

Welsh Women's Aid Briefing: October 2019

Transforming the Response to Domestic Abuse Bill

Briefing for the Public Bill Committee

This briefing summarises the key recommendations from Welsh Women's Aid to inform the Committee's consideration of the Bill, as well as summarising the recommended legislative amendments we have collaborated on and support, which partner organisations have drafted. As the national federation in Wales, we have engaged with survivors and specialist services across Wales to inform our recommendations. All of our recommendations are informed by the real-life experiences of survivors in Wales and the specialist services that support and protect them.

Wales

[Welsh Women's Aid](#), and the [Joint Committee](#) which scrutinised the Bill in June, called for more clarity and closer co-operation between the UK and Welsh Governments. In its [response to the Joint Committee](#), UK Government states the role of the Domestic Abuse Commissioner should improve join-up between Welsh and the UK governments and expects close working relationships between the Commissioner and the Wales Violence Against Women, Domestic Abuse and Sexual Violence National Advisors. To help achieve this, the following inconsistencies with proposals associated with the Bill must be addressed:

- We remain concerned about the different approaches to legislation, as in Wales, there is gendered legislation accompanied by statutory duties to prevent violence against women, reflecting the reality that survivors may experience a myriad of different forms of abuse.
- UK Government recently consulted on funding for accommodation-based support for domestic abuse survivors in England. In Wales, a commitment for secure and sustainable funding for specialist services was introduced in 2016, in the Wales [National Violence against Women, Domestic Abuse and Sexual Violence Strategy](#), but we remain concerned that this has not yet been delivered. We want to ensure that we avoid a postcode lottery for survivors, and that any proposals for securely funding domestic abuse services must apply to both countries. We want to see **equivalent additional funding being allocated to support specialist organisations in Wales**, that is secure and enables their sustainability and allows the UK-wide network of refuges, which provide vital, life-saving services and operate across borders, to be supported to continue.
- The introduction of lifetime tenancies is currently only being considered for England, and we want to see similar **tenancy protection for survivors of abuse in Wales**.

- We want to see **data being disaggregated for England and Wales** due to the differences in provision. It is also important that a process is established with Welsh Government to ensure appropriate data is collected by the public sector and third sector.

Statutory definition

Welsh Women's Aid calls for a definition in line with the Istanbul Convention which recognises the gendered nature of domestic abuse. UK Government have confirmed they will amend the definition to include single incidents and patterns of behaviour and guidance from the Secretary of State will include consideration must be given to the fact the majority of victims are female. However, currently, the statutory definition does not recognise the disproportionate impact of domestic abuse on women, despite the UK Government's obligations under international law:

- The [Convention of the Elimination of All Forms of Discrimination against Women](#) (CEDAW), Committee's General Recommendation 35 of which emphasises that gender-based violence in the form of domestic violence constitutes discrimination against women;
- The landmark Council of Europe Convention on preventing and combating violence against women and domestic violence (['Istanbul Convention'](#)) - which the UK Government has signed and has committed to ratify through the Bill - requires policies on domestic violence to be gender-sensitive.

Consideration also needs to be given as to how the statutory definition will interact with the definitions already in legislation in Wales. This is particularly pertinent to sectors that work across devolved and non-devolved remits as they will be working to differing definitions. **We strongly recommend that both governments adopt definitions in line with the Istanbul Convention.**

Domestic Abuse Commissioner

UK Government have said the Secretary of State must consult with Welsh Ministers in preparing the framework document. The Domestic Abuse Commissioner is expected to work closely and co-ordinate their work in Wales with the National Advisors. However, **clarity is still needed on how the work of the Commissioner and the National Advisors will interact with regards to the devolved areas.**

Istanbul Convention

The UK Government has stated it is 'committed to ratifying the Istanbul Convention and *states 'The Government will continue to report on an annual basis, as required by the Preventing and Combating Violence Against Women and Domestic Violence (Ratification of Convention) Act 2017, on progress towards ratification, with the next report due to be published by the end of October'*.

However, as the joint committee report pointed out, there are other areas the Government needs to address in order to meet the terms of the Convention, otherwise the Bill does not uphold the requirements for improved and equitable support for migrant women, a gendered definition of domestic abuse and recognising the impact of domestic abuse on children.

We endorse the End Violence Against Women Coalition call for **an assurance that the Government will comply with all aspects of the Istanbul Convention, a gender-sensitive approach to policies on domestic violence, and equal protection for all survivors** by upholding vital non-discrimination principles in accordance with [Istanbul Convention Article 4\(3\)](#).

Reform of the welfare system

UK Government states it does not consider automatic split payments as the best policy solution but states it will continue to ensure job centre and DWP staff are trained in domestic abuse to help pick up on early warning signs.

Welsh Women's Aid continues to call for automatic split payments and supports the amendments put forward by Surviving Economic Abuse for both split payments by default and exempting survivors who have a change of circumstances due to domestic abuse from repaying advance Universal Credit payments.. The impact of welfare reform has left some survivors without adequate access to money to secure safety, support and justice. We identified, for example, that joint payments can actually exacerbate domestic abuse and so recommended the introduction of separate payments to be made individually as default.

[Our data](#) shows financial support has been the third most prevalent support need reported amongst survivors accessing support in Wales – which would include help or guidance in accessing housing support benefits, income support, child maintenance payments and Universal Credit.

Survivors in Wales have told us:

Women survive violence then have to survive on peanuts, we have nothing, no furniture, no food, no recourse to public funds, we need money to live on, otherwise we are either destitute or die. (Survivor)

We also want to see **a duty to assess the impact of welfare reforms on domestic abuse survivors and an immediate reversal of the two-child tax credit limit**. A [joint report](#) has found the impact of the two-child tax credit limit will see 300,000 children pushed into poverty and one million children, already in poverty, pushed even deeper into poverty by 2023/24. This must urgently be addressed in the proposed legislation.

No Recourse to Public Funds and migrant women

Welsh Women's Aid supports the [Step Up Migrant Women](#) campaign calling on UK Government, in the Bill, to deliver safe reporting mechanisms which ensure immigration enforcement is kept completely separate from the domestic abuse response and the safety of the survivor is paramount.

Survivors in Wales have told us:

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

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

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)

We also echo [Southall Black Sisters](#) concerns about women with no recourse to public funds who are subject to violence, abuse and control and share their frustration on the lack of measures in the Bill to support migrant women.

Specialist services in Wales we have consulted with have shared how the no recourse to public funds rule forces women to remain in abusive relationships and puts them at further risk of exploitation and modern slavery.

Survivors in Wales have told us:

I will have to leave the refuge in 2 weeks because I have no money. (Survivor)

Where will I go? I will be destitute if I can't get money in 28 days. I am so frightened. (Survivor,)

Having no recourse to public funds is a huge problem. When I married my husband he was supposed to put me onto his own documents but he refused... When I left home with my pram and baby bag, I saw housing and social workers. I'd had a baby 3 months ago and they both told me – no you can't go back to that house, it's not safe but at the same time said no, we can't help you because you have no recourse to public funds. What was I supposed to do? (Survivor)

We therefore support Southall Black Sisters three proposed amendments:

- The Secretary of State must **extend the Domestic Violence Rule to all abused migrant women**, irrespective of immigration status to ensure that they are properly protected and supported in the face of all forms of harm and abuse.
- The Secretary of State must **extend the Destitution and Domestic Violence Concession (DDVC) to all abused migrant women and children irrespective of immigration status** to enable them to secure protection and support in the face homelessness and destitution and to extend the time period from the current three months to at least six months to allow for sufficient recovery and access to specialist and legal advice and support.
- The Secretary of State must lay before Parliament **a specific and comprehensive strategy on violence and abuse against migrant women and girls so that there is a single framework for support and protection** that addresses all the intersectional barriers that lead to abuse, homelessness, destitution, and exploitation amongst all migrant women.

Family Courts and wider court system

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.

[In our response](#) to the recent Ministry of Justice Inquiry into domestic abuse, we highlighted numerous examples from survivors in Wales and Welsh Women's Aid members about court failings. Particularly in terms of failing to ensure the safety and wellbeing of survivors and their children and the harm of cross-examination, mediation and lack of special measures.

Survivors in Wales have told us:

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)

Currently UK Government is awaiting the outcome of the panel review into private law proceedings before making a commitment on special measures in the family courts.

We welcome the ban on allowing perpetrators to cross-examine in the family courts, but this must go further. We support an amendment to ban direct cross-examination in any family, criminal or civil proceedings in cases involving domestic abuse, sexual abuse, stalking or harassment and we call for this to be extended to ensure it applies to all cases and not at the discretion of the court as to whether an alleged perpetrator will be permitted to cross-examine. We echo the concerns of the Joint Committee about inconsistency of protection, should it remain at the discretion of the courts and support the call for a mandatory ban.

We also support Women's Aid Federation England's other proposed amendments as follows;

- Guarantee access to special measures for survivors of domestic abuse in the family courts.
- Prohibit unsupervised contact for a parent who is on bail for domestic abuse related offences, or where there are ongoing criminal proceedings for domestic abuse.
- A change to the law to ensure that in cases of domestic abuse child contact arrangements are decided on an informed judgement of what's in the best interests of the child(ren) and not on the presumption of parental involvement.

Perpetrators

We support the calls from [Respect and Right of Women](#) in relation to the Domestic Abuse Protection Orders (DAPOs) proposed in the Bill.

In our recommendations, we also called for;

- A programme of training on the implementation and enforcement of protection orders, resources to process applications, effective representation for survivors and robust evaluation of electronic monitoring. The accreditation of perpetrator programmes must also be a requirement before associating these interventions with a Protection Order, and any revisions to an order must have survivors' consent and support at its heart and hold the perpetrator to account for their actions.
- A whole system approach to domestic abuse perpetrators that puts the safety, wellbeing and needs of survivors and children central. This requires a range of responses across the criminal justice system alongside behaviour change programmes that adhere to national standards and are quality assured.

Strangulations as a specific criminal offence

We support our ambassador Rachel Williams [call](#) for strangulation to be made a specific criminal offence. This would require specific powers been given to police and the criminal justice system to treat reports of strangulation as a specific offence with the seriousness it deserves

As Rachel Williams has stated' "Strangulation is a very symbolic act of control which leaves its victim in no doubt that there is a real and visceral threat to their life. If you put your hands on someone's throat and squeeze the message and terror for the victim is clear."

Strangulation is a direct threat to life and needs to be treated as such; often strangulation assaults are not charged or treated as a serious life-threatening assault. [New Zealand's government](#) is making non-fatal strangulation a new offence that carries a maximum penalty of seven years in prison.

We recommend that the UK Government includes a new offence on strangulation in the Domestic Abuse Bill that recognises it as a serious assault, a tool of control and a threat to life.

Disabled women

Welsh Women's Aid supports the call from [Stay Safe East](#) to close the loophole in the Serious Crime Act that enables perpetrators of abuse to defend themselves for using coercive control if they 'believe it was in the best interests of the person'.

Our report on [Supporting Disabled People experiencing Violence against Women, Domestic Abuse and Sexual Violence in Wales](#) published this year, highlighted worrying findings that police do not take complaints seriously and that survivors with disabilities are questioned or are perceived to lack of credibility when seeking domestic abuse support from statutory bodies. Survivors highlighted to us how the perpetrator was able to manipulate agencies into seeing them as helping the survivor rather than the agencies effectively identifying the perpetrators controlling behaviour.

Survivors in Wales told us:

My ex-partner who perpetrated abuse against me would also often dominate conversations, acting as though he was 'helping' me. It meant that he'd misrepresent things that were said and prevented me from engaging in conversations or speaking for myself. (Survivor)

This clearly demonstrates that survivors with disabilities need to have equal protection under legislation regarding coercive control so that statutory agencies ensure that listening to them is paramount to identifying domestic abuse.

Women in the criminal justice system

To strengthen legal protection for survivors of domestic abuse who are driven by that experience to commit an offence, Welsh Women's Aid supports the Prison Reform Trust's call (supported by legal domestic abuse experts) to strengthen legal protection for survivors of domestic abuse who are driven by that experience to commit an offence. Specifically, this would introduce an amendment to the law on self-defence (modelled on the provisions for householders in Section 76 of the Criminal Justice and Immigration Act 2008) and a new statutory defence (modelled on Section 45 of the Modern Slavery Act 2015), accompanied by statutory guidance, training and judicial directions and guidance.

Ask and Take Action

['Ask and Act' Framework](#) in Wales, which was a key component of the Violence against Women, Domestic Abuse and Sexual Violence (Wales) Act 2015, is leading to significant positive changes and better general awareness of these type of abuse with public bodies. The Act placed a duty on devolved public bodies to train all staff under the National Training Framework, to promoting awareness of, preventing, protecting and supporting survivors of violence against women including domestic abuse and sexual violence.

Welsh Women's Aid has been contracted to deliver 'Ask and Act' train the trainer. 'Ask and Act' training is delivered in partnership with specialist violence against women sector trainers, increasing the day-to-day relationship of public sector professionals with local specialist services, strengthening referral pathway mechanisms. Professionals trained have noted how the training has improved the service they provide, for example, by naming recognised behaviour as coercion and control, mental health practitioners have been able to empower survivors by giving them the words to describe their experiences. Practitioners have also been able to recognise early or established coercive and controlling perpetrating behaviours within patients and take preventative action.

Learning from the roll out of 'Ask and Act' has highlighted the need to resource the development and delivery of training, including enabling public sector staff to have the capacity to complete the training courses and to ensure that specialist services are adequately resourced to meet the increased demand for support.

For survivors in Wales, improving statutory agency responses needs to ensure that there is a consistent and joined up approach across devolved and non-devolved agencies and that their responses are aligned to ensure effective referral pathways between services.



Welsh Women's Aid support the call for the UK Government to amend the Domestic Abuse Bill to extend this work further to make survivors safer, along with secure and sustainable funding for the specialist sector to support this and meet any increased demand. We have informed and supported Agenda, for [Ask and Take Action](#) call for the Domestic Abuse Bill to include a duty on public authorities to ensure frontline staff make trained enquiries into domestic abuse and can provide survivors with pathways to support that takes into account the trauma they have experienced. This would build on the Ask and Act programme in Wales.

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