

Women's Aid Briefing for Second Reading of 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). 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. For the past two years survivors and specialist services have shared their expertise in the development of the Bill, which must be listened to and acted on. Earlier in 2019 the cross-party pre-legislative scrutiny committee made comprehensive recommendations to improve the legislation that we urge the government to deliver.

Women's Aid encourages MPs to support the Domestic Abuse Bill and speak in the Second Reading debate to highlight the following key issues:

- 1. Funding:** The Bill must be underpinned by a sustainable funding future for the specialist services that survivors and their children need to cope and recover. The government estimates that domestic abuse costs society £66 billion every year yet life-saving services continue to face funding crisis; 60% of total referrals to refuges were turned away last year and in 2018 there was a shortage of 1715 refuge bed spaces in England.¹ Earlier this year the government proposed a statutory duty on local authorities to fund support in refuge services, but it is not yet included in the Bill and there is no clarity about the funding settlement that will underpin it.
- 2. Whole of society response:** just one in five victims of domestic abuse report to the police. Whilst urgent improvements to the criminal justice response are certainly needed, survivors tell Women's Aid that they need change across the public sector - most urgently in the family courts, housing and welfare system, and protection and support for their children. The Bill must go wider than the justice response if it is to be effective and we urge MPs to highlight the changes required across the public sector in the debate.
- 3. Accountability and international law:** we warmly welcome the new Domestic Abuse Commissioner as a critical appointment to tackle the postcode lottery response to domestic abuse and stand up for survivors, but there remain important questions about their remit and resources. Enabling extra-jurisdiction over domestic abuse offences, the Bill will mean that the government can finally ratify the Istanbul Convention. However the Bill does not align to this landmark international treaty on VAWG on a number of crucial areas - a gendered definition of domestic abuse and protection for migrant women.

This briefing sets out our recommendations for the Bill based on knowledge and expertise developed in partnership with survivors and Women's Aid's national network of member services across England. For further information, or to arrange a meeting, please contact:

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

1. Sustainable funding for life-saving services

Domestic homicides are shockingly at a five year high.² The life-saving national network of refuges does not only provide essential shelter and safety, but delivers expert support to enable women and children to cope, recover and rebuild a life free from abuse.

*“Going into a refuge saved my life,
and gave hope and a future to my
children”*
Survivor

These life-saving services remain under severe threat from damaging local commissioning practices and short-term, shoestring budgets. Nearly one in ten refuge services responding to Women’s Aid’s Annual Survey 2018 received no local authority funding at all.³ Over 50% of 309 women supported by Women’s Aid struggling to access refuge in 2018 were forced to sofa-surf or sleep rough while they waited for a space.⁴ Women facing multiple forms of discrimination and disadvantage - including black and minority (BME) survivors, disabled survivors and women with insecure immigration status - face additional barriers to accessing help and support.

If the aims of the Bill are successful, then the demand for these life-saving services will increase as more women reach out for help. Services are already struggling to meet demand; 60% of referrals to refuges were declined in 2017-18 and one in six of these referrals were refused because the refuge had a lack of space or capacity to support the survivor. The Impact Assessment accompanying the Bill does not, however, estimate any additional demand on domestic abuse services.

We warmly welcome the government’s proposal to establish a legal duty on local authorities to deliver support to survivors of domestic abuse in accommodation-based services. A Ministry for Housing, Communities and Local Government (MHCLG) consultation on the duty concluded in August 2019 and the government response is not yet published. It is essential that the duty is brought forward in the Bill, and underpinned by a sustainable funding settlement for refuge services to ensure no woman or child is turned away from the life-saving support they need. The following safeguards are also essential for Women’s Aid to support this new duty:

- **Clarity that local areas will fund refuge services**, not generic ‘accommodation-based’ provision which does not provide the holistic support and safety that survivors and their children need when fleeing abuse.
- There is a **national oversight mechanism** to ensure the national network of refuges can operate safely, not only a steering group chaired by a Minister as the government currently proposes.
- **Safeguards for specialist services:** including those led ‘by and for’ BME women, disabled and deaf survivors and LGBT survivors, who face significant challenges in local funding systems. The new funding model must ensure sustainability for these services, which are often supporting survivors across the whole country.
- **Local connection restrictions:** women often need to flee from their local area in order to be safe; over two thirds of women in refuge come from a different local authority area.⁵ We are calling for a statutory bar on local authorities imposing local connection on refuges within the Bill, to sit alongside MHCLG’s proposed statutory duty.
- National ring-fenced funding to underpin the duty, which ensures that **services are sustainably and safely resourced to meet the needs of all survivors and their children.** With the only dedicated government funding for refuges due to end in 2020, a sustainable funding settlement is urgently needed.

² <https://www.bbc.co.uk/news/uk-49459674>, 13th September 2019

³ Women’s Aid (2019) The Domestic Abuse Report 2019: The Annual Audit, Bristol: Women’s Aid

⁴ Women’s Aid (2019) Nowhere to Turn 2019: Findings from the third year of No Woman Turned Away project, Bristol: Women’s Aid

⁵ Women’s Aid (2018) Survival and Beyond: The Domestic Abuse Report 2017. Bristol: Women’s Aid.

2. Whole of society response

Nationally, just one in five victims of domestic abuse will report it to the police⁶. Just one sixth of women in refuge in 2017 had seen a criminal case or sanctions against the perpetrator.⁷ The harm caused by domestic abuse is far-reaching and includes impacts on health, finances and debt, housing and homelessness, employment and education. The Bill must go wider than the criminal justice system alone and deliver reform across the public sector - most urgently children and the family courts, housing and the welfare system.

Children and the family courts

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 in the country.⁸ Recognition of the serious impacts to children, however, remains severely lacking within the family justice system - where the approach to child contact is undermining the safety and welfare of children experiencing domestic abuse.⁹ Our research demonstrates that safeguarding concerns resulting from domestic abuse are still not believed or understood within the child contact system - leading to potentially unsafe contact decisions which, in the most extreme cases, has resulted in children being seriously harmed and murdered.¹⁰

"My experience of family courts - horrific, traumatic, psychological warfare. Mind games replicate the abuse from the relationship."
Survivor

Survivors and their children are falling between two court systems, and often report that they are re-victimised and re-traumatised within 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.¹¹ We welcome the Ministry of Justice's review of the family court response to domestic abuse, which we sit on the expert panel for, and call for the Bill to deliver urgent changes to the family court and child contact system:

- As recommended by the joint committee, guarantee survivors' **access to special protection measures** - such as separate entrances and exits, waiting rooms, screens and video links. This must not be restricted to the criminal courts, as the Bill currently provides for in Part 1, clause 53 but civil and family courts too.
- **Extend the welcome ban on cross-examination** included in Part 3 of the Bill 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.
- **End the assumption of contact** in cases where children are at risk of harm from domestic abuse, with contact arrangements in domestic abuse cases 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 of domestic abuse and the **Children Act 1989, needs to name coercive control as 'harm to children'**.
- Statutory guidance delivers a clear **cross-government strategy** for protecting and supporting child survivors.

"The judge said 'a father has a right to see their child.'...The psychology report stated my husband's actions were causing further trauma...but this took nearly 6 months which in the meantime meant that my son further suffered."
Survivor

⁶ Office for National Statistics (2018) [Domestic abuse in England and Wales: year ending March 2018](#)

⁷ Women's Aid (2018) *Survival and Beyond: The Domestic Abuse Report 2017*. Bristol: Women's Aid.

⁸ Ofsted, HMICFRS, CQC, HMIP, ["The multiagency response to children living with domestic abuse"](#), 2017

⁹ 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.

¹⁰ Women's Aid (2016), *Nineteen Child Homicides*, Bristol: Women's Aid

¹¹ Birchall, J. and Choudhry, S. (2018), "What about my right not to be abused?" Human rights, domestic abuse and the family courts.

Housing

Domestic abuse is, by its very nature, a housing issue. Lack of access to safe, secure housing is a major barrier to escaping and factors strongly into a survivors' decision making about whether they stay in, or leave, a perpetrator. Women are most at risk at the point of, or shortly after, separating from a perpetrator and over half of women killed by men in 2017 were killed in their own home, or the home they shared with the perpetrator.¹² The Home Office estimate that domestic abuse resulted in £550 million in housing costs to government in the year ending March 2017, including temporary housing, homelessness services and repairs and maintenance.¹³

In 2018 Women's Aid's No Woman Turned Away project supported 309 women struggling to access a refuge space, 44% of whom were forced to sofa-surf while they waited and 7% slept rough - of which one woman was pregnant and five women had their children with them.¹⁴ As well as the welcome provision in Part 1, clause 56 of the Bill 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', as has been recommended by the All-Party Parliamentary Groups for Ending Homelessness and Domestic Violence and Abuse.
- **The Bill delivers a statutory ban on local authorities imposing 'local connection restrictions'** on refuge services, which threaten the operation of the national network of refuges.

"After a year of fallout, I'm still homeless...it feels like I'm worse off for having gone through 'the system'."
Survivor

Economic abuse, welfare and work

We welcome the government's proposal to include economic abuse in the new statutory definition of domestic abuse. Economic abuse is a common part of the coercive control that survivors experience and can happen to any woman, but disproportionately impacts women in poverty. It is a fundamental barrier to escaping; over half of survivors surveyed by Women's Aid and the TUC could not afford to leave an abuser.¹⁵

Access to financial assistance, through welfare benefits, is vital for women survivors of domestic abuse – particularly for those who are forced to flee their homes. We are highly concerned that the government's positive work to improve the response to economic abuse is being undermined by welfare reforms which restrict survivors' access to safety and increasing the barriers they face in leaving abusers. This includes single payments of Universal Credit, which threaten to increase abusers' economic control, and policies such as the 'two child tax credit limit' and benefit cap. We are calling for:

- **The Bill to place a duty on the government to assess all 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.
- The Department for Work and Pensions to build on work with Women's Aid which has trained all Jobcentre Plus managers on domestic abuse, with a full roll-out of specialist training for all work coaches and reforms to Universal Credit to ensure it is safe for survivors.

¹² Femicide Census (developed by Karen Ingala Smith and Women's Aid Federation of England working in partnership, with support from Freshfields Bruckhaus Deringer LLP and Deloitte LLP). (2018) *The Femicide Census: 2017 findings. Annual Report on cases of Femicide in 2017*. Published online: Karen Ingala Smith and Women's Aid.

¹³ Oliver, R., Alexander, B., Roe, S. & Wlasny M. (2019) *The economic and social costs of domestic abuse*. Published online: Home Office

¹⁴ Women's Aid (2018) *Nowhere to Turn 2018: Findings from the second year of the No Woman Turned Away project*, Bristol: Women's Aid

¹⁵ Howard, M and Skipp, A, Unequal, trapped and controlled, Women's Aid and TUC, 2015 - from 126 respondents to this survey.

- Include a statutory **right for employees affected by domestic abuse to vary their working arrangements** in the Bill - including a period of paid leave - to help cope with its impact.

Criminal justice response

A domestic abuse crime is committed every minute in England and Wales.¹⁶ 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 prosecutions and convictions; domestic abuse referrals from the police decreased by 11% in 2018-19, and referrals of rape cases fell by 22%¹⁷. 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.¹⁸ 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 and were not consulted on with the domestic abuse sector. The government must commit to deliver 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.

"My last 11 years were built on 13 harassment warnings, 4 restraining orders, and 1 non molestation order - averaging a breach a month. It's not easy to get a protection order, and when we do get them they are not enforced time and time again."

Survivor

¹⁶ Her Majesty's Inspectorate of Constabulary, Fire and Rescue Services, [PEEL: police effectiveness 2017 - a national overview](#), March 2018

¹⁷ Crown Prosecution Service, Violence Against Women and Girls Report, 2017-18

¹⁸ BBC, [Thousands of violent crime suspects released without conditions](#), 30 March 2018

3. Accountability and international law

The Domestic Abuse Commissioner

A clear framework of national accountability is critical to improve performance and end the “postcode lottery” response to domestic abuse. We have welcomed the appointment of Nicole Jacobs as the Domestic Abuse Commissioner, which has been established as a designate position before the legislation is passed. The government has listened to concerns about the powers of the role, their accountability to parliament, and made important amendments in this regard. However there remain a number of concern, and in addition to the role’s current responsibilities we urge the government to listen to the recommendations made by the joint committee:

- They should **report to the Cabinet Office**, rather than the Home Office, to oversee a whole of government response to domestic abuse;
- **Ensure the role carries out effective work across all agencies**, supported by a Ministerial mandate to ensure their response changes in light of any recommendations made by the Commissioner;
- Is truly independent, with **adequate budget and internal capacity** to ensure they can deliver on their ambitious remit - including making the post full time.

The Istanbul Convention

Domestic abuse is a devastating form of VAWG - a cause and consequence of women’s inequality. We welcome the inclusion of measures to deliver extra-territorial jurisdiction over VAWG offences, which will enable the UK government to finally ratify the Council of Europe Convention on preventing and combating violence against women and domestic violence (the ‘Istanbul Convention’). This landmark international treaty requires states to take comprehensive action for improving protection for victims, ensuring the prosecution of perpetrators and preventing violence by promoting awareness at all levels. However we are concerned that the Domestic Abuse Bill does not uphold key elements of the Convention:

Gendered approach

The Istanbul Convention requires states to take a gendered approach when implementing laws and policies on domestic abuse¹⁹. However one of the key elements of the Bill, the statutory definition, does not do this.

The gendered dynamics, impact and consequences of domestic abuse must be included in the definition, or the preamble to the Bill, as a gendered definition is crucial for the right response. Women are far more likely to be victims, and men perpetrators, of domestic abuse; 55,486 male defendants were convicted in 2018-19 (76.7% of total number)²⁰.

“It is crucial that the gendered context of domestic abuse is recognised on the face of the Bill. Without this recognition the Bill cannot begin to fulfil the Government’s ambitions for it and achieve the transformative response required to combat the scourge of domestic abuse.”

Joint Committee on the Draft Domestic Abuse Bill, June 2019

All victims of domestic abuse need support, but the response required for men and women is different because they have different needs. For example, women are more likely to suffer repeated patterns of abuse, experience coercive control and be killed by a partner/ex-partner; 73% of domestic homicide victims from April 2014 to March 2017 were women, 97% of whom

¹⁹ [Article Six](#), Council of Europe Convention on preventing and combating violence against women and domestic violence (2011)

²⁰ Crown Prosecution Service (2019) Violence Against Women and Girls Report 2018-19

were killed by men.²¹ If the definition doesn't recognise this, we are concerned that dangerous gender-neutral responses - which fail to respond to risk of harm, and to meet the needs of both men and women - could increase. The government's proposal to recognise that victims of domestic abuse are predominately female in statutory guidance does not go far enough.

The definition should also clarify the differences between types of abuse perpetrated in the home. There is no clarity in the Bill that intimate partner abuse differs from family abuse. There is also no inclusion in the definition of the types of abuse disproportionately experienced by black and minority ethnic (BME) women²², although this is proposed to be included in statutory guidance.

Protection and support for 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; only 5.8% of refuge vacancies in the year 2017-18 could support a woman who had NRPF. Refuges are usually reliant on state benefits to fund the housing element of their service, however some women are unable to access those benefits because of their immigration status (or lack of clarity about their status) and due to the funding crisis refuge services face they are unable to fund their housing costs.

It is disappointing that the government have only committed to 'review' the response to migrant women, when there is clear evidence about the scale of the problem and the urgency of improving support. Women with NRPF, who struggle to access a refuge space, are at increasing risk of entrenched homelessness, and the process of seeking official help is complex; fear of deportation, removal of children and destitution are likely to have been a key element of the violence, coercive control and isolation they have experienced. We recommend that the government:

- **Reform the eligibility criteria for the Domestic Violence Rule and the Destitution Domestic Violence Concession (DDVC)** to ensure all women with insecure immigration status, not only those on spousal visas, 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**²³, alongside safe and confidential reporting systems for those with insecure status.

"I have no benefits, nothing, and I cannot apply for indefinite leave ... My only chance is to go back to him."

Survivor

²¹ Office for National Statistics (ONS). (2018) Domestic abuse in England and Wales: year ending March 2018.

²² Forced marriage, FGM, so-called 'honour-based' violence, dowry-related abuse and transnational marriage abandonment.

²³ Step Up Migrant Women, <https://stepupmigrantwomen.org/>