



The Law Society



**Rt Hon David Gauke MP**

Lord Chancellor and Secretary of State for Justice  
Ministry of Justice  
102 Petty France  
London SW1H 9AJ

18 July 2018

Dear Secretary of State

Ahead of a Parliamentary debate on progress in protecting victims of domestic abuse in the family courts, scheduled for 18 July 2018, we are writing to urge the Government to bring forward the long-awaited ban on the ability of alleged perpetrators to cross-examine victims of domestic abuse within family proceedings.

As your predecessor Rt. Hon Elizabeth Truss MP recognised in 2017, a statutory bar on the ability of alleged abusers from cross-examining their victims is a critical step forward to affording victims in the family courts the same protections they receive in criminal courts. The legislation to ban this harmful practice, set out within the Prison and Courts Bill, was warmly welcomed by victims, charities, the legal profession, across all political parties and by senior members of the family judiciary.

It was extremely unfortunate that the Bill fell before the General Election in 2017. These changes are uncontentious and severely overdue. A year after the Government pledged to introduce the ban, a survey by Women's Aid and Queen Mary University of London found that 24% of responding victims of domestic abuse had been cross-examined by their abusive former partner. These findings are of course similar to a Women's Aid survey conducted in 2015, which found that a quarter of respondents had been cross-examined.

As Hayden J made clear in *Re A (a minor) (fact finding; unrepresented party) [2017] EWHC 1195 (Fam), [2017] All ER (D) 49 (Jun)*, the act of cross examination is not only a 'stain on the reputation of our family justice system' but 'is, in itself, abusive.' Through our support and representation for victims we know the harm that cross-examination can cause, and the implications that this practice has for justice. It has a traumatic impact on victims, diminishes their ability to give evidence and undermines their ability to advocate for their child's best interests and safety.

There is currently no clear legislative timetable to re-introduce the ban and we are particularly concerned the relevant provisions were not included within the Courts and Tribunals Bill, which is currently progressing within the House of Lords. We sincerely hope that the Government will be able to provide clarity on your intentions for this critical legislation on 18 July.

We urge you to prioritise the implementation of this ban to protect victims and ensure that they can be party to family proceedings free from fear, harassment and abuse. More widely, we welcome the significant programme of work that your department and the Home Office are leading to transform the response to domestic abuse and we look forward to working with you to ensure that victims are protected in all parts of our justice system.

Yours sincerely

**Penny Scott**  
Chair, Family Law Committee  
The Law Society

**Margaret Heathcote**  
National Chair of Resolution

**Katie Ghose**  
Chief Executive, Women's Aid