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## Welsh Women's Aid Briefing on the Victims and Prisoners Bill: May 2023

This briefing summaries Welsh Women's Aids key concerns following the UK Governments introduction of the Victims and Prisoners Bill into Parliament on the 29<sup>th</sup> of March 2023. The second reading of the Bill will commence on the 15<sup>th</sup> of May 2023.

### Introduction

Alongside the specialist sector and survivors, Welsh Women's Aid (WWA) were encouraged by the possibility of the Victims Bill and how it could strengthen provision to ensure survivors were at the forefront and that they were able to rebuild their lives after violence and abuse. Following the re-introduction of the Bill, we were significantly disappointed to see the focus shift from victims to "victims and prisoners" and the lack of regard of how this undermines survivors, their experience and their perception of their issues and needs being merged with those of prisoners in the naming of the Bill, regardless of its content. We are concerned that the Bill does not go far enough to ensure victims are prioritised in both policy and practice.

### Impact on Wales as a devolved nation

We believe that it is currently unclear whether there has been enough attention on the applicability of the Bill to Wales, as a devolved nation. Section 12 of the Bill reflects the 'duty to collaborate in exercise of victim's support functions' which specific mention of England. It is uncertain how this duty to collaborate will work in Wales and how it will work when a victim requires support in both England and Wales. Further to this, on the 11<sup>th</sup> of April, the Minister for Social Justice Jane Hutt MS highlighted that that the Bill touches upon numerous areas of devolved competence, and due to very limited prior consultation by the UK government, at this time it had not been fully possible to consider the consequences on matters that are devolved<sup>1</sup>. It will be vital to review the Legislative Consent Memorandum, when published, to understand the full impact the Bill has on Wales and to ensure it complements the Violence Against Women, Domestic Abuse and Sexual Violence Strategy (VAWDASV)<sup>2</sup>.

### Absence of migrant victims and need for a firewall

We, alongside other specialist sector organisations, believe that the Bill fails to address inequalities in the access of specialist support and justice for victims from marginalised groups. There have been no references made to migrant victims and those with no recourse to public funds. The Bill will not provide what victims need if it does not address the needs of all victims. The Bill must include protection for migrant victims, alongside implementation of a firewall. Violence against women disproportionately affects migrant women<sup>3</sup> and many migrant women have experienced perpetrators who have held their insecure immigration status against them. Failing to include migrant survivors in this way creates further opportunity to abuse, thus facilitating further victimisation by a Bill that is designed to serve the needs of victims. Organisations such as Latin American

<sup>1</sup> <https://business.senedd.wales/documents/s135611/LJC6-12-23%20-%20Paper%20%20-%20Letter%20from%20the%20Minister%20for%20Social%20Justice%20to%20the%20Llywydd%2011%20April%202023.pdf>

<sup>2</sup> <https://www.gov.wales/sites/default/files/pdf-versions/2022/5/2/1653392517/violence-against-women-domestic-abuse-and-sexual-violence-strategy-2022-2026.pdf>

<sup>3</sup> <https://research.senedd.wales/research-articles/has-she-got-status-gender-based-violence-and-the-needs-of-migrant-women/>

Pendragon House, Caxton Place | Pentwyn, Cardiff | CF23 8XE  
Tel: 02920 541551  
[info@welshomensaid.org.uk](mailto:info@welshomensaid.org.uk) | [www.welshomensaid.org.uk](http://www.welshomensaid.org.uk)

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Women's Right Service (LAWRS) in the #StepUpMigrantWomen campaign have highlighted how there must be an end to data-sharing when victims have insecure immigration status. We are disappointed to see that the UK Government have not implemented an information-sharing firewall between immigration enforcement and statutory services for survivors of domestic abuse, even though it has been evidenced by 'by and for' organisations that a significant number of victims do not report abuse/violence due to fear of immigration services<sup>4</sup>. Welsh Government have acknowledged in their response to the report on gender-based violence and the needs of migrant women, that it is clear that data sharing can be a barrier to survivors of VAWDSASV accessing support<sup>5</sup>. They further highlight that the Welsh Government cannot independently set out a data firewall as many of the organisations that hold data are not devolved, however they have committed to work with both devolved and non-devolved partners to understand the issues and options available<sup>6</sup>. WWA believe that the UK Government must acknowledge the impact data sharing has on migrant victims and that they must commit to ensuring that the Victims Bill properly addresses the needs of every victim and allows them to access support and justice without fear.

### Funding

The specialist sector is already experiencing significant levels of demand, alongside a continuation of short-term unsustainable funding streams. There is a lack of funding being provided to ensure the measures in the Bill can be delivered, which will significantly impact on an already struggling sector. The Bill intends to raise awareness of the rights of victims, however there is no acknowledgement of the increased funding required to ensure that they can access the relevant services<sup>7</sup>. As highlighted by the Domestic Abuse Commissioner's A Patchwork of Provision report, services are struggling to meet an ever-increasing demand, with there still being a postcode lottery of service provision<sup>8</sup>. This means that not all survivors are able to access the support they require. Many services do not have specific funding to provide services for children and young people, and support is subsequently patchy, limited, and inconsistent<sup>9</sup>. Survivors from marginalised groups often want to receive support from 'by and for' organisations, as they have a greater understanding of the complexities of abuse and/or violence and intersectionalities. Although there is a significant demand for 'by and for' services, they are 5 times less likely to receive statutory funding compared to other services<sup>10</sup>. It is therefore crucial that the requirements of the Bill are supported by sufficient funding, to ensure specialist services are not at further detriment and survivors are able to access suitable support provision.

### Victims' Code

Whilst WWA welcomes the ambition to make the Victim's Code more substantive by ensuring its statutory function following its implementation in the Bill, we believe that the Bill does not go far enough to ensure

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<sup>4</sup> [https://lawrs.org.uk/wp-content/uploads/2023/05/Call-to-action\\_-\\_letter.pdf](https://lawrs.org.uk/wp-content/uploads/2023/05/Call-to-action_-_letter.pdf)

<sup>5</sup> <https://www.gov.wales/report-gender-based-violence-and-needs-migrant-women-government-response-html>.

<sup>6</sup> ibid.

<sup>7</sup> <https://committees.parliament.uk/publications/28831/documents/174248/default/>, page 5.

<sup>8</sup> [https://domesticabusecommissioner.uk/wp-content/uploads/2023/02/DAC\\_Mapping-Abuse-Survivors\\_Summary-Report\\_Feb-2023\\_Digital.pdf](https://domesticabusecommissioner.uk/wp-content/uploads/2023/02/DAC_Mapping-Abuse-Survivors_Summary-Report_Feb-2023_Digital.pdf)

<sup>9</sup> <https://welshwomensaid.org.uk/wp-content/uploads/2022/06/CYP-FOI-Report-ENG-WWA.pdf>.

<sup>10</sup> <https://domesticabusecommissioner.uk/early-findings-from-our-mapping-show-a-huge-discrepancy-of-services-across-england-and-wales-and-an-acute-lack-of-funding-that-prevents-services-being-able-to-meet-demand/>.

Pendragon House, Caxton Place | Pentwyn, Cardiff | CF23 8XE

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organisations' compliance with the code. Currently section 5 of the Bill addresses the effect of non-compliance. It states that that a person who did not act in accordance with the code, would not be liable to criminal or civil proceedings but the failure may be taken into account in proceedings<sup>11</sup>. We feel the Bill must go further to ensure that there is specific provision around the lack of compliance, redress, and sanctions. The Bill needs to highlight the importance of the Victims' Code to ensure victims are a top priority and that organisations are compelled to embed it into principle and practice. Without further statutory sanctions for non-compliance, it is unclear how the Bill will ensure that the rights of victims are enshrined throughout, if organisations face no consequences if they do not fulfil their obligations.

### Pre-legislative scrutiny

The UK Government have stated that 'victims voices will be cemented at the heart of the justice system' and that the Bill will significantly transform the experience of victims<sup>12</sup>. The pre-legislative scrutiny of the Victims Bill by The Justice Committee, highlighted that they do not believe the Bill does anything more compared to legislation that already exists<sup>13</sup>. The Justice Committee commented on areas such little improvement of agencies compliance with the Victims' Code and the detriment lack of further funding will cause<sup>14</sup>. The introduction of Part 3 which focuses on Prisoners was not included in the draft Victims Bill, and therefore will have not received the same level of scrutiny. It is currently unclear how the UK Government will ensure that the same level of scrutiny will be applied to the additional parts of the Bill. These added parts must be fully scrutinised in order to understand the impact they will have on victims.

### Guidance on independent domestic violence and sexual violence advisors

Whilst WWA appreciate the recognition of the roles of independent domestic violence (IDVA) and sexual violence advisors (ISVA) in the Bill, we are significantly concerned that the focus of naming/defining only these roles will detrimentally impact specialist services. Specialist services offer a vast range of support depending on the needs of the survivors and this can range from advocacy support, recovery groups and counselling; all which are likely to fall outside of the scope of an IDVA or ISVA. A report by the Domestic Abuse Commissioner highlighted that 83% of survivors wanted counselling and therapeutic support<sup>15</sup>. We fear that this focus on IDVA and ISVA's may increase the likelihood of commissioning bodies to disregard the value of specialist services or roles that do not fit into the role of IDVA/ISVA's, which will significantly undermine these vital support services that survivors want and need. Narrowing the services available to survivors will negatively impact their recovery and their ability to rebuild their lives. We believe that this section must be amended to recognise all community-based services for both domestic abuse and sexual violence services, in order to prevent decommissioning of vital services.

<sup>11</sup> <https://publications.parliament.uk/pa/bills/cbill/58-03/0286/220286.pdf>, page 4.

<sup>12</sup> <https://www.gov.uk/government/news/victims-placed-at-heart-of-justice-system-under-radical-shakeup>.

<sup>13</sup> <https://committees.parliament.uk/publications/28831/documents/174248/default/>, page 3.

<sup>14</sup> Ibid.

<sup>15</sup> [https://domesticabusecommissioner.uk/wp-content/uploads/2023/02/DAC\\_Mapping-Abuse-Survivors\\_Summary-Report\\_Feb-2023\\_Digital.pdf](https://domesticabusecommissioner.uk/wp-content/uploads/2023/02/DAC_Mapping-Abuse-Survivors_Summary-Report_Feb-2023_Digital.pdf) page 4.

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### Parole

WWA believe that the addition of the section around parole, and prisoners more generally, undermines the UK Governments narrative of wanting to ensure that victims are at the forefront of the legislation in order to improve their experiences. The specialist sector was not consulted on the proposals to extend the scope of the Bill to include prisoners and nor has it received pre-legislative scrutiny. The complexity and diversity of addressing both victims and prisoners in one piece of legislation creates different issues and can divide focus. We believe the changes being made under Part Three of the Bill have not been considered with victims in mind. Further to this, it undermines the independence of the parole process by allowing the justice secretary to veto parole board decisions, delay in the parole processes is likely to cause victims further trauma, and there has been disapplication of Section 3 of the Human Rights Act. We believe that that the disapplication of sections of the Human Rights Act undermines the principle of universality of human rights, moves towards the removal of human rights and undermines work to end violence against women and girls<sup>16</sup>.

In conclusion, whilst WWA welcomes the ambition to place victims' needs and rights at the heart of provision, this Bill in its current form falls short of such a worthy ambition.

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<sup>16</sup> <https://www.endviolenceagainstwomen.org.uk/wp-content/uploads/2022/12/Womens-rights-are-human-rights-letter-on-human-rights-day-101222-1.pdf>

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