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Welsh Women's Aid Briefing: March 2019

Transforming the Response to Domestic Abuse (Draft Bill)

In March 2018 UK Government launched its Domestic Abuse Bill consultation, the aim of the consultation was to gather views from across statutory, public and third sector agencies in order to inform UK Government's approach to domestic abuse. Welsh Women's Aid consulted with its membership of specialist services and survivors across Wales and submitted a [response](#) in May 2018.

In January 2019, UK Government published its draft Bill, in [response](#) to findings from the consultations submitted. This briefing summarises the plans and recommendations laid out in the Bill and what Welsh Women's Aid recommended in our response and reactions to the planned proposals. Where appropriate, we have also highlighted where it will impact Wales or where more consideration is needed in terms of areas devolved to Welsh Government.

This briefing should also be read alongside the [Joint Recommendations for the Domestic Abuse Bill](#) paper. We have joined forces with umbrella organisations and services in England, to make the case for the Bill to be transformative and will be collectively lobbying in support of our shared priorities and demands as the Bill progresses through Parliament. It should also be considered alongside the report from the [Joint Committee on the Draft Domestic Abuse Bill](#).

There are a number of issues that need to be fully considered with the Bill to ensure equivalency of services in Wales and that there is no conflict with legislation in Wales. We remain concerned that limiting this Bill to domestic abuse separates women's lived experiences into silos and moves away from the Violence Against Women and Girls policy and strategy framework in Wales, and which recognises the disproportionate impact of these forms of abuse on women and girls.

Summary of our recommendations

1. We want to see a definition in the Bill that is consistent with the definition provided by the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence 2011 (Istanbul Convention) to which the UK Government is signatory and which is incorporated into the Wales Strategy.
2. We want to see the statutory position of Commissioner to be expanded to hold a broader violence against women and girls remit, to hold sufficient powers to enforce accountability, be independent of the State. We also want to see equivalence in roles, responsibilities and accountabilities for public services in Wales.
3. We want to see legislation which ensures 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).



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4. We want to see a duty to assess the impact of welfare reforms on domestic abuse survivors, an immediate reversal of the two child tax credit limit, an extension to eligibility under the Domestic Violence rule and concession to all survivors with no recourse to public funds and from three to six months, and restrictions on immigration enforcement so that this is kept completely separate from the domestic abuse response by police, health and other services.
5. We want to see a ban on cross-examination by abusers extended to any family or civil proceedings, and prohibition of unsupervised contact for a parent who is on bail for domestic abuse related offences, or where there are ongoing criminal proceedings for domestic abuse.
6. We want to see a programme of training in 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.
7. We want to see 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.
8. We want to see equivalent funding being allocated to support specialist organisations in Wales that is secure and enables their sustainability, similar tenancy protection for survivors of abuse, and data being disaggregated for England and Wales due to the differences in provision.

1. PROMOTING AWARENESS

Bill proposal: Introducing a new statutory definition of domestic abuse

The statutory guidance on the definition will include types of abuse which are experienced by specific communities or groups, such as migrant women or ethnic minorities and also teenage relationship abuse. This will also recognise that victims of domestic abuse are predominantly female. The definition will replace financial abuse with economic, recognising that economic abuse encompasses a wider range of abuses than financial. The Bill will continue to recognise those age 16 and over and different relationship dynamics such as family members, ex-partners and those who are not cohabiting.

What we say:

In our response, Welsh Women's Aid welcomed the acknowledgement of the inclusion of those aged over 16 and of the need to include former partners. However, the new definition moves away from a gendered understanding of Domestic Abuse, linked to the UN definition of Violence against women and girls (VAWG). The widening of the definition to include coercive control and economic abuse is positive but the definition arguably lacks the clear distinction between intimate partner abuse and other familial violence, amalgamating these different kinds of abuse together.

A lack of a VAWG definition within the proposed definition has particular implications for Wales, as there are duties under the legislative framework on devolved public sector agencies. Therefore we reiterate the point that the definition aligns across devolved and non-devolved areas.

We highlighted that the definition did not align with other legislation and policy on forced marriage, so called honour based violence, elder abuse and child abuse. Without clear distinctions these different forms of abuse risk being amalgamated with intimate partner violence and the specialist responses needed to address them.

We want to see a definition in the Bill that is consistent with the definition provided by the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence 2011 (Istanbul Convention) to which the UK Government is signatory and which is incorporated into the Wales Violence Against Women , Domestic Abuse and Sexual Violence Strategy.

Bill proposal: Educating young people on relationships

Relationship and Sex Education will be made compulsory in primary schools and secondary schools (from 2020) across England.

What we say:

In the context of the Domestic Abuse Bill, this only relates to education establishments in England. Welsh Government has already committed to rolling out Sex and Relationship Education (SRE) across Wales by 2022, we will therefore monitor the impact in England and lobby for any changes to the process in Wales accordingly. We pointed out in our response the importance of SRE being part of a Whole Education Approach¹ that ensure educational institutions have a robust response to preventing VAWG. We have worked with Welsh Government to produce a Good Practice Guide² on the nine key elements required for a Whole Education Approach. This reinforces that any work in this area must be a rights and gender equality based approach which strives to introduce inclusive and empowering sex and relationship education.

Bill proposal: Reporting domestic abuse to statutory agencies

The top three agencies identified as needing to do more to recognise Domestic Abuse were education professionals, police and health professionals. As Education and Health are devolved to Welsh Government, the actions relevant to Wales in this section includes the following:

- Rollout of the Domestic Abuse Matters police change programme, developed by the charity SafeLives and the College of Policing.
- Fund the development of domestic abuse training materials, both online and face-to-face, for frontline professionals working in probation services and community rehabilitation companies.

¹ <https://gov.wales/topics/people-and-communities/communities/safety/domesticabuse/publications/good-practice-guide-a-whole-education-approach/?lang=en>

² Ibid



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- The Department for Work and Pensions (DWP) is in the process of developing future learning and development products, for all Universal Credit work coaches, which will focus on how to support victims of domestic abuse.
- DWP will introduce domestic abuse specialists in each Jobcentre, who will receive further training on how to support claimants experiencing domestic abuse from summer 2019.
- The National Oversight Group on Domestic Abuse, will continue to oversee the police response to domestic abuse and the implementation of Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services' inspection recommendations.

What we say:

In our response to the consultation, we highlighted that a number of the agencies listed fall outside of this legislations remit and are covered by Welsh Government legislation. They are therefore covered by the duties under the Violence against Women, Domestic Abuse and Sexual Violence (Wales) Act 2015. This includes responsibilities to engage in the National Training Framework and the Ask and Act Framework. The aim is to improve identification of violence against women, domestic abuse and sexual violence (VAWDASV) amongst these agencies. Efforts to improve identification amongst non-devolved agencies therefore must align with devolved agencies to ensure effective referral pathways.

We also highlighted that immigration services should have been included as an agency in recognition of the use of someone's immigration status as a means of control and the importance of immigration officers exercising a non-punishment principle and putting the protection and support of the survivor over immigration enforcement.

Bill proposal: Raising public awareness of domestic abuse

Victims of domestic abuse are far more likely to confide in family and friends than police or other agencies the Bill therefore confirm **£1.5 million has been provided for the Women's Aid Ask Me programme.**

It also mentions:

- The Employer's Initiative on Domestic Abuse has seen 200 companies and public sector organisations pledge to support staff affected by Domestic Abuse.
- Business in the Community and the Domestic Abuse Housing Alliance are pioneering work to tackle domestic abuse within their sectors.
Hestia Housing and Support 'Tools for the Job' project, which aims to improve employers responses to domestic abuse.

They will continue to;

- Continue to provide £1.1 million up to 2020/21 for helplines.
- Continue to show leadership in supporting the Employers' Initiative events and raising awareness of the Business in the Community domestic abuse toolkit.
- DWP will look to update Universal Credit communication products and materials to better support and signpost Domestic Abuse victims

Bill proposal: Universal Credit

As part of a package of support the option to split payments will be available and is seen as a positive option for Domestic Abuse victims by UK Government, "they will always be given when requested... claimants will be worked with on an individual basis".

UK Government has also confirmed it will work with the Scottish Government to establish the practicalities of delivering split payments in Universal Credit in Scotland and will observe the implementation to further understand their impact.

DWP has also committed to ensuring household payments go directly to the main carer, who is predominately the mother. Around 60% of Universal Credit payments currently go to the woman, however, they are looking at what more can be done to ensure the main carer receives the payment and will begin to make those changes later in the year.

What we say:

In our consultation response Welsh Women's Aid highlighted that welfare policy reforms, including universal credit, child tax credit limitations and reduced access to housing benefit through various changes have left survivors without adequate access to money to secure access to safety, support and justice. We identified, for example, that split payments can actually exacerbate domestic abuse and so recommended the introduction of separate payments to be made individually as default.

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, because the exemption on the grounds of rape and coercive control remains unworkable and contrary to human rights.

We remain concerned that access to protection and support largely depends on visa status. Despite the availability of access to time-limited (3 months) access to public funds under the Domestic Violence Rule³ and Destitution Domestic Violence Concession⁴ for qualifying victims of abuse on spousal or partner visas who can prove their relationships have broken down due to domestic violence and they have no money to support themselves, many others continue to be excluded from access to protection.

We want to see all restrictions associated with no recourse to public funds to be abolished. Until this happens, we support Southall Black Sisters' campaign to extend eligibility under the rule and concession, in the meantime, to all survivors with no recourse to public funds and from three to six months. **We also want restrictions on immigration enforcement** so that this is kept completely separate from the domestic abuse response by agencies like the police, to maximise the safety of victims.

2. PROTECT AND SUPPORT VICTIMS

³ https://rightsofwomen.org.uk/wp-content/uploads/2014/09/ROW_Domestic-Violence-A4-DIGITAL.pdf

⁴ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/679269/victims-of-domestic-violence-and-abuse-DDV-concession-v1_0.pdf



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Bill proposal: Support for Children

The draft Bill recognises the harm caused to children by domestic abuse and that children exposed to domestic abuse are victims of crime. As children's social care is a devolved matter, the following areas outlined in the Bill are relevant to Wales:

- Research will be undertaken to understand why more perpetrators of domestic abuse are not convicted of causing emotional harm to children, and whether action should be taken to improve the response to this crime.
- They have provided a £163,000 to fund the national rollout and evaluation of Operation Encompass across all police forces – This has been rolled out in Pembrokeshire and Gwent in Wales.

Bill proposal: Resources

The draft Bill recognises different types of support may be needed at different times in a survivor's journey and that funding of services should reflect that.

This section acknowledges that many victims of Domestic Abuse also suffer sexual violence and will access specialist sexual violence services and that there is increasing demand for sexual violence services. Planned changes include;

- Develop a new victim's services delivery model to increase availability of services through joined up and sustainable funding. This will need to align to similar work being carried out in Wales.
- From April 2019, they will explore the benefits of full local commissioning of rape and sexual violence support services by Police and Crime Commissioners (PCCs). Welsh Women's Aid is aware that Rape Crisis services have raised concern about this, due to local funding focusing on domestic abuse.

Other funding announced includes:

- £24 million over three years to provide advice, support and counselling for women access rape and sexual violence support services across England and Wales
- £12 million for children affected by Domestic Abuse, female offenders who have experienced domestic abuse and a health pathfinder project.
- £8 million for groups such as LGBTQ+, elderly people, men and disabled victims as well as those affected by adolescent to parent abuse and victims of economic abuse.
- Ministry for Housing, Communities and Local Government (MHCLG) will continue to invest in 'Routes to support', subject to the outcome of the Spending Review. While MHCLG is an England only government department, refugees in Wales also benefit from the monitoring of available bed spaces and services.

The draft Bill includes a commitment to ensure that local authorities in England grant a lifetime tenancy to victims of DA where they previously held a lifetime tenancy. This is currently only considered for England and **Welsh Women's Aid will be lobbying for Welsh Government to consider how they can implement a similar process in Wales.**



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In terms of immigration and the destitute domestic violence concession UK Government will:

- Consider how best to raise awareness of the destitute DA concession
- Build on current protections under the concession to improve their understanding of the number of migrant victims who need support – providing a £500,000 grant for projects
- Consider the widening of the cohort of individuals eligible under the concession
- Have confirmed they will not extend the concession from three to six months
- The National Police Chiefs' Council leads for DA will work to raise awareness of guidance on supporting victims with insecure immigration status to help overcome barriers to reporting

What we say:

In Wales, the legislation and practice reflect the reality that survivors may experience a myriad of different forms of abuse and Welsh Women's Aid has repeatedly raised the need for sexual violence services to be supported and for sexual violence and other specialist support for survivors not to be marginalised or ignored by commissioners. There is a need for commissioners to understand the distinct responses needed for domestic abuse, sexual violence and other forms of VAWG to ensure that there is holistic specialist support available to meet all the needs of survivors.

We expressed concern that the current system does not enable migrant survivors with insecure immigration status to access safety and support, particularly refuge provision. **We called for an improved response from professionals coming into contact with migrant survivors.** We back calls from others in the sector to de-link immigration enforcement from protection.

Welsh Women's Aid did call for an extension of the DDVC which will not go ahead. **We also called for a fast track application for indefinite leave to remain which is not referred to in the Bill. We back calls from Southall Black sisters (SBS) briefing paper 'Protection for All' which also called for the eligibility under the DDVC to be extended.** In the draft Bill, UK Government claim they will consider the argument for widening the cohort of individuals eligible but that 'it will take time to build an evidence base on which to base any decisions' Southall Black sisters point out in their response that they have ample evidence of the situation faced by migrant women on non-spousal/partner visa and we back their call that protection from abuse should not depend on visa status.

We are also concerned by reports from SBS that the timeframe for the DDVC is not sufficient and should be extended to at least 6 months. **We support and back this call.**

SBS have also highlighted that the proposed sum for long term capacity and expertise to work with migrant women is not enough. They have also highlighted that other areas provided with funding by UK Government are not accessible to migrant women and therefore this cohort of women are further discriminated against as funding has been made available which they will not benefit from.

We are concerned by the wording in the Bill which states 'victims of domestic abuse may be best served by returning to their country of origin...' **we again back SBSs warning that returning to a country of origin for a separated woman could be unsafe or indeed fatal.** This will only serve to remind migrant woman that they are not guaranteed protection from the state in this country.

Bill proposal: Working together: a proactive and reactive multi-agency response



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The Bill will legislate to provide for the new Domestic abuse Protection Notices (DAPN) and Domestic Abuse Protection Orders (DAPO), it recognises that some of the new order will introduce some untested ideas and so will continue to work with police, courts and specialist DA agencies to trail these. To support the introduction of orders, they will issue statutory guidance, accompanied by a programme of training and practical toolkits for professionals. Planned changes include;

- To enable victims, the police and relevant third parties to apply for a DAPO, but will not allow family members and friends to apply without the court's permission
- The Bill will enable the police to apply to a magistrates court for a DAPO and other eligible applicants via the family courts
- It will also enable DAPOs to be applied for by a party in any ongoing family or criminal proceedings or specified ongoing proceedings in the civil courts
- It will require courts to take into account the wishes of victims before making an order

The consultation also proposed included positive requirements for perpetrators subject to a DAPO, rather than the current process which only includes imposing prohibitive conditions. The Bill will therefore:

- Draft legislation to allow courts to place positive requirements on perpetrators through orders. Supporting guidance to help agencies support positive requirements will be commissioned and this approach will be tested through a pilot.
- Require those subject to a DAPO to register certain details with the police, including: name and address.
- Additionally, courts will be enabled to impose additional notification requirements on a case-by-case basis such as details of new relationships, visa applications and firearms licences
- The draft Bill will provide that the breach of an order will be a criminal offence
- The Bill will enable a court to attach an electronic monitoring requirement to a DAPO as a means of monitoring compliance with other provisions of the order - a court will only be able to impose an electronic monitoring requirement where 'necessary and proportionate to protect a victim'

Bill proposal: Multi-agency working

Through voluntary sector partners, the Bill proposes helping local areas to develop more integrated approaches to multi-agency working, looking at survivors, families and perpetrators. They will also Invest £1million to develop whole-system approach models to female offenders in local areas

What we say:

We welcome the focus on increasing protection of victims and ensuring breach of orders is an arrestable offence. However there are already failings in the use and enforcement of orders currently available e.g. bail, non-molestation orders, restraining orders.

We want to see a programme of training in 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 DAPO, and any revisions to an order must

have the survivors consent and support at its heart and hold the perpetrator to account for their actions.

We want to see 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.

Bill proposal: Supporting victims with specific or complex needs

The draft Bill recognises that a one size fits all approach is not appropriate for all victims, especially those with 'specific needs and vulnerabilities'. The consultation process revealed the need for specialist services, training and improved information for statutory agencies working with different cohorts of people experiencing VAWG. Additional changes include;

- Targeted funding to increase the reach of a range of specialist services
- Provide £500,000 towards LGBTQ+ via building capacity in the charitable sector, raising awareness and improving monitoring and recording practices
- Improve capacity in the women's sector providing £250,000 to improve responses to disabled victims.
- Provide £250,000 to make refuges accessible to deaf victims as well as investing in advocacy support for deaf survivors
- Provide £100,000 to upskill DA organisations to respond to Elder Abuse

There is an emphasis on deaf victims but no mention of working with other disabilities, either physical, other impairment or learning disabilities, additionally, there is no mention of working with survivors with multiple disadvantages.

The England only government department MHCLG will invest £300,000 to help reduce the impact of violence on the lives of BAME victims through capacity building with BAME organisations. There is no mention in the draft Bill about similar funding to support BAME organisations in Wales, **Welsh Women's Aid will therefore seek clarity on this with UK and Welsh Government.**

Bill proposal: Female Offenders

The draft Bill recognises that taking a whole system approach better enables local areas to address the complex needs of female offenders and acknowledges the link between controlling relationships and crime.

Responses to the Bill revealed the majority feel capturing a history of abuse is important at every stage of the criminal justice system as a way to work better with female offenders and vulnerable women. As well as diversion from the CJS altogether was key for offenders with experiences of domestic abuse. The Bill proposes;

- Investing £2million into community provision for women with experience of abuse
- Developing a national concordat on Female Offenders to improve outcomes
- Working with the NSPCC to publish guidance on working with vulnerable women



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- Supporting the rollout of trauma-informed training for probation and prison staff

Bill proposal: Substance misuse

The Bill acknowledges that people living with abuse may misuse substances as a coping mechanism. But, worryingly also states that perpetration can arise from withdrawal from substances and disputes about buying substances. This comment fails to recognise an entitlement to power and control as the underlying cause of abuse and that substances may exacerbate or increase the risk, but are never the cause. The Bill will;

- Consider the impact of alcohol on domestic abuse and develop a response as part of the departments alcohol policy work
- Hold workshops to improve their understanding of the links between alcohol and domestic abuse
- Identify gaps on the evidence base on the relationship between substance misuse and domestic abuse
- Allocate funding for training to promote greater joining-up between substance misuse and domestic abuse services

What we say:

Survivors who face multiple barriers to support, may also have cumulative or multiple experiences of VAWG. Survivors who have used specialist services talk about the importance of feeling they were being listened to and treated like a human being and that services are able to meet their needs rather than being referred to a range of services to meet their varying needs. When designing services for survivors, commissioners and providers need to maximise the survivors' space for action, ensuring they provide a needs-led, strengths based response. Agencies must recognise that experiences of violence and abuse alongside discrimination can impact a survivor's ability to engage and remain engaged.

We also noted that women often make up the minority in criminal justice services and therefore these services are often designed with men's needs and experiences in mind. Which can result in the needs of women being missed.

Clarity is needed around the planned work on alcohol and other substance misuse. This work, if done in partnership with NHS trusts or local drug and alcohol services may only apply to England. However **Welsh Women's Aid will monitor the progress of this work and also call for clarity if we are concerned the work considers substance misuse as a cause of domestic abuse, rather than a risk factor.**

Types of Abuse

Bill proposal: Economic abuse

Economic abuse goes beyond financial and can involve behaviours that control a person's ability to acquire, use and maintain economic resources. This may include money, food, transport and housing. The Bill acknowledges that payment into a single bank account, such as Universal Credit risks increasing the perpetrator's economic control within a domestic abuse context.



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They will:

- Include Economic Abuse in the new statutory government definition of Domestic Abuse
- Update the statutory guidance for the offence of controlling or coercive behaviour to include reference to economic abuse and include in the statutory guidance for future Stalking Protection Orders and DAPOs.
- Update legal guidance to ensure cases of economic abuse can be prosecuted
- Work with UK banks to encourage them to do more for victims of DA
- Provide £47,000 of funding to update police training to cover economic abuse
- £200,000 of funding for the National Skills Academy for Financial Services to develop and deliver financial capability training
- £250,000 to create a national advice service for banks and building societies and develop resources to help people identify if they are experiencing economic abuse
- DWP will continue to exempt DA victims from the application fee for the statutory child maintenance scheme
- £500,000 funding to support people back to work following DA

Bill proposal: Online Abuse

It is important to recognise the role technology plays in presenting new opportunities for perpetrators of domestic abuse. Online abuse and abuse via technology is used to isolate, punish and humiliate and many of the prosecutions for coercive control have contained elements of online abuse. The Bill confirms Government will continue to work on the online harms white paper, to be published later in this parliamentary session

Bill proposal: Adolescent to parent violence

In cases of adolescent to parent violence, the Bill recognises that it is important for services to take an approach that provides wrap-around support to the entire family and agencies need training to do this effectively. Responses to the consultation made it clear that adolescent to parent violence must be recognised as distinct from intimate partner violence.

Government will therefore;

- Draw together best practice and develop training resources to improve the response to victims of adolescent to parent violence
- Work to develop service-specific guidance

What we say:

Effective training within the criminal justice system, particularly for the police is essential to ensure online abuse or technology used to control someone can be effectively dealt with. There must also be mechanisms to rapidly strengthen the law so that it can adapt to changes in technology. There is also a need to strengthen protection orders and legislation to ensure these extend protection to the online arena. Technology companies also need to take more responsibility for the use of their devices and

apps to further abuse. Finally, survivors suggested there should be a process to monitor and where appropriate ban perpetrators from utilising dating sites.

In the consultation response we acknowledged the inclusion of familial abuse in the definition which allows for the recognition of abuse by family members and multiple perpetrators. However, we are concerned this could dilute and conflate domestic abuse in the context of intimate partner violence with other forms of abuse, such as child or adolescent to parent violence. It raises the risk that specialist support for survivors of these forms of abuse may go unrecognised. This has been evidenced in domestic homicide reviews where the relationship was familial rather than intimate partner and the dynamics underpinning the homicide were different therefore requiring different identification and management of risk.

Victims' Rights

Bill proposal: Anonymous voter registration

The Bill recognises that the process of asking to register anonymously has not always been easy for survivors of domestic abuse and in 2018 made changes that allowed a broader range of people to certify that the applicant's safety is at risk. Government will therefore continue to work to promote uptake of the scheme with survivors

Bill proposal: The Domestic Violence Disclosure Scheme

UK Government wants to raise awareness of the scheme, increase the number of disclosures and ensure it is used and applied consistently across all police forces. Government will;

- Put the guidance on which the DVDS is based into statute – this will place a duty on the police to have regard to the guidance and strengthen the visibility of the scheme.
- Work with the police to enable online applications to the DVDS easier to use

Bill proposal: Male victims

The UK Government recognises domestic abuse as a gendered crime and includes it within its violence against women and girls work. The Bill states that some men find it hard to identify themselves as victims and face barriers to reporting and it will therefore;

- Publish a Male Victims' Position Statement to recognise the needs of male victims and clarify the government's position.
- Provide £500,000 of funding to improve support for male victims
- Work with the Crown Prosecution Service to improve the gender breakdown of CPS and police data to better understand the number of male victims
- Conduct a review of the National Statement of Expectations and consider its impact on the commissioning of male support services. Ensuring commissioners are educated on the complexities of commissioning services that are victim focused, gender aware and provide appropriate responses

What we say:



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Specialist service workers should be able to attest that an applicant's safety is at risk. We argued that the types of documentary evidence required are narrow and there is an opportunity to widen the types of evidence to enable a woman to demonstrate her safety is at risk. **We also called for removal of the 12 month time limit for anonymous voter registration, stating it should stay in place indefinitely.**

Welsh Women's Aid supports statutory guidance underpinning the DVDS. Survivors told us in the consultation period that manipulation and control by the perpetrator could result in survivors staying with the perpetrator despite a disclosure from the scheme. It is important therefore for those administering the scheme to understand coercive control and women who stay with partners are not blamed or it held against them in future investigations or court proceedings. We also stated that consideration must be given to the availability of advice and support services and that the scheme in isolation will not help keep women safe.

3. TRANSFORMING THE JUSTICE PROCESS AND THE PERPETRATOR RESPONSE

Bill proposal: Transforming the police response

The Bill recognises that despite some improvements in the police response since the establishment of the National Oversight Group, there is still progress that must be made. Particularly around training for the police to raise awareness of the dynamics of domestic abuse and sensitivity towards survivors. Government will;

- Consider how best to ensure all police forces receive adequate training on domestic abuse, including the role out of the Domestic Abuse Matters training.
- The college of policing is designing a 'licence to practice' model for high risk and high harm areas of policing – a learning programme for strategic police leads in order to raise the status and standard of police support for vulnerable victims.
- Consider introducing a national effective practice toolkit to support the use of tools and powers in relation to domestic abuse, such as body-worn cameras, protection orders, DVDS etc.
- Undertake further testing of the new risk assessment process to establish whether it supports identification of coercive control.
- Work with the Crown Prosecution Service (CPS) to ensure appropriate referrals for perpetrators are made and address falls in referrals where needed. Specific guidance will be published to outline the appropriateness of charging or diversion from the CJS for female offenders
- Increase the effectiveness and number of evidence-led prosecutions where the victim does not support action – Her Majesty's CPS Inspectorate and Her Majesty's Inspectorate of Constabulary and Fire and Rescue Services will conduct a joint inspection of the effectiveness of cases which are prosecuted on evidence
- Continue to roll out body-worn cameras

What we say:



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There is inconsistency in the way the police respond to domestic abuse and there is a clear need for better resourcing and training of frontline officers. Survivors have called for training throughout a police officer's career on the different forms of VAWG and the impacts on survivors and children. There also needs to be national oversight in data collection by police forces to ensure that data collected on domestic abuse and the use of DVPS and DVDS is assessed to monitor for consistent high quality approaches.

Criminal justice system

Bill proposal: Controlling or coercive behaviour offence

The Bill recognises that there are similarities between controlling or coercive behaviour within intimate partner abuse and stalking behaviours and that this can take place once a relationship has ended. Where abuse continues post-separation, particularly where economic abuse is involved they want to ensure guidance makes it clear when the behaviour should be addressed under the coercive control offence or the stalking and harassment offence.

A new Stalking Protection Order, subject to the passage of the Bill, will be available to protect both victims of 'stranger stalking' and in the context of domestic abuse. Government will therefore;

- Improve understanding of the offence throughout the justice system and promote the updated statutory guidance for the offence through the courts and justice system
- Issue statutory guidance to the police on future Stalking Protection Orders to ensure it is clear that the order can be used in post-separation domestic abuse (they have concluded that extending the coercive control offence to include post-separation abuse is covered by existing stalking and harassment legislation).
- Update the statutory guidance and CPS legal guidance for the controlling or coercive behaviour offence, to include:
 - Economic abuse
 - How abuse can be perpetrated through the criminal and family courts
 - Details on how witnessing abuse or living in a house with it can impact children

What we say:

We stated our and survivors concerns about the importance of recognising coercive and controlling behaviour post-separation. It is also a time of increased risk so vital that post-separation abuse is recognised within this offence. **We are concerned that the nuances and subtleties of domestic abuse will not always be capturing by stalking legislation.**

Survivors have also highlighted the need for compulsory training for all statutory agencies so they can recognise coercive controlling behaviour and how perpetrators manipulate systems to continue the abuse.

Bill proposal: Special Measures

The Bill confirms that it will put forward proposals for legislative changes to provide automatic eligibility for special measures in domestic abuse cases, removing the burden on the victim to prove they are in fear or distress. Government will;



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- Take steps towards speeding up trial lengths
- Improve the court environment, with new waiting areas designed to ensure safety and design focused on accessibility
- The CPS is revising legal guidance on special measures so victims and witnesses can better understand what help might be available
- The National Criminal Justice Board is developing a best practice framework for use in domestic abuse cases. Courts with high conviction rates for domestic abuse have been analysed to identify the key reasons behind their performance. They will continue to raise awareness of the framework and develop implementation plans for a go-live date.

What we say:

It is essential that all domestic abuse survivors are treated as eligible for special assistance to ensure access to justice, this should be standard for all survivors. The courts should have the equipment and training to ensure all survivors can access the right special measures for their case and the use of these must be discussed with the survivors, to ensure this is done properly, survivors must have access to support from a specialist advocate.

Welsh Women's Aid also called for legislation banning the cross-examination of survivors by ex-partners in the family courts. This was an issue that was overwhelmingly demanded by those consulted and sufficient protections will be outlined in the Bill (it is at the moment unclear if there will be parity with the criminal courts).

Bill proposal: Cross-examination

The Bill sought views on whether UK Government should create a legislative prohibition for victims of domestic abuse in criminal proceedings not to be cross-examined by a perpetrator, as is the case with other offences, such as sexual offences, slavery, child cruelty, kidnapping, false imprisonment etc. The consultation was used as a call to evidence to determine whether there have been instances in criminal proceedings when an application to prevent cross-examination of a victim has been denied.

In terms of the family courts, it is within the judge's power to prevent a victim from being cross-examined in person by a perpetrator but currently this means the courts are unable to prevent victims from being cross-examined by their abuser.

The consultation did not provide evidence for the need for a legislative prohibition in the criminal courts, however responses overwhelmingly called for sufficient protection in the family courts.

Government has said it will include in the draft Bill a measure to prohibit direct cross-examination of a victim by their abuser.

What we say:

In cases of coercive controlling behaviour, the perpetrator's ability to intimidate and further abuse the victim in court significantly inhibits their ability to freely give evidence. By allowing a perpetrator to cross-examine the victim, the court is facilitating further abuse and impacting the quality of witness evidence.



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Bill proposal: Court Communication

The Bill recognises that there is more to be done to support people through the court process and that they want to improve the way they deliver the service. Ensuring victims are provided with services that are more accessible and convenient. Government will;

- Improve overall victim communication, including when explaining a decision not to prosecute as well as signposting for routes to review CPS decisions and access to the Criminal Injuries Compensation Scheme.
- Continue to recruit more registered intermediaries to ensure those with communication needs have timely access to assistance
- Review the support provided, including by IDVAs to ensure they can make the best use of their role

Bill proposal: Introducing a statutory aggravating factor

UK Government state that sentencing should recognise the devastating impact domestic abuse has, including its impact on children. The Sentencing Council published guidance to courts when sentencing offending linked to domestic abuse. It includes aggravating factors which could lead to higher sentences being imposed. The consultation asked whether a new statutory aggravating factor should be considered that applies to domestic abuse related offences. This would require the domestic abuse aggravation to be established beyond reasonable doubt and increases the potential for more defendants to plead not guilty.

Government will therefore work with stakeholders to understand how the new sentencing guidelines are working in practice as well as carry out an internal review to assess whether legislation in this area is needed.

Bill proposal: Conditional Cautions

A trial project, called project CARA gave permission for conditional cautions to be issued for lower risk, often first time reported domestic abuse incidents – evidence shows the combination of a conditional caution and a workshop had a positive effect on re-offending. UK Government is committed to building evidence on the effectiveness of early rehabilitative interventions. Some police forces will pilot conditional cautions for lower risk first reports of domestic abuse.

What we say:

In our consultation with survivors, they expressed the importance of clearer information on what to expect from the process. The court system needs to adhere to a trauma-informed approach that recognises that trauma can impact on a survivor's ability to engage and remain engaged in the process. Specialist advocacy can have a significant impact on justice outcomes and reduce the number of victims 'disengaging' from the system.

It is important to look at any unintended consequences of the impact on children when considering aggravating factors. It is likely, for example, that more children will be called to give evidence in cases



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involving domestic abuse so measures must be taken to minimise the trauma and distress this may have.

Conditional caution needs to be used in line with evidence based responses to perpetrators. This should align to Respect Accredited interventions. There is evidence in Wales where conditional cautioning with brief intervention is being used in isolation without full perpetrator programmes being made available. This could have significantly dangerous implications for victims and their children. It will also have limited effectiveness as it is unlikely to enable long term change in behaviour and attitude.

Bill proposal: Ratification and implementation of the Istanbul Convention

The consultation sought to understand if a list of offences the government proposed to take extra-territorial jurisdiction over will satisfy offences required by particular articles within the convention.

The draft Bill extends the circumstances in which certain sexual and violent offences committed abroad may be prosecuted in England and Wales, where the offence is committed by a UK national or a person resident in the UK – this, the draft Bill claims, will ensure the law in England and Wales meets the requirements of the convention. Planned changes include;

- Closing the gap so that courts in England and Wales have jurisdiction in all cases where murder or manslaughter is committed abroad by a person who is habitually resident in the UK
- In terms of intentionally performing an abortion – the Bill feels sections of various UK Acts cover every stage of pregnancy in which a forced abortion might take place.

What we say:

Welsh Women's Aid supports steps taken to ensure the UK complies in regards to extraterritorial jurisdiction.

However **we want to see legislation which ensures the Government will comply with all aspects of the Istanbul Convention**. Currently we are concerned that the Bill excludes protections for migrant women, which breaches obligations under the Istanbul Convention and CEDAW. So we also want to see commitments in the Bill to

- A gender-sensitive approach to policies on domestic violence
- Equal protection for all survivors by upholding vital non-discrimination principles in accordance with Istanbul Convention Article 4(3). That is, that the Bill applies to all regardless of "sex, race, gender, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth, sexual orientation, gender identity, age, state of health, disability, marital status, migrant or refugee or any other status"

Sexual Harassment

The consultation sought views on whether the current law complies with the Istanbul Convention or whether legislative changes are required before ratification. Those who disagreed called for stronger measures to tackle sexual harassment in the UK. The current Protection from Harassment Act 1997, the Bill claims, includes a number of sections which prohibit harassment and make it a criminal offence

to breach that. UK Government will therefore rely on the 1997 Act to satisfy the requirements of the convention.

What we say:

In our response we felt the Protection from Harassment Act 1997 is inadequate as it enshrines in the law the principle that there must be a course of conduct perpetrated against one victim by one offender. This denies the reality of sexual harassment which for many women is experienced as ‘street harassment’ for example multiple incidents each perpetrated by a different offender. As this behaviour is so widespread we do not currently think that criminalising it would be the most effective approach.

To satisfy the Istanbul Convention, this behaviour needs to be addressed through legislation or other societal approaches, such as education and culture change programmes.

Bill proposal: Family justice system

The consultation did not ask any specific questions about reform to the family justice system, but responses raised issues about the family courts and system. Particularly the need for better awareness and understanding of domestic abuse and controlling behaviour and an urgent need to stop perpetrators cross-examining their victims.

Proposals in the Bill now include;

- Powers to prevent direct cross-examination of domestic abuse victims from happening by their abuser, if they have a record of their abuse in the criminal or civil justice system.
- Improve the in-court protection available for victims of domestic abuse
- Options to better share information across jurisdictions to prevent contradicting conditions between the family and criminal courts
- Through the Reducing Family Conflict consultation they proposed abolishing the ability of parties to contest divorce as a general rule

What we say:

Legislation should improve support for survivors across all court systems in the family, civil and criminal courts. We therefore welcome the commitment to improve communication, to provide automatic eligibility for special measures in domestic abuse cases in the criminal courts and to improve the court environment. An assumption of special measures should be made across all court systems, especially family courts, aligned to advocacy support for survivors to accompany them to all court proceedings.

We also called for an end to cross-examining of victims by perpetrators, so again welcome this move. However **we want to see a ban on cross-examination by abusers extended to any family or civil proceedings** in which contested allegations of domestic abuse, sexual abuse, stalking or harassment are being heard. This should also apply in family or civil proceedings in any circumstances where someone has been found or has admitted to have perpetrated domestic abuse, sexual abuse, stalking or harassment against the witness.

In our separate consultation response to Reducing Family Conflict, we supported the proposal to end contest divorces as it can be used as a means to further exert control by perpetrators.

Responses highlighted the need to ensure that victim and child safety is paramount in family court decisions, and that the presumption that contact with both parents is in the best interest of children often puts victims and children at risk. We therefore **want to see a prohibition of unsupervised contact for a parent who is on bail for domestic abuse related offences, or where there are ongoing criminal proceedings for domestic abuse.**

Bill proposal: The Children and Family Court Advisory and Support Service (CAFCASS)

While the Bill did not ask any specific questions about CAFCASS, many responses to other questions highlighted the need to ensure that victim and child safety is paramount in family court decisions. Responses highlighted that the presumption that contact with both parents is in the best interest is putting victims and children at risk. Government will now;

- Ensure all CAFCASS practitioners are trained in the Child Impact Assessment Framework (published in October 2018) by March 2019.

CAFCASS has recently commissioned additional training from Barnardo's on the domestic violence risk identification matrix tool.

Legal aid

Responses to the consultation called for victims of domestic abuse to have access to legal representation, who must have a clear understanding of all forms of domestic abuse. Responses called for the legal aid test to also be reviewed and the income threshold to be adjusted with an exception to the capital means test for victims of abuse, particularly economic abuse.

UK Government have made changes to legislation that aimed to make it easier to obtain and provide evidence required for legal aid. They are also conducting a review of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 which will look at the effects of the legislation. The review will be published in early 2019.

What we say:

In our response to the consultation we called for clarity on the assumption of shared parenting when children are at risk of harm from domestic or sexual abuse and ensure child arrangement orders for contact/residence are decided on an informed judgement of what's in the best interests of the child(ren) and that unsafe and unsupervised contact is not ordered.

We also called for monitoring of and delivery of risk assessments in child contact cases, an increase in the availability of child contact centres offering supervised contact, and ensuring greater consistency in the use of supported or supervised contact. This includes ensuring parity between Wales and England so that family courts in Wales can also require, via CAFCASS Cymru, a perpetrator of domestic abuse to attend a domestic abuse perpetrator programme as part of a 'court ordered activity' in private law cases concerning Child Arrangements Applications.



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We called for the removal of the capital means test, from the eligibility process for legal aid to ensure survivors are able to access justice.

Bill proposal: The perpetrator journey

Responses to the consultation called for stronger multi-agency working and better information sharing as well as improving the police response to perpetrators. A register of perpetrators was also called for, with more regular monitoring of offenders and more robust risk assessments.

Responses also called for the need for common standards to guide the quality of perpetrator programmes and interventions and more research on the effectiveness of programmes. The Bill will include;

- An improvement to the framework for managing perpetrators and strengthen multi-agency working
- Improvement in identification and risk assessment of perpetrators – by reviewing HM Prison and Probation Service risk assessment model and pilot the use of the spousal assault risk assessment model
- Work with the police to improve the use of current information recording and analysis systems
- Looking to introduce notification requirements through DAPOs, requiring perpetrators to inform the police if circumstances change and give powers to the courts to impose electronic monitoring.
- Funding online domestic abuse training materials for frontline professionals working in probation and community rehabilitation companies.

Perpetrator interventions

- Ensure those convicted of an offence are properly targeted for programme intervention through the use of an effective proposal tool at court
- Promote the use of interventions that can help motivate people in prison to engage in a programme
- Further specify the range of rehabilitation activity requirements to be delivered to people serving community sentences who are not eligible for an accredited programme.
- Test the viability of a digital toolkit for community-based staff working with people who have been released from prison or serving community sentences – the toolkit could be used for perpetrators who are not suitable for an accredited programme
- Work with specialist domestic abuse organisations to assess the range of interventions currently available for perpetrators who have not been convicted and use this to identify gaps in provision
- Enable the Probation Service to pilot polygraph testing with high risk perpetrators to monitor compliance with licence conditions.

Ensuring the quality of interventions

- Promote the use of recognised standards for the perpetrator programmes used by the MOJ. A set of approved standards will also be developed to guide the quality of other interventions that may not be suitable for full accreditation.



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- Promote approaches to programme delivery that ensure perpetrator programmes are flexible, trauma-informed and accommodate people’s needs and circumstances
- HMPPS will also issue a new policy framework setting out expectations for working with perpetrators with access to interventions and referral routes
- Conduct an evaluation of the Building Better Relationships and Kaizen programmes – looking at the challenges and complexities facing programme evaluations
- Share learning from promising work with perpetrators such as Drive and the Multi-Agency Tasking and Co-ordination model

What we say:

It is likely that serial abusers are not subject to criminal sanctions for any or some of their actions and the pattern of coercive and controlling behaviour is a serial offence in its very nature. It is vital that other statutory services respond to perpetrators and are supported to do this via training on identifying and responding appropriately. Any training should be informed by evidence based practice and fall within the principles of Respect standards which have the survivor and her children at the heart.

Access to programmes must be available outside of the criminal justice system and these must be sufficiently resourced.

In our response we also called for the important step of notifying survivors of abuse, sexual violence and other forms of VAWG when a perpetrator is due for release from prison.

In terms of community-based work, we called for Respect accredited programmes as the only way to ensure a safe response. We urged that Respect accredited programmes should be a requirement as more programmes are rolled out.

We also said that broader work with communities should be done to name, tackle and aim to prevent VAWG with the aim of making it clear to perpetrators that abuse will not be tolerated.

4: IMPROVING PERFORMANCE

Bill proposal: A Domestic Abuse Commissioner

The Bill proposes appointing a Domestic Abuse Commissioner to oversee the provision of services and the power to hold those delivering them to account, across England and Wales.

- UK Government maintains there will continue to be a separate strategy to address violence against women and girls.
- The Commissioner will establish a victims’ and survivors’ advisory group.
- The impact of domestic abuse on children will be included in the role.
- Consideration of how specialist services and statutory services (health, education, social care and criminal justice) support and interact with survivors and children will be included in the role.
- They will have a specific focus on the needs of minoritised and marginalised individuals and communities (including Black and minority ethnic (BAME), lesbian/gay/bisexual/trans/plus (LGBT+), disabled, Deaf, migrant and/or those who have complex needs).

What we say:

Welsh Women's Aid welcomed the creation of an independent Commissioner, with strong powers, resources and independence to holding state services and Governments to account. We were also clear it is critical that the role will have sufficient powers, and in our response, we called for further detail on how sanctions will take place if legal duties are broken and how they will be imposed.

Some of the areas the Commissioner will have responsibility for monitoring is devolved to Welsh Government, such as health, local government, education, housing and social care, therefore it is vital that a robust process for working with Welsh Government, the Wales National Advisor, with survivors and the specialist sector in Wales is established.

We want to see the statutory position of Commissioner to be expanded to hold a broader violence against women and girls remit. Informed by learning from Wales, it is also essential that to be effective, **the Commissioner needs sufficient powers** to effectively enforce accountability, be fully independent of Government and supported by a budget in accordance with their remit. Duties to collect and publish data across sectors should be robust, and an England and Wales sector-led scrutiny Board should be established, to ensure that progress is informed by specialists in the field.

We also want to see equivalence in roles, responsibilities and accountabilities, so that devolved public services in Wales have equivalent accountabilities to deliver devolved legislation. How the Commissioner and National Advisor will interact is critical to ensure their roles in providing guidance to the public sectors and government are complimentary. There should be a requirement to work closely with National Advisors in Wales to ensure joined up working, sharing of best practice and to avoid duplication.

Bill proposal: Data

The Ministry of Justice is taking forward data sharing to make existing data and evidence more accessible, working with CPS it is developing a single source (the Common Platform) of case information to facilitate better collection. Government will therefore;

- Continue to develop ways to better collect, report and track data through the Common Platform and the Office for National Statistics
- Work to improve the gender breakdown of the CPS and police data to better understand the numbers of female victims and perpetrators in the criminal justice system
- Pilot bringing together local data to assist commissioning – via various local agencies to look to inform better commissioning
- Continue to develop analysis of how child, family and school-level factors, including the risk of domestic abuse make a difference to a child's outcomes
- Provide better data on those with complex needs, this work has already been prioritised by DWP and their work on Universal Credit

What we say:

More information about the type of harm, covering the different types of abuse and the context in which it happened would be useful. Information about the household, including any children is also essential.

Additionally, the gender of the perpetrators and victims should be collected to ensure a full understanding of the gender dynamics of these types of violence and abuse.

Data should be segregated between England and Wales due to the differences in provision. It is also important to be mindful that Welsh Government is also currently looking at better data collection across Wales related to VAWG. Some of the proposals listed above impact on devolved areas (such as schools) – it is important therefore that again a process is established with Welsh Government to ensure data is collected appropriately.

4.3 Learning from Domestic Homicide Reviews (DHRs)

The consultation asked how learnings from DHRs could be understood and acted upon, including how local areas can best hold agencies to account in terms of monitoring delivery against DHR action plans. The Government will;

- Create a public, searchable repository of DHRs and strengthen the DHR statutory guidance to ensure reviews remain publicly accessible for longer
- Work with the Domestic Abuse Commissioner to look at how learning is being implemented and introduce regular updates on key learnings for local areas
- Ensure national recommendations from DHRs are shared across government agencies
- Share learnings from the Wales pilot which brings together DHRs and Adult Practice Reviews into a single review process
- Increase provision of advocacy for bereaved families through £200,000 funding to the Ministry of Justice's National Homicide Service and a further £200,000 to Advocacy After Fatal Domestic Abuse to increase awareness of the service and ensure families are supported to contribute to DHRs.

What we say:

We recommended that the Domestic Abuse Commissioner has a role in holding public bodies to account in applying the learnings and failures exposed in DHRs as well as produce an annual report that collates the learnings from DHRs.

We welcome that recommendations are shared across government agencies, but call for accountability as well as recommendations to be taken with relevant government ministers. To leave local agencies to address systemic failings does not recognise the need for a whole system approach to preventing domestic homicides.

We also highlighted the need for sufficient resources being allocated to enable public services and specialist services to implement reforms. It is vital we see parallel action by Westminster and Welsh Government to sustainably fund refuges and community outreach services.



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