

Briefing on the Domestic Abuse Bill

Women's Aid welcomes the Domestic Abuse Bill as a once-in-a-generation opportunity to deliver a step change in the response to domestic abuse and other forms of violence against women and girls (VAWG). Women's Aid is committed to working with the government, our member services and survivors to transform the response to this crime so every woman and child can live free from fear and abuse.

Whilst we welcome many measures in the Bill, we are clear it needs to go far further if it is to deliver the changes survivors and their children need - not only in the criminal justice system, but across housing, immigration, the family courts and welfare too. The Joint Committee who scrutinised the draft Bill earlier in 2019 made comprehensive recommendations to improve the legislation, which we urge the government to act on. With a consultation on a proposed statutory duty for refuge provision ongoing, it is vital that the Bill delivers a new statutory system to deliver a secure future for these life-saving specialist services.

This briefing sets out our recommendations for the Bill and supporting non-legislative package - based on knowledge and expertise developed in partnership with our member services and survivors. For further information, or to arrange a meeting, please contact: Lucy Hadley, Campaigns & Public Affairs Manager at Women's Aid - l.hadley@womensaid.org.uk

Priorities for the Bill

1. Sustainable Funding

Specialist domestic abuse services have faced funding challenges throughout their history and are delivering life-saving services on shoe-string budgets. Services are struggling to meet the needs of women and children seeking safety; 60% of referrals to refuges were declined in 2017/18.¹ If the aims of the Bill are successful, then demand for services will increase as more women have the confidence to come forward and disclose their experiences, or reach out for help at an earlier point. We warmly welcome the Ministry of Housing, Communities and Local Government's proposal, published in May 2019, to establish a legal duty on local authorities to deliver support to survivors of domestic abuse in accommodation-based services. With the consultation ongoing, we are clear that the Bill will be undermined unless it is included in the final legislation. To ensure that all survivors are able to access safety and support they need in the future, it is also vital that the proposed duty is amended to ensure:

- **Local areas will fund refuge and other support services**, not generic provision which does not provide the holistic support and safety that survivors and their children need when fleeing abuse;
- There is **rigorous oversight** to ensure the national network of refuges can operate safely;
- **Specific safeguards to ensure the sustainability of highly specialised services**, including those led 'by and for' black and minority ethnic (BME) women, who have lost out most under localism;
- Sufficient funding to underpin the duty to ensure that **services are sustainably resourced to meet the needs of all survivors and their children.**

2. An accurate definition

Domestic abuse is a devastating form of violence against women and girls (VAWG) - a cause and consequence of women's inequality. Not only are women far more likely to be victims and men perpetrators, but women overwhelmingly experience coercive control within a context of fear², higher rates of repeated victimisation, and are much more likely to be seriously injured³ or killed by a partner/ex-partner. Women will continue to be at risk of harm if the gendered nature of domestic abuse is not explicitly recognised in the legislation, which guides policy, practice and legislation.

¹ Women's Aid (2019) The Domestic Abuse Report 2019: The Annual Audit, Bristol: Women's Aid.

² Dobash & Dobash, 2004; Hester, 2013; Myhill, 2015; Myhill, 2017

³ Walby & Towers, 2017; Walby & Allen, 2004

- As the joint committee clearly recommended⁴, the statutory definition should apply to all genders, but **the gendered dynamics and impact of domestic abuse on women must be explicitly recognised** in the definition and text of the legislation, ensuring compliance with the Istanbul Convention which this Bill seeks to ratify.
- The definition must be inclusive of all women by including forms abuse - such as forced marriage and 'honour' based violence, which are disproportionately experienced by BME women – in the text or accompanying statutory guidance.

3. Crime and safety

A domestic abuse crime is committed every minute in England and Wales.⁵ Whilst these crimes have become a priority for the police and criminal justice system, the scale and challenge of demand is unrelenting and there remain severe variations in forces' response to the crime. Concerningly, a fall in police referrals to the Crown Prosecution Service is now driving falling rates of domestic abuse prosecutions and convictions.⁶ The Bill must strengthen the power of the police response and ensure that survivors' safety is always paramount.

- Following major reductions in the use of pre-charge bail resulting from the Policing and Crime Act 2017, urgent reforms are needed to stop dangerous offenders being released under investigation with no conditions attached.⁷ We agree with the joint committee that the **Bill should introduce a presumption in favour of pre-charge bail** in all domestic abuse and sexual offences cases unless this is clearly not necessary, extend the initial pre-charge bail period to ensure officers can complete investigations, and re-balance the test for extending bail to ensure protecting victims is paramount.
- **Whilst we welcome the Domestic Abuse Protection Order (DAPO), particularly the proposal that a breach will be criminalised**, we share the joint committee's concerns about whether they will be implemented safely and effectively as they stand. Further clarity is needed to ensure these new orders - which will introduce a range of positive requirements and prohibitions on perpetrators - can be robustly monitored and enforced by the police and other agencies. As well as being free for victims to apply for, the police and other agencies should not be charged when applying for a DAPO.
- A more effective response to perpetrators is needed. **We call for the removal of measures to enable pilots of polygraph testing** with high risk perpetrators from the Bill, as they are not evidence based. Delivering a **high quality probation service** for supervising perpetrators is a priority, alongside measures to **ensure all responses to perpetrators funded by government or statutory agencies are safe** - Respect accredited, delivered by experienced staff who receive ongoing specialist training, and delivered alongside separate support for survivors.

4. Migrant Women

Ensuring full and equal protection and support for migrant survivors is an urgent priority for the Bill. Perpetrators use immigration status as a form of coercive control - threatening to inform authorities, exploiting survivors' fears of deportation and destitution, and withholding information or documentation on their status. Migrant women face severe barriers to reporting and seeking help, and are also subject to inadequate - and even discriminatory - responses from the services meant to protect them. Those with 'No Recourse to Public Funds' (NRPF) currently often face insurmountable barriers to accessing support services, including refuges. It is disappointing that the government have only committed to review eligibility for the Destitution Domestic Violence Concession (DDVC), when there is clear evidence⁸ on the barriers women face in accessing this essential means of support. Recommendations:

⁴ HC 2075, House of Lords and House of Commons Joint Committee on the Draft Domestic Abuse Bill Draft Domestic Abuse Bill, First Report of Session 2017-19, 14 June 2019.

⁵ Her Majesty's Inspectorate of Constabulary, Fire and Rescue Services, [PEEL: police effectiveness 2017 - a national overview](#), March 2018

⁶ Crown Prosecution Service, [Violence Against Women and Girls Report](#), 2017-18

⁷ BBC, [Thousands of violent crime suspects released without conditions](#), 30 March 2018

⁸ Women's Aid, [Nowhere to Turn: Findings from the First Year of the No Woman Turned Away Project](#), 2017

- **Reform the eligibility criteria for the DDVC** to ensure all women with insecure immigration status can access a life-saving refuge space.
- **Reform the spousal visa process** to ensure that foreign spouses can access information about their partners' previous history and domestic abuse support services in the UK.
- As recommended by the joint committee, **establish a 'firewall' to separate immigration control from the public services survivors seek help from**, alongside safe and confidential reporting systems for those with insecure status.

5. Justice

Victims still report to Women's Aid that they do not have confidence in the justice system to protect them, and are unsafe and unsupported during the process. This is acute in the family courts, where the seriousness and impact of domestic abuse is treated very differently from the criminal justice system. The disparity in the response leads to survivors and their children falling between two court systems, and being re-traumatised through their experience of the family courts. 24% of survivors surveyed by Women's Aid in 2017 had been directly cross-examined by their perpetrator in the family courts, and 61% had no access to special measures.⁹ Improving the safety of the family court system is an urgent priority for the Bill. We recommend:

- Guarantee survivors' **access to special protection measures** - such as separate entrances and exits, waiting rooms, screens and video links - not only in criminal courts, but civil and family courts too.
- **Extend the welcome ban on cross-examination** to ensure that it applies to all cases of domestic abuse and is not subject to judges' discretion - as this will not protect all survivors.
- Ensure that a survivor never has to choose between safety and **the right to vote** by ending the expiry of "anonymous voter" registration after 12 months, making it accessible for life.

6. Children and family

Domestic abuse can have a devastating impact on children and young people and is the most common factor in cases where children are at risk of serious harm.¹⁰ Domestic abuse results in a range of emotional, social, psychological and behavioural responses, with short and long-term implications for children. Recognition of the serious impacts to children, however, remains severely within the family justice system - where the approach to child contact is undermining the safety and welfare of children in domestic abuse cases, and expose them to further harm.¹¹ Our research demonstrates that safeguarding concerns resulting from domestic abuse are still not believed or understood within the child contact process - with examples of criminal charges of domestic abuse, or police and social services concerns, being minimised or ignored. This leads to potentially unsafe contact decisions and survivors placed in dangerous situations to facilitate contact. Whilst we welcome the Ministry of Justice's review of the family court response to domestic abuse, which we sit on the expert panel for, we are calling for the Bill to deliver urgent changes:

- **End the assumption of contact** in cases where children are at risk of harm from domestic abuse, with contact arrangements based on informed judgement of a child's best interests and safety.
- **Prohibit unsupervised contact** for a parent waiting for trial, or on bail for, a domestic abuse related offence, or where there are ongoing criminal proceedings for domestic abuse.
- The proposed definition, and the **Children Act 1989, needs to name coercive control as 'harm to children'**.
- Children in refuge have **priority access to school places**, with a duty on local authorities to respond to a change of school request from a refuge swiftly - and secure a new school place in twenty days.
- Statutory guidance delivers a clear **cross-government strategy** for protecting and supporting child survivors.

7. Housing and welfare

⁹ Birchall, J. and Choudhry, S. (2018), "What about my right not to be abused?" Human rights, domestic abuse and the family courts.

¹⁰ Ofsted, HMICFRS, CQC, HMIP, 'The multiagency response to children living with domestic abuse', 2017

¹¹ Dr Ravi Thiara and Dr Christine Harrison, Safe Not Sorry: Key issues raised by research on child contact and domestic violence, University of Warwick 2016. [Accessible online.](#)

The harm caused by domestic abuse is far-reaching and includes impacts on finances and debt, housing and homelessness, employment and education. These impacts are more acute for migrant women and women with insecure immigration status, who face severe barriers to escaping abuse. In 2017-18, Women's Aid's No Woman Turned Away project supported 264 women struggling to access a refuge space, 46% of whom were forced to sofa-surf while they waited and over one in ten of whom slept rough - of which three women were pregnant and five women had their children with them¹². As well as the welcome provision to ensure survivors escaping domestic abuse can retain a secure lifetime tenancy, we recommend:

- The Bill guarantees that **individuals fleeing domestic abuse are automatically considered in priority need** for housing, rather than being subject to the 'vulnerability test'.
- **A statutory ban on local authorities imposing 'local connection restrictions'** on refuge services.
- **Assess welfare reforms** for their impact on women's ability to escape abuse, exempt all women fleeing domestic abuse from the benefit cap and end the two child tax credit limit.
- A statutory **right for employees affected by domestic abuse to vary their working arrangements** - including a period of paid leave - to help cope with its impacts.

8. Health and wellbeing

Domestic abuse is a widespread public health issue that needs a long-term strategy to prevent.¹³ Despite the huge impacts upon physical and mental wellbeing, and associated costs, domestic abuse is often not regarded as a health or social care priority at national or local level. Almost all survivors interact with health services at some point and, for many women who experience abuse, these are one of the only places that it is safe to disclose. Recommendations:

- Secure domestic abuse as a **priority within the health and social care sector** - specifically through inclusion within Joint Strategic Needs Assessments, Sustainable Transformation Plans and the priorities of Clinical Commissioning Groups, and clear guidance, roles and responsibilities for health and social care bodies in commissioning and service provision.
- Establish **mandatory, ongoing training** for health care providers and professionals, with advanced provision for 'first contact' staff and those who are likely to care for survivors - such as midwives.
- Improved access to mental health services for survivors, and ensure children experiencing domestic abuse have **special waiting list status for NHS services**, including Child and Adolescent Mental Health Services.
- **Scrap the 'GP Fee'** - end charges for survivors seeking to obtain evidence of domestic abuse from a health professional, for example when applying for legal aid through the Domestic Violence Gateway.

9. Accountability

A clear framework of national accountability is critical to improve performance and end the "postcode lottery" response. The new Commissioner role requires robust powers and duties, clear reporting mechanisms, adequate resourcing, and an advisory board inclusive of survivors and specialist services. In addition to the role's current responsibilities, we recommend the government listens to the recommends made by the joint committee and ensures that the Commissioner role:

- Has a remit for assessing the response to all forms of **VAWG**, as these forms of crime are interconnected.
- **Reports to the Cabinet Office**, rather than the Home Office, to oversee a whole of government response to domestic abuse and VAWG, and has a clear line of reporting to Parliament too.
- **Has the powers to ensure that local areas and a range of agencies are delivering a quality response to survivors** - including through duties on government departments and public bodies to cooperate with the Commissioner.
- Ensures consistent **data collection** across all agencies - aligning to the new definition and including sex, age and relationship of perpetrator and victim, and protected characteristics;
- Is truly independent, with **adequate budget and internal capacity** to ensure they can deliver on their ambitious remit - including making this post full time.

¹²Women's Aid, Nowhere to Turn: Findings from the Second Year of the No Woman Turned Away Project, 2018.

¹³Ofsted, HMI-CFRS, CQC, HMIP, The multiagency response to children living with domestic abuse, 2017