granted to the courts, the DA Protection Order has the potential to be more effective than previous orders. Furthermore, if an adequate sanction is attached to the order, this could act as a good deterrent.
- There is also an opportunity for the sector to push for the review of other orders, as part of the process. An assessment of whether they are working for women in a range of context should be undertaken, and additional protections around image based abuse or other forms of sexual violence should be considered.
- The Bill must make sure there is equal access to the service for all women including, for example, women with no recourse to public funds.

⁹ United Nations, (2010). *Handbook for Legislation on Violence against Women*. New York.

Proposal 3: Create a Domestic Abuse Commissioner in law

What does it mean?: A new Commissioner appointed to provide public leadership on domestic abuse issues. The assigned person would oversee and monitor the provision of DA services in England and Wales. Assigned powers include providing recommendations to public bodies, publishing reports, overseeing the Domestic Homicide Review Quality Assurance process.

Key points for consideration:

- An independent Commissioner with oversight of Domestic Abuse could provide a welcomed opportunity to look at how services are commissioned, hold police and the CJS to account, set clear standards of practice, collate key data, support partners to identify key gaps and links, and share best practice. If these activities are carried out taking a gendered and survivor-centered approach, the role could prove key to service development, commissioning reform and tackling gender inequality.
- The narrow remit of a Commissioner focusing specifically on DA would miss key opportunities to carry out these activities in relation wider forms of abuse and violence, therefore overlooking the experiences of many survivors. Again, this sits contrary to Government's VAWG strategy (HM Government, 2016)¹⁰ and the National Statement of Expectations (Home Office, 2016)¹¹.
- A DA Commissioner is a large role for one individual to carry out. Adequate resources and support will therefore be necessary for the Commissioner to be effective. The question will be the extent to which the Commissioner can address the key issues identified above with their assigned powers and resources.
- The success of a Commissioner will largely be down to the resources and powers granted to them as well as the commitment of individual appointed, their understanding of VAWG and the relationships they build. Depending on who is appointed, there is a risk that the role will be tokenistic rather than bringing about much needed change.

¹⁰ HM Government (2016). *Ending violence against women and girls strategy 2016 - 2020*. London

¹¹ Home Office (2016). *Violence Against Women and Girls National Statement of Expectations December 2016*. London

Proposal 4: Demonstrate a commitment to ratifying the Istanbul Convention by extending extraterritorial jurisdiction over Violence Against Women and Girls related offences

What does it mean?: The Istanbul Convention is an international set of standards for VAWG. The Convention's comprehensive legal framework encourages an explicitly gendered and non-discriminatory approach to responding to VAWG (Council of Europe, 2011)¹². The UK signed the convention in 2012, but have not ratified it.

One element of the Convention requires and enables the state to prosecute their nationals overseas (extraterritorial jurisdiction) for relevant offences. In line with this, the Consultation proposes to take extraterritorial jurisdiction on a range of offences, outlined in Appendix 2.

Key points for consideration:

- It is important that Government ratify the Istanbul Convention and commit to all of its elements. This would ensure a gendered and non-discriminatory approach to responding to VAWG.
- Introducing extraterritorial jurisdiction in relation to VAWG offences is just one element of the Convention. Other elements of the Convention may be deemed to more of a priority for women and services. For example, the provision of legal assistance and free legal aid for victims, and access to specialist services.
- Introducing extraterritorial jurisdiction would ensure that women affected by certain VAWG offences abroad will have the opportunity to seek justice through national law. The consultation outlines the specific offences, and attached conditions, that extra territorial jurisdiction would apply to (Appendix 2). Further consideration is needed for whether additional offences must be included.
- For such legislation to be effective and accessible, all women must be guaranteed advocacy and be supported to navigate the CJS.

¹² Council of Europe (2011). *Council of Europe Convention on preventing and combating violence against women and domestic violence*. Istanbul.

Proposal 5: Recognise the harm Domestic Abuse inflicts on children

What does it mean?: There is no specific additional legislation attached to this proposal. However the consultation highlights commitment to considering the impact of DA on children as a key focus underpinning both the legislative and non-legislative package.

Key points for consideration:

- Any additional measures that improve protection for children, and support the mother and child relationship are welcomed. A commitment to recognising the lifelong impact of DA on children provides the opportunity for Government to carry out a wide review of what is and isn't working, in what situations, and for who.
- The question will be how the non-legislative package is able to prevent VAWG and support survivors who have families.
- While putting mothers and their children at the heart of considerations is vital for many women, responses to VAWG must also consider how to support single women and keep them safe.

Conclusion

The 'Transforming the response to Domestic Abuse' Consultation (HM Government, 2018)¹³, launched on 8th March 2018, provides details of the Government's proposed legislative and non-legislative packages for responding to DA. This briefing discusses the key components of the proposed Bill, identifying key opportunities and challenges for women, services and/or Government.

The briefing can be used to support services to respond to the consultation, which closes on 31 May 2018. AVA will be responding to the consultation before 31 May, and strongly encourage others to do the same.

We will continue to provide information as the consultation progresses, and this will be available through our newsletter which you can sign up to at the following address: avaproject.org.uk/newsletter-sign-up/

The full consultation can be found here:

<https://consult.justice.gov.uk/homeoffice-moj/domestic-abuse-consultation/>

¹³ HM Government (2018) *Transforming the response to Domestic Abuse: Government Consultation (full version)*. London.

References

AVA, (2017). *The core components of a gender sensitive service for women experiencing multiple disadvantage: A review of the literature*. London.

Council of Europe (2011). *Council of Europe Convention on preventing and combating violence against women and domestic violence*. Istanbul.

HM Government (2016). *Ending violence against women and girls strategy 2016 - 2020*. London

HM Government, (2018). *Transforming the response to Domestic Abuse: Government Consultation (full version)*. London.

Home Office, (2016). *Violence Against Women and Girls National Statement of Expectations December 2016*. London

Imkaan, (2017). *Safe pathways? Exploring an intersectional approach to addressing violence against women and girls*. London: Ascent (London VAWG Consortium)

Office of National Statistics, (2016). *Intimate personal violence and partner abuse*. London.

United Nations, (2010). *Handbook for Legislation on Violence against Women*. New York.

Appendix 1. AVA Domestic Abuse practice seminar: Agenda

Responding to the Domestic Violence and Abuse Bill

7 March, 2pm - 4.30pm

- 2.10pm Welcome
Donna Covey, Director, AVA
- 2.15pm Rachel Kryz, Co-director, End Violence Against Women Coalition
Overview of the Domestic Violence and Abuse Bill
- 2.30pm Pip Williams, Expert by experience and Trainer
An expert by experience perspective of the Bill
- 2.45pm Sian Hawkins, Campaigns and Public Affairs Manager, Women's Aid
Challenges and opportunities for the VAWG sector
- 3.00pm Claire Waxman, Victims Commissioner for London
How a Domestic Abuse commissioner could benefit survivors
- 3.15pm Jean King, Policy Team lead - Tackling Violence
Department of Health and Social Care
The role of the health and care system
- 3.30pm Group work on questions for speakers (and refreshments)
- 4.00pm Questions from groups/ panel discussion
- 4.20pm Thank you and evaluations
- 4.30pm Close of meeting

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Appendix 2. Domestic Abuse Bill Consultation: Definition of domestic abuse

The Domestic Abuse Bill consultation proposes the following definition of Domestic Abuse:¹⁴

Any incident or pattern of incidents of controlling, coercive, threatening behaviour, violence or abuse between those aged 16 or over who are, or have been, intimate partners or family members regardless of gender or sexual orientation. The abuse can encompass, but is not limited to:

- psychological
- physical
- sexual
- economic
- emotional

Controlling behaviour

Controlling behaviour is a range of acts designed to make a person subordinate and/or dependent by isolating them from sources of support, exploiting their resources and capacities for personal gain, depriving them of the means needed for independence, resistance and escape and regulating their everyday behaviour.

Coercive behaviour

Coercive behaviour is an act or a pattern of acts of assault, threats, humiliation and intimidation or other abuse that is used to harm, punish, or frighten their victim.

¹⁴ HM Government (2018) *Transforming the response to Domestic Abuse: Government Consultation (full version)*. London

Appendix 3. Domestic Abuse Bill Consultation: Extra territorial jurisdiction

The Domestic Abuse Bill consultation provides the following information on proposed offenses to be granted extra territorial jurisdiction:¹⁵

The government proposes to take extraterritorial jurisdiction over each of the offences listed in the table below when the offence is committed outside the UK by a UK national or a UK resident and (except for the offences marked with a *) there is dual criminality.

OFFENCE	ARTICLE(S)
Putting people in fear of violence*: section 4 of the Protection from Harassment Act 1997	33
Controlling or coercive behaviour in an intimate of family relationship*: section 76 of the Serious Crime Act 2015	
Stalking involving fear of violence or serious alarm or distress*: section 4A of the Protection from Harassment Act 1997	33, 34
Actual bodily harm: section 47 of the Offences Against the Person Act 1861	33 [6], 35, 39
Grievous bodily harm: section 20 of the Offences Against the Person Act 1861	33, 35, 39
Grievous bodily harm with intent: section 18 of the Offences Against the Person Act 1861	33, 35, 39
Procuring abortion: section 58 of the Offences Against the Person Act 1861	39
Rape: section 1 of the Sexual Offences Act 2003	36
Assault by penetration: section 2 of the Sexual Offences Act 2003	36
Sexual assault: section 3 of the Sexual Offences Act 2003	36
Causing a person to engage in sexual activity without consent: section 4 of the Sexual Offences Act 2003	36

¹⁵ HM Government (2018) *Transforming the response to Domestic Abuse: Government Consultation (full version)*. London