



## Welsh Women's Aid DA Bill key priorities

The Domestic Abuse Bill provides real opportunity for a step change in national response to VAWG. As it stands, the Bill does not fully protect and support *all* survivors. The COVID 19 pandemic has further highlighted system failings and a lack of support for survivors of domestic abuse and other forms of violence against women and girls (VAWG). The challenges facing discrimination on the basis of race, immigration status, disability, sexual orientation and gender identity ever more apparent.

### Our key priorities remain:

Equal protection and support for migrant women and no recourse to public funds (NRPf).

Family Justice and recognition of the serious impacts of domestic abuse to children.

Alignment with existing Welsh legislation and inclusion of representation for Welsh survivors.

### Equal protection and support for migrant women and NRPf

In [our original briefing](#) to the public bill committee we highlighted the impact no recourse to public funds had on survivors.

*All agencies see is an immigration status they do not see us as human beings. We need help. (Survivor)*

*They told me to go back home to Africa as I would be safe there because he now has his stay [leave to remain]. I called the police 100s of times about him and he nearly killed me. The police know all about it. But they let him stay anyway. (Survivor)*

*He told me no one will believe me because of my status, that they will take my children from me. (Survivors)*

We strongly support the following amendments:

- Abolish the no recourse to public funds (NRPf) policy which prevents many migrant women with insecure immigration status from accessing vital, often life-saving support and routes to safety.
- Ensure all survivors, regardless of age or immigration status, are entitled to support, equal access to welfare systems and legal tools that can provide protection from abuse, in accordance with the requirements of the Istanbul Convention which the Bill seeks to ratify.
- Extend eligibility for the existing Domestic Violence (DV) Rule, to ensure all women with insecure immigration status, not only those on spousal visas, are eligible to apply for indefinite leave to remain, and extend the time period for the Destitution Domestic Violence Concession (DDVC) to at least six months.
- Deliver safe reporting mechanisms which ensure immigration enforcement is kept completely separate from the domestic abuse response and the safety of the victim is paramount.
- Provide long-term ring-fenced funding to ensure sustainability of BME and migrant 'by and for' specialist services.

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## Family Justice

There is now a significant body of evidence demonstrating the harm caused to children, young people and their non abusive parents/carers (survivors of domestic abuse) by the family justice system.<sup>1</sup>

*They put you back in the same room as the abuser, to try to get you to mediate with him when he holds all the power and has dominated you for years, you haven't got a chance it's not equal. (Survivor)*

*He went to prison, but the family courts were just interested in him seeing the children. I'm not sure they even knew about the prison stuff. (Survivor)*

*Court services aren't utilising all the services in place that victims need. (Survivor)*

We strongly support the following amendments:

- Ban direct cross-examination in any family, criminal or civil proceedings in all cases involving domestic abuse, sexual abuse, stalking or harassment.
- Guarantee access to special measures for survivors of domestic abuse, sexual abuse, harassment or stalking in the family and civil courts.
- 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. Amend the proposed definition of domestic abuse to make clear that children experience domestic abuse, and the Children Act 1989 needs to name coercive control as 'harm to children'.

## Alignment with existing Welsh legislation

It is crucial that the Domestic Abuse Bill and the VAWDASV (Wales) 2015 Act are complimentary and not contradictory to one another. Welsh Women's Aid remain concerned about the different approaches to legislation and Strategy, which in Wales, reflects the reality that survivors may experience a myriad of different forms of abuse.

- Ensure that proposals for service models and their sustainability are aligned with similar work being carried out in Wales. There needs to be equivalent funding being allocated to support specialist organisations in Wales, that is secure and enables their sustainability. There needs to assurance that duties on non-devolved and devolved public sector funders can work together to ensure that there are not gaps created by the differing legislative agendas.
- Acknowledge the gendered nature of domestic abuse and situate it within the myriad of violence against women and girls, in line with the UK's commitments under international law - including the Convention of the Elimination of All Forms of Discrimination against Women

<sup>1</sup> <https://www.welshwomensaid.org.uk/wp-content/uploads/2019/09/WWA-response-to-MOJ-inquiry-into-family-courts.pdf>





(CEDAW) and the Istanbul Convention and the UN Convention on the Rights of Persons with Disabilities (Article 16).

- The Domestic Abuse Commissioner has effective consultative remit with survivors and services in Wales to ensure there is an understanding of the context as to how devolved and non-devolved competency areas interact and can work effectively to ensure a holistic response in Wales as elsewhere in the UK. To enable this the Commissioners Advisory board should have representation from Wales to ensure the representation of non-devolved of survivors and services in Wales. (Currently the Bill only allows for representation from voluntary organisations for England under Duties of public authority for the Commissioner section 11 Advisory board subsection 4 (b).)

### Strangulation Offence, Rough Sex and pre bail charges

We also strongly support the following key amendments:

- Introduce a new criminal offence of non-fatal strangulation.
- Prohibit defendants relying on a “rough sex” defence that the victim consented to her injuries.
- Guarantee a presumption in favour of pre-charge bail in all domestic abuse and sexual offences cases, and introduce a duty to consult with victims at each stage of decision-making on bail.

**We continue to support the joint call for the Review on Family Justice, Migrant women and Bail to be used to inform the bill.** Following the second reading debate, both family justice and the equal protection and support for migrant women were identified as urgent areas for reform and we urge that committee stage does not commence until conclusions from both reviews are received.

### We support

- A full list of the proposed amendments can be found in the *joint amendments document* (attached in accompanying email) which have been developed with VAWG organisations across the UK.

*Any comments or questions regarding this briefing can be directed to:*

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