

Recommendations for the Domestic Abuse Bill

The Domestic Abuse Bill, and supporting non-legislative programme of work, could provide us with a once-in-a-generation opportunity to deliver a step change in the identification of and response to domestic abuse. On welcoming the proposals outlined by the Government so far, we are also clear the remit and focus of the Bill must be wider than criminal justice measures alone in order to meet its ambition to transform the response to domestic abuse. It needs to drive a cultural shift to make domestic abuse “everyone’s business” - no longer tackled solely as a criminal justice issue, but across health and social care, housing and education. The voices and priorities of survivors of domestic abuse must be central to the development of this new law.

The programme of work around this new legislation is specifically focussing on domestic abuse. It has been widely reported that there are concerns about not including all forms of Violence Against Women and Girls (VAWG), but bearing in mind the current focus of the legislation being limited to domestic abuse this paper is primarily focussing on changes to legislative and policy framework that will specifically effect survivors of domestic abuse. However, clearly there are inherent overlaps and intersections with other forms of VAWG and we support this programme of work sitting within the VAWG framework that the Government already has in place and further exploration of how this work can positively impact survivors of all VAWG crimes. Furthermore many of our recommendations could also be applicable to survivors of all forms of VAWG crimes.

This briefing sets out the key recommendations for the Domestic Abuse Bill and wider programme of work shared by the following organisations, who will also be submitting their own individual responses –



- Women's Aid Federation of England
- Agenda

- Against Violence and Abuse (AVA)
- End Violence Against Women (EVAW)
- Galop
- Refuge
- Solace Women's Aid
- Welsh Women's Aid

The recommendations in this briefing are based on knowledge and expertise developed by these organisations over decades of working on policy and practice with survivors of domestic abuse and other forms of violence and the specialist services who support them.

To note - in this briefing we have used the term survivor as much as possible, however there are some instances where this isn't possible and we refer specifically to women and girls. Nevertheless we are primarily looking at women survivors as domestic abuse is a gendered crime which is deeply rooted in the societal inequality between women and men. It takes place 'because she is a woman and happens disproportionately to women.'¹

Recommendations

We identified the following six outcome areas as essential to achieving change for victims and survivors of domestic abuse through the Domestic Abuse Bill.

1. Equal access for Migrant, LBT and disabled survivors

The 'No Recourse to Public Funds' rule (NRPF) prevents people subject to immigration control from accessing certain public funds. We are deeply concerned that this means that migrant survivors with insecure immigration status cannot access safe and secure accommodation, even in refuge. While some survivors who have NRPF can access public funding from social services if they have children, during 2016/17 only 766 out of 11,187 vacancies (5.4%) posted on Routes to Support² were able to consider applications from women with NRPF³ due to the funding pressures these services face and the lack of access to statutory financial support. The Destitute Domestic Violence Concession (DDVC) provides a woman with a period of residence and, as a result, a right to welfare benefits for up to three months. Access is limited to women on spousal visas who have limited leave to remain during their first two years in the UK, however three months is

¹ United Nations (UN) Declaration on the elimination of violence against women 1993.

² "Routes to Support", the UK violence against women and girls service directory is the new name for UKrefugesonline (UKROL), the UK-wide online database which contains information about domestic abuse and other violence against women services which available for women and children throughout the UK along with up to date refuge vacancies

³ Women's Aid Federation of England (2017) Survival and Beyond: The Domestic Abuse Report

not a sufficient length of time for UK Visas and Immigration to consider their application. Survivors who are from the European Economic Area or who are on other types of visas, such as Student Visas or Work Visas, are not eligible.

We know that consequently these survivors are then faced with an impossible choice of either remaining in a violent situation that may be life-threatening or becoming destitute. Increasingly we are also growing concerned that survivors with uncertain immigration status who report domestic abuse to the police are being questioned on their legal status and those who may unintentionally be an 'over stayer' or in breach of the conditions of their visa may be threatened with deportation or sent to detention centres.

In addition Black and Minority Ethnic (BME) survivors and survivors with NRPF are often under-represented in service use and provision. Specialist BME services are vital as they provide dedicated spaces for BME survivors and have expertise about the specific forms of violence which have a disproportionate impact on BME women and girls, as well as the structures which shape survivors' experience of abuse such as discrimination, racism, and gender dynamics within family and community structures⁴. A survey of women using specialist BME domestic abuse services found that 89% of women (126 women) said they preferred to use abuse services with a BMER specialism. They particularly valued being with other BME women who had experienced abuse, being able to communicate in their own language and the specialist expertise of staff⁵.

Similarly, LBT survivors with NRPF also face unique experiences of domestic abuse and additional barriers in access to services. We know that specialist LGBT+ domestic abuse services are most equipped to respond to the complex needs and intersectional oppression faced by LBT survivors. Anecdotal evidence suggests that limited funding for specialist support often results in LBT survivors with NRPF facing threats of deportation and that, for example, LBT asylum seekers are being asked for excessive and unreasonable 'evidence' in order to 'prove' their sexuality.

Disabled women are twice as likely to experience DV as non-disabled women⁶ while also facing additional barriers to accessing services. Services themselves struggle to meet the needs of disabled women due to insufficient funding for property adaptations or for support workers with specialist skills in supporting disabled women. There is just one refuge in England which is dedicated to women with learning disabilities, only 4% (11) of

⁴ Women's Aid Federation of England (2017) 'Nowhere to Turn: Findings from the first year of the No Woman Turned Away project'

⁵ Thiara, R and Roy, S Vital Statistics 2 Key Findings Report on Black, Asian, Minority Ethnic & Refugee women & children facing violence & abuse (London: Imkaan, 2012), p. 17

⁶ Ravi K. Thiara, Gill Hague et al. (2011): Disabled Women and Domestic Violence. Responding to the Experiences of Survivors.

refuges provide any level of specialist support for women with learning difficulties, and under a third (77 refuges) have full wheelchair access throughout the refuge⁷.

Therefore **our recommendations are:**

- To ensure this legislation is for everyone, migrant survivors must have full and equal access to all services and financial support to enable their access to services – the financial risk of supporting survivors with insecure status should not fall to specialist services.
- To ensure sufficient provision of specialist ‘by and for’ BME, LBT and disabled survivor services which recognise the intersections between VAWG and different forms of structural oppression and can provide integrated services.
- Reform Immigration Rules and Destitute Domestic Violence Concession (DDVC) to ensure all survivors, not just those on spousal visas, with insecure immigration status fleeing violence can access a refuge space or safe and appropriate emergency accommodation with specialist support.
 - Extend the timeframe to 6 months or until the case is concluded for access to the provision included in the DDVC.
 - Ensure survivors are able to apply for the DDVC more than once in recognition that survivors sometimes, for multiple reasons, return to their perpetrator.
 - Ensure asylum-seeking survivors are not dispersed across the country to enable them to be close to their support networks.
 - All victims of domestic abuse should be eligible for a fast tracked application for indefinite leave to remain (ILR) regardless of their marital or relationship status.
 - Public authorities, including Police, Crown Prosecution Service and the Courts should receive new specific instructions that they are required to always put protection of victims and pursuit of justice when a victim seeks it ahead of immigration enforcement.
- A ‘firewall’ must be created between critical public services and immigration control policies. All agencies, service providers and practitioners who come into contact with migrant women should put the safety and rights of women ahead of immigration enforcement, to ensure an insecure immigration status does not bar women from protection and justice and that migrant women have access to secure and safe reporting.
- To ensure any supplementary guidance clearly sets out that fear of their and their children’s deportation is a key barrier which stops women with uncertain immigration status being able to report domestic abuse and seek protection and justice.

⁷ Women’s Aid Federation of England (2017) ‘Nowhere to Turn: Findings from the first year of the No Woman Turned Away project’

- To ensure any immigration laws and procedures, including the upcoming Immigration Bill, to be assessed before implementation on the impact to survivors of domestic abuse.

2. A Violence Against Women and Girls Commissioner

Central to the proposed legislation is the development of a new Domestic Abuse Commissioner role. The Government has stated they are introducing this role to be a figure head who will 'stand up' for victims and survivors of domestic abuse. The role must go further and crucially underpin a clear framework of national accountability for the resourcing, quality and provision of services. That is why the role must sit under the Violence Against Women and Girls (VAWG) Strategy. This would not only recognise that different forms of violence and abuse are interlinked and a cause and consequence of women's inequality, but recognise that the best local area VAWG services are planned and delivered in an integrated way.

The Government have put forward a list of responsibilities for the role in the Domestic Abuse Bill consultation which is welcome. However, our work shows there are some further essential elements to this role and our examination of other comparable Commissioner roles; such as the Children's Commissioner and the Modern Slavery Commissioner, indicates a number of weaknesses in the proposed remit of this role:

- It remains unclear about who will appoint the role, and therefore unclear the extent of the role's independence and ability to hold government to account.
- Annual reports can end up being a list of work done, without clear recommendations, rather than a useful inquiry into the issues being addressed.
- The role of a Commissioner can be diluted if government tasks them with actions they do not have the powers or duties to undertake properly.
- Appointees have limited use if they are not experts in the field or if they do not have a robust approach to undertaking research and making strong recommendations to hold government to account.
- Clarity is needed about the working of this post across the devolved setting in Wales.

Therefore **our recommendations are:**

- The Commissioner role must be wider than domestic abuse and sit under VAWG strategy framework; all forms of VAWG need independent scrutiny, and the Commissioner must be a stand-alone role.
- The Commissioner role must have the necessary resources to be effective, including an appropriate budget and team to deliver a meaningful programme of work.
- The Commissioner role must have a transparent recruitment process, have expertise in the VAWG field and be completely independent of government.
- The Commissioner's remit must include:

- Statutory powers including data collection and the ability to conduct robust research.
- Statutory powers to monitor statutory agencies and local authorities, and compel them to engage in their work; to ensure they are providing appropriate and safe services that are accredited to nationally recognised standards, and are accountable to the National Statement of Expectations.
- A specific focus on reviewing the response to Black and Minority Ethnic (BME) survivors, LGBT survivors, disabled survivors, older survivors, survivors with no recourse to public funds (NRPF), survivors with complex and intersecting needs; including mental health problems, addiction or involved with the criminal justice system, and other vulnerable groups.
- Requirement to maintain an open relationship with the VAWG sector, including regular meetings and VAWG sector members to have a role in any working groups or boards created by the Commissioner.
- Requirement for the Commissioner's Office and work to be meaningfully informed by survivor's voices.
- Requirement to share best practice across both the VAWG sector and civil society.
- Requirement for the role's reporting back and scrutiny mechanism to be as strong as possible to ensure transparency and success of the role.
- Regular meetings and access to all relevant Secretary of States, including attendance at the current Inter-Ministerial Group Meeting on VAWG chaired by the Home Secretary, and all relevant civil servants.
- A specific remit for their work in Wales and interaction with the National Advisor and the Violence against Women, Domestic Abuse and Sexual Violence (Wales) Act 2015.

3. A welfare system that provides security, protection and a future for survivors

Access to financial assistance and support, through welfare benefits, is vital for survivors of domestic abuse – particularly for those who are forced to flee their homes.

In recognising the detrimental impacts that a number of welfare reforms would have for survivors, and the services that support them, as highlighted by the groups contributing to this paper, some important concessions have been made - including an exemption for refugees from the 1% social rent reduction and protecting survivors' access to lifetime tenancies if they have to leave their homes. However we are concerned that a range of other welfare reform policies both risk increasing the financial barriers survivors face in leaving an abusive relationship and also threaten the financial support survivors need in order to move on from refuge, and build a safe and independent future.

In addition, many survivors experience financial or economic abuse at some point during, or after, the relationship. It rarely occurs in isolation; the vast majority of financial abuse victims (82%) also experience other forms of abuse in their relationship⁸. This is a major barrier to them fleeing the relationship and can leave survivors without access to money for housing, food and basic essentials. Providing safe escape routes and financial support for survivors is critical; data from the Femicide Census revealed that 75.2% of the 78 women killed by men in 2016 were killed at their own home, or the home they shared with the perpetrator⁹.

Therefore **our recommendations are:**

- Statutory annual review and publication of impact reports on welfare reforms and domestic abuse survivors, including:
 - Assessments that indicate particular threats to survivors or creating barrier to leave must be matched with interim and transitional or exemption arrangements for survivors or any specialist services, such as refuges, that will be affected.
- Reverse the two child tax credit limit, particularly as the exemption on the grounds of rape and coercive control remains fundamentally unworkable and at odds with principles enshrined in human rights legislation.
- For split payments of Universal Credit to be the default to ensure that single household payments do not unintentionally exacerbate domestic abuse.
- Assurances that Personal Independence Payment and Child Benefit will be kept outside of Universal Credit to ensure survivors have financial support.
- Full exemption for survivors of domestic abuse living in refuges from the lower benefit cap, and in the interim those in refuge affected by the lower benefit cap must be prioritised for Discretionary Housing Payments.
- Access to dual housing benefit for survivors of domestic abuse, who are forced to flee their homes, for up to 12 months even if they are not intending to return to their old home.
- Any survivor fleeing to refuge, should be exempt from repayments of benefit advances under Universal Credit.

4. Making the Family Courts safer for survivors and children

Our organisations frequently hear from survivors of domestic abuse about how family courts are often used and manipulated by perpetrators of domestic abuse as an avenue to further control, coerce and abuse their victims. A significant body of research has shown how perpetrators of domestic abuse are exploiting the 'contact at all costs' culture of the family courts and how often child contact arrangements set out by the

⁸ 'Money matters: Research into the extent and nature of financial abuse within intimate relationships in the UK' 2015, written for the Co-Operative Bank and Refuge by Nicola Sharp-Jeffs

⁹ The Femicide Census: 2016 Findings - Annual Report on Cases of Femicide in 2016, Women's Aid in partnership with Karen Ingala Smith

courts can often leave survivors feeling re-victimised and re-traumatised, and children having unsuitable and unsafe contact; despite domestic violence being the most common welfare issue raised¹⁰.

Perpetrators are also capitalising on the opportunity of cross-examining their victims as a method of continuing their abuse; preventing survivors from safely being able to access justice after the relationships has ended. The government has committed to prohibit perpetrators from cross-examining their victims in the criminal justice system through new legislation. This legislation should be laid as soon as possible either in the Domestic Abuse Bill, or the Courts Bill.

Therefore **our recommendations are:**

- Bring forward legislation, which has already been written and has cross party to support, to ban cross-examination in family courts of survivors by their abusive former partners.
- All professionals involved in child contact cases should receive training on human rights, domestic abuse, coercive control, discourses of parental alienation, and discrimination.
- Guarantee special measures – such as separate entrances and exits, waiting rooms, screens and video links – for survivors of domestic abuse in the family courts.
- Clarity on the assumption of shared parenting when children are at risk of harm from domestic abuse.
- Ensure child contact is decided on an informed judgement of what's in the best interests of the child(ren) and that unsupervised contact is not ordered, either in final hearing or interim, where there is an ongoing risk of harm due to domestic abuse.
- Monitor the use and delivery of expert safety and risk assessments in child contact cases, increase the availability of child contact centres, and ensure greater consistency in the use of supported or supervised contact
- Ensure better links between family and criminal courts:
 - Prohibit unsupervised contact for a parent who is awaiting trial or on bail for domestic abuse related offences, or where there are ongoing criminal proceedings for domestic abuse.
 - Improve consistency in the approach to information sharing between courts about domestic abuse that includes a focus on the risks and harms to the child(ren).
- Provide more adequate, empowering support for survivors of domestic abuse through both formal legal support and the presence of a support worker or specialist advocate.

¹⁰ Hunt, J, & Macleod, A. (2008) Outcomes of applications to court for contact orders after parental separation or divorce

- Family Courts to be given the power to dismiss vexatious applications or continual applications being made by the same individual where it's clear the purpose is to harass or distress victims under the guise of an appeal to justice.
- To remove the capital means test, which treats the equity in homes as funds available towards legal costs, from the eligibility process for legal aid to ensure survivors are able to access justice.

5. A holistic housing response to domestic abuse

The Domestic Abuse Bill's success currently risks being significantly undermined by the proposed reforms to funding for short-term supported housing, which includes refuges. These changes are set to have a catastrophic impact on the future of refuge provision which underpins the national response to domestic abuse: Women's Aid found that over half of refuges would have to close completely (39%) or reduce their bed spaces (13%).

Refuges are the central component of a holistic housing response to domestic abuse, which also includes access to social housing, move-on accommodation, sanctuary schemes, the private rented sector and protections for survivors who have their own property. Securing move-on housing for survivors in a refuge is a huge challenge for local service providers and there is a real postcode lottery in access. There is no consistent established pathway from refuge into either Council housing or Housing Association accommodation; data shows a 41% decrease in the number of women and children housed in secure tenancies after a period in a refuge¹¹. Survivors often fail to be deemed a priority and have to prove they are vulnerable as a result of fleeing domestic violence to have the right to housing, which is not right and must be addressed.

This current situation both deters survivors from leaving refuge and leaves those that do with the struggle of re-establishing their and their children's lives after an often prolonged and uncertain re-housing process; which has been impacted negatively by a shrinking number of affordable homes. Survivors leaving refuge often have to endure multiple interim temporary moves¹².

Therefore **our recommendations are:**

- Take the proposed reforms for 'short-term' supported housing funding off the table, and in partnership with specialist services develop a sustainable long-term funding model for service provision.
- To ensure that survivors with uncertain immigration status or with no recourse to public funds are able to access refuges.

¹¹ Solace Women's Aid (2015) Housing Status Research Report 2016 – The Price of Safety: How the housing system is failing women and children fleeing domestic abuse

¹² Solace Women's Aid (2015) Housing Status Research Report 2016 – The Price of Safety: How the housing system is failing women and children fleeing domestic abuse

- To ensure that survivors with complex needs are able to access refuges with sufficient holistic provision.
- Statutory recognition that survivors leaving refuge are not intentionally homeless and refuge is not accommodation which it is deemed reasonable to continue to occupy in the medium- or long-term.
- The Homeless Code of Guidance for Local Authorities is regularly reviewed to ensure survivors in all types of homeless situations, including street sleeping and couch-surfing, are able to access to support they are entitled to.
- Priority need for survivors of domestic abuse fleeing homes to be clarified in legislation to ensure they have access to safe accommodation and do not return to their perpetrator.
- A guaranteed second-stage move on accommodation for survivors in, and leaving, refuge.
- A bar on local connection rules for survivors who need to flee their local area to access refuge, and flexibility in their housing options once they are in a different local authority area.
- Sufficient resources to ensure effective join up for perpetrator accommodation, both in local service delivery and national, strategic policy making; in regards to the proposed Domestic Abuse Protection Order (DAPO), ensure that if perpetrators are being removed safely from properties, so women can stay in their own home, that there is accommodation available for this.

6. Making domestic abuse ‘everyone’s business’: the response of statutory agencies

We know that survivors currently face a ‘postcode lottery’ in the response they receive from public services, such as local authorities and the police. It is vital that we ensure there is a better use of these critical opportunities for early identification and support.

That’s why we must guarantee this legislation makes domestic abuse everyone’s business and we need to ensure that public services play a key role in this and provide a consistent and appropriate response to survivors. There needs to be a recognition that domestic abuse can affect anyone, regardless of their ‘protected characteristics’. However, it is critical there is acknowledgement of the gendered nature of domestic abuse, the differences in the severity and length of time abuse is experienced between men and women, and the necessary drive to ensure progress in prevention and towards a future free from abuse.

Therefore **our recommendations are:**

- Amend the proposed statutory domestic abuse definition to acknowledge the gendered nature and the accurate understanding of all forms of domestic abuse.
- Update the National Statement of Expectations to include a comprehensive accountability framework and guidance for statutory agencies.

- A continued improvement of the police response to domestic abuse, ensuring an evidence-led, rather than victim-led response which puts the onus on the police to investigate and removes the onus on the victim to cooperate.
- To ensure all services coming into contact with survivors have a level of understanding of domestic abuse that means: they have a gendered approach to domestic abuse; recognise the experience and impacts of domestic abuse can continue long after a relationship has ended; and are working in collaboration with, and signposting to, local specialist services.
- Adequate resourcing for public bodies, including police, social care and NHS, for tackling domestic abuse.
- Improve access to quality, trauma-informed mental health support and recovery for survivors and fast tracked access to Child and Adolescent Mental Health Services (CAMHS) support for children.
- Improve consistency in routine enquiry about domestic abuse being carried out for those in mental health services as stated in NICE guidelines, and the need for appropriate referrals and pathways of support after disclosures are made.
- To ensure those accessing drug and alcohol services or mental health services, also have access to specialist domestic abuse services.
- To ensure there is provision of support that truly reflects the requirements of survivors with complex needs.
- To ensure a 'whole school approach' to issues such as positive relationships and domestic abuse, including mandatory Relationships and Sex Education; which must be delivered in partnership with specialist organisations and have clear pathways of support when disclosures are made.
- To ensure every local area and their local specialist services have a coordinated, but separate, evidence-based plan – including early intervention and prevention, and adequate resources – for survivors and perpetrators.