

## Joint Recommendations for the Domestic Abuse Bill

The Domestic Abuse Bill, and supporting non-legislative programme of work, has been called a once-in-a-generation opportunity to deliver a step change in the identification of and response to domestic abuse. On welcoming the UK Government's draft Bill, we are also clear the remit and focus must be wider than criminal justice measures to be truly transformative. It needs to drive a cultural shift to make domestic abuse "everyone's business" - no longer tackled solely as a criminal justice issue, but across health and social care, the welfare system, housing, education, business and financial institutions.

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Migrant  
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Against Violence & Abuse



Southall  
Black Sisters

END  
VIOLENCE  
AGAINST  
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Refuge  
  
For women and children.  
Against domestic violence.

## **This paper includes:**

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## **1. Introduction**

The UK Government published the draft Domestic Abuse Bill in January 2019. The Bill sets out nine legislative proposals, many of which are discussed in this paper. Our shared position on the remaining legislative measures are listed in Annex A.

Our organisations are clear that if the Bill is successful in its aims to increase public awareness, and improve victims’ and survivors’ confidence to come forward, demand on highly stretched domestic abuse services will rise further. Therefore the legislation must be underpinned by a sustainable future for specialist support services - including the life-saving national network of refuges, services for children and young people, advocates - including IDVAs - based in a range of settings such as courts and healthcare settings, and ‘by and for’ services for black and ‘minority ethnic’ women (BME)<sup>1</sup>, LGBT+ women, disabled women, deaf women, older women, and women with complex needs. Domestic abuse is not inevitable, and if the Bill is to achieve its aim of being ‘transformative’ it also needs to be underpinned by strategies and investments in prevention.

The programme of work around this new legislation is specifically focusing on domestic abuse. Repeated concerns have been raised that limiting this Bill to domestic abuse only and separating out this form of abuse from the established domestic policy framework of Violence Against Women and Girls (VAWG), ignores the inherent overlaps and intersections with domestic abuse and other forms of VAWG. For example, the lack of attention to legislative and non-legislative measures to address the high prevalence of sexual violence in domestic abuse related contexts is disappointing, as it does not reflect women’s lived experiences of abuse. Therefore, whilst this paper focuses on changes to the legislative and policy framework that will specifically effect survivors of domestic abuse, we strongly advocate that any programme of work sits within the UK Government’s existing VAWG framework which recognises the disproportionate impact on women and girls. This is also relevant to the legislative context in Wales and the Violence Against Women, Domestic Abuse and Sexual Violence (VAWDASV) (Wales) Act 2015. There are a number of issues between reserved and devolved matters in Wales which need to be fully considered within the Bill to ensure equivalency of services and that there is no conflict with the existing Welsh Government legislation.

To note - in this paper we have used the term survivor as much as possible, however there are some instances where this isn’t possible and we refer specifically to women and girls. Domestic abuse is a gendered crime which is deeply rooted in the societal inequality between women and men. It takes place ‘because she is a woman’ and ‘affects women disproportionately’.<sup>2</sup>

## **This paper sets out the following key recommendations for the Domestic Abuse Bill and wider programme of work –**

### Definition

- Amend the proposed definition to acknowledge the gendered nature and the accurate understanding of all forms of domestic abuse.
- Amend to accurately distinguish between, and not conflate, intimate partner abuse with other forms of family abuse.

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<sup>1</sup> Imkaan (2018) From Survival to Sustainability. Available [online](#).

<sup>2</sup> CEDAW 1992: para. 6

## Migrant Women

- Extend eligibility under the Domestic Violence Rule and Destitution Domestic Violence Concession to all survivors with no recourse to public funds (NRPF).
- Extend the time period for which the Destitution Domestic Violence Concession is provided to at least six months.
- Ensure equal protection for all survivors by upholding the non-discrimination principle in accordance with Istanbul Convention Article 4(3).
- Safe reporting which ensures immigration enforcement is kept completely separate from the domestic abuse response and the safety of the victim is paramount.

## Housing

- An automatic assumption that survivors are in 'priority need' and do not need to meet an additional 'vulnerability' test.
- A bar on local connection rules for survivors who need to flee their local area to access refuge.

## Employment

- Require employers to provide survivors with a period of paid leave.

## Welfare Reform

- A duty to assess the impact of welfare reforms on domestic abuse survivors.
- Reverse the two child tax credit limit.
- For separate payments of Universal Credit to be the default.
- Any survivor who has had a change of circumstances due to domestic abuse to be exempt from repaying advance Universal Credit payments.
- A duty to provide British Sign Language and Language Interpreters where necessary at JobCentre Plus offices.

## Family Courts

- Ban direct cross-examination in any family, criminal or civil proceedings in cases involving domestic abuse, sexual abuse, stalking or harassment.
- 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.

## Response to Perpetrators

- Quality assurance of perpetrator work beyond criminal justice system, and a comprehensive perpetrator strategy.

## Specialist LGBT+ interventions and services

- The creation, expansion and sustainability of specialist LGBT+ interventions and services.

## Enquiry into Domestic Abuse

- A public duty on publicly funded services to enquire into current and historic domestic abuse and sexual violence as standard practice.
- Gender and trauma-informed training for staff across all publically funded services.

## Relationships and Sex Education Opt-outs

- Amend the Children and Social Work Act 2017, to ensure that the Secretary of State for Education is required to publish anonymised annual data about the numbers and characteristics of those opting out.

## The Commissioner

- Powers to effectively enforce a clear framework of national accountability and assess the response to all forms of VAWG across the public sector.
- Fully independent of Government, and supported by a budget that ensures the role is properly resourced for their remit and responsibility.
- Duties to collect and publish comprehensive data across all relevant sectors, public bodies and agencies, which enables an intersectional analysis across equality characteristics.
- Duties to collect and publish data on the different types of domestic abuse recognised by the statutory definition and disaggregated by type of relationship between perpetrator and victim.
- Requirement to establish a VAWG sector scrutiny board.
- Requirement to work closely the VAWDASV National Advisors in Wales to ensure joined up working, sharing of best practice and to avoid duplication.

### **Other priorities and campaigns we support -**

Across the sector there are a number of important campaigns on the Bill, and our organisations would like to make it clear that we fully support the work and calls of the following -

- The [Step Up! Migrant Women Coalition](#), led by the Latin American Women's Rights Service (LAWRS);
- Southall Black Sister's [#ProtectionForAll campaign](#), including a comprehensive strategy on violence against and abuse of migrant women;
- Suzy Lampugh Trust's campaign on vexatious claims in the family courts;
- Rights of Women's campaign to improve victims' and survivors' access to legal aid;
- Surviving Economic Abuse's call for a national inquiry into economic abuse, to be led by the Commissioner;
- Imkaan's ['Alternative Bill'](#), which outlines a response to VAWG that is gendered and intersectional;
- Centre for Women's Justice [call for reform of the bail regime](#) in domestic abuse and sexual violence cases in light of the findings contained in their super complaint.

## **2. Our Recommendations**

The recommendations in this paper are based on knowledge and expertise developed by these organisations over decades of working on policy and practice with survivors of domestic abuse and other forms of violence, and the specialist services who support them.

We of course would like to see a wider range of changes made to the draft Domestic Abuse Bill, however we have agreed that the following are our organisation's shared key recommendations:

### **1. Definition of Domestic Abuse**

Domestic abuse is a devastating form of violence against women and girls (VAWG) - a cause and consequence of women's inequality. Not only are women far more likely to be victims and men perpetrators, but women overwhelmingly experience coercive control within a context of fear<sup>3</sup>, higher rates of repeated victimisation, and are much more likely to be seriously injured<sup>4</sup> or killed by a partner/ex-partner.

Women will continue to be at risk of harm if the gendered nature of domestic abuse is not explicitly recognised in the legislation, which will guide policy and practice. While we welcome the UK Government's proposal to recognise in statutory guidance that victims of domestic abuse are predominantly female, we are concerned that the definition proposed in the draft Bill is gender-

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<sup>3</sup> Dobash & Dobash, 2004; Hester, 2013; Myhill, 2015; Myhill, 2017

<sup>4</sup> Walby & Towers, 2017; Walby & Allen, 2004

neutral. This 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<sup>5</sup>;
- 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.<sup>6</sup>

Whilst the statutory definition should apply to women and men, the dynamics and impact on women and girls must be explicitly recognised. **We therefore recommend -**

- **The proposed statutory domestic abuse definition be amended to acknowledge the gendered nature and the accurate understanding of all forms of domestic abuse.**

In addition, the proposed statutory definition does not distinguish between intimate partner violence from other forms of abuse experienced by other members of the same household. Intimate partner violence is the most common form of domestic abuse, and the contexts and impacts are different to other forms of abuse such as child to parent violence, which should be recognised in the definition. **We recommend –**

- **The proposed statutory definition be amended to accurately distinguish between, and not conflate, intimate partner abuse with other forms of family abuse.**

## **2. The Domestic Violence (DV) Rule and Destitution and Domestic Violence Concession (DDVC)**

Protection from abuse should not depend on visa status. Interim findings from Southall Black Sister's project on women with no recourse to public funds (NRPF) show that many migrant victims of abuse who are not eligible to apply for the DDVC face serious risks and hardships. They are not eligible because they do not have spousal or partner visas and do not qualify under the DV Rule. As a result, women on student visas, domestic workers, visitor visas, and women from other categories continue to be excluded from protection and support. Two thirds (67%) of the women with no recourse to public funds supported by Women's Aid Federation of England's No Woman Turned Away Project in 2016 weren't eligible for DDVC because they were not on spousal visas.<sup>7</sup>

Southall Black Sister's evidence also shows that even those women on spousal or partner visas who try to re-enter the UK following abuse and abandonment in countries of origin are prevented from applying for the DDVC. The failure to support such women adds to the trauma and desperation in which they find themselves. It is vital that these concerns are addressed properly and **we support Southall Black Sister's recommendation to -**

## **3. Extend eligibility under the DV Rule and DDVC to all survivors with NRPF.**

In addition, we agree with Southall Black Sisters that the time period for which the DDVC is provided is insufficient. The current three month time limit results in a number of issues for migrant women –

- It has proved to be a major barrier to women in obtaining accommodation;
- It can sometimes take six weeks for an application to be processed and for many to actually receive their benefits;

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<sup>5</sup> [CEDAW Committee General Recommendation 35](#), 2017.

<sup>6</sup> [Council of Europe Convention on preventing and combating violence against women and domestic violence](#), Article 6.

<sup>7</sup> 110 women with no recourse to public funds were supported by Women's Aid Federation of England's No Woman Turned Away Project in 2016 - 67% of whom were not eligible to access the DDVC; Women's Aid Federation of England, Nowhere to Turn, 2017.

- The process fails to recognise the difficulty that women with unsettled status - including migrant women – face in obtaining a bank account;
- It is not long enough for migrant women to obtain legal advice and representation.

**We therefore also support Southall Black Sister’s recommendation to -**

- **Extend the time period for which the DDVC is provided to at least six months.**

#### **4. Non-discrimination Principle**

The UK Government has made a commitment to ratify the Istanbul Convention, which requires state parties to design a comprehensive framework for the protection of and assistance to all victims of domestic violence, and emphasises a non-discriminatory and inclusive approach to protection.

We believe it is necessary for a non-discriminatory approach to be put on a statutory footing to mark the importance of this as a legal guiding principle. In the absence of a comprehensive support framework in the Bill, it is essential that there is cohesion and consistency in the approach taken by public authorities when responding to victims. As it stands the Bill excludes protections for migrant women, which breaches a number of human rights obligations under the Istanbul Convention, CEDAW and European Convention on Human Rights.

A non-discrimination clause will address the risks of a post-code lottery approach to victim protection and will ensure arrangements will otherwise be made for victims of domestic abuse where they are not, as a matter of law, eligible for mainstream services. It will also serve to protect valuable specialist services – as any decision to cut or not to provide adequate funding for refugees and support will be challengeable on the basis that there is a failure to eliminate disadvantage to BME victims, for example. **We therefore recommend -**

- **A non-discrimination clause to ensure 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” in accordance with Article 4(3) of the Istanbul Convention.**

#### **5. Safe Reporting - Public Services and Immigration Enforcement**

As a result of data sharing between public services and immigration enforcement, survivors of abuse with insecure immigration status are often unable to access the support services they need. Research by LAWRS and Kings College London, involving 50 migrant women survivors with insecure status highlighted a number of issues with this practice, including; two thirds of migrant women felt they would not be supported by the police due to their status, the most prominent barrier to reporting was fear of deportation (followed by fear of losing their children), and 54% of the women said their perpetrator had threatened them with ‘losing their visa’<sup>8</sup>.

There is a strong legal basis for safe reporting which has been supported and recommended by international human rights bodies, for example the UN Office of the High Commissioner for Human Rights. The UK Government has recognised the barriers to reporting faced by migrant women and that perpetrators use immigration status as a tool of coercive control – therefore we are seeking a commitment to rectify this situation in this Bill<sup>9</sup>. **We support the Step Up! Migrant Women Coalition’s, led by the LAWRS, recommendation for -**

<sup>8</sup> Professor Cathy Mcllwaine and Latin American Women’s Rights Service, 2019, Kings College London

<sup>9</sup> <https://stepupmigrantwomen.org/2019/04/02/safe-reporting-is-a-human-right-briefing-available/>

- **Safe reporting which ensures immigration enforcement is kept completely separate from the domestic abuse response and the safety of the victim is paramount. That is, an end to the sharing of data, gathered by public services in the course of efforts to protect a victim from domestic abuse, with the Home Office for the purposes of immigration enforcement.**

## 6. Priority Need

Survivors are not automatically considered as in 'priority need' for accommodation if they become homeless.<sup>10</sup> Local authorities will only accept survivors as in 'priority need' if the authority is satisfied that they have met an additional 'vulnerability' test. We have serious concerns about how local areas in England are assessing 'vulnerability' when survivors are presenting as homeless to housing departments.

Women's Aid Federation England's No Woman Turned Away Project has highlighted issues with the response of local housing teams in England to vulnerable women and children fleeing domestic abuse. In 2017-18, the research showed that local housing teams prevented 78 (19%) survivors supported by the project from making a valid homeless application. The 78 women were given a range of justifications from local housing teams as to why they were not eligible: 14 women were told to call the helpline, 8 were told to return to perpetrator, and 12 were refused as they had no local connection. These inadequate and unsafe responses demonstrate why there must be legislation to clarify that all survivors fleeing their homes, and those leaving refuge, are in 'priority need'. We are clear that this decision must not be left to the discretion of local housing team's assessments of 'vulnerability'.

In Wales and Scotland, domestic abuse is already a 'priority need', therefore survivors are receiving a different response depending on where they are in the country. The UK Government should look to the example set by Wales and Scotland and provide the same protection for survivors in England. **We therefore recommend –**

- **Ensure 'priority need' legislation protects survivors of domestic abuse: by ensuring individuals fleeing domestic abuse are automatically assumed to be in priority need and removing the postcode lottery around survivors being assessed as 'vulnerable'.**

## 7. Local connection

In recent years, we have seen a worrying trend in local authorities introducing 'local connection' rules to tenders, and local refuges being capped on the number of 'non-local' women they are able to accept. Women fleeing to refuge rely on these services being able to accept them with no 'local connection', as they will often need to flee across local authority boundaries due to severe and ongoing risks posed by a perpetrator. The very existence of the national network of refuges across the UK - England, Northern Ireland, Scotland and Wales - depends on these services' ability to accept women from out of the area.

UK Government guidance makes clear that locality caps and restrictions should never be written into tenders or contracts for domestic abuse and VAWG.<sup>11</sup> However this guidance is not consistently applied across England - leading to a 'post code lottery' of access to refuge and the major risk that our national network of services is dismantled. A statutory bar on 'residency requirements' is a priority for ensuring that commissioning and funding practices are safe and consistent across the country, and to ensure that all women and children fleeing domestic abuse can access safe refuge, where and when they need to. In order to ensure women can continue to cross local authority boundaries to access safety, **we recommend –**

<sup>10</sup> Under the Housing Act 1996

<sup>11</sup> The [Home Office VAWG Supporting Local Commissioning Toolkit](#) was produced by specialist partners including Imkaan and Women's Aid Federation England and funded by the Lloyds Bank Foundation.

- **A bar on local connection rules for survivors who need to flee their local area to access refuge, and flexibility in their housing options once they are in a different local authority area.**

## **8. Welfare Reform**

Access to financial assistance, through welfare benefits, is vital for women survivors of domestic abuse – particularly for those who are forced to flee their homes. We have welcomed the Department for Work and Pension’s (DWP’s) recognition of this, and exemptions to protect survivors living in refuge from some welfare reforms. However, we remain highly concerned that a number of welfare policies are restricting survivors’ access to safety and increasing the barriers they face in leaving abusers. Improving training, and appropriate support provision for survivors - particularly those facing multiple disadvantage, with disabilities and language needs - is also crucial within Jobcentre Plus and DWP. **We therefore recommend –**

- **A duty to assess the impact of welfare reforms on domestic abuse survivors, including assessments that indicate particular threats to survivors or creating barrier to leave must be matched with interim and transitional or exemption arrangements for survivors or any specialist services, such as refuges, that will be affected. This should involve meaningful stakeholder engagement with the specialist domestic abuse and women’s sector, as well as survivors;**
- **A duty to provide British Sign Language and Language Interpreters where necessary at JobCentre Plus offices.**

## **9. Separate Payments – Universal Credit**

Survivors’ safety is not currently protected within Universal Credit (UC). The system risks increasing a perpetrator’s ability to further control and abuse, as UC is paid to only one person in the household on a monthly basis. In August 2018, after taking oral evidence from witnesses from many of our organisations<sup>12</sup>, the cross-party Work and Pensions Select Committee made clear that the single household payments “*could put claimants living with domestic abuse at risk*”.<sup>13</sup> We therefore welcome the UK Government’s announcement that it will make changes to ensure that where women are the main carers in a household they receive UC payments directly, and call for further flexibilities to be delivered – including bi-monthly payments.

However, while ‘split payments’ are available the process of obtaining one can be highly dangerous for survivors. There are clear risks if a perpetrator finds out about a request and/or notices their income decreases if split payments are taken forward. Only around 20 households received split payments in June 2018.<sup>14</sup> As DWP is also not currently monitoring how many applications for split payments are made and refused, it is therefore impossible to know whether they are working effectively. **We therefore recommend –**

- **For separate payments of Universal Credit to be the default to ensure that single household payments do not unintentionally exacerbate domestic abuse.**

## **10. Advance Universal Credit Payments**

Whilst a number of reforms to UC have been made, including a commitment to ensure payments are made to primary care-givers, it is important to ensure that survivors are able to access these reforms without being placed at risk from abusive partners. In addition, women without children, or women who share caring responsibilities for their children, will not benefit, and it is currently

<sup>12</sup> Women’s Aid, EAW, Southall Black Sisters, Refuge, Advance, and Surviving Economic Abuse.

<sup>13</sup> HC 1166, House of Commons Work and Pensions Committee, Universal Credit and Domestic Abuse, 18 July 2018.

<sup>14</sup> Department for Work and Pensions, [Universal Credit Statistics](#), Data to August 2018

unclear if, and how, the change will work alongside the option for split payments. A number of further changes to current welfare reform policies are needed, however as an initial step to decreasing the financial barriers survivors face in leaving and ensure they have access to the financial support survivors need in order to build a safe and independent future **we recommend the Bill must allow -**

- **Any survivor who has had a change of circumstances due to domestic abuse to be exempt from repaying advance Universal Credit payments, in recognition of the financial pressures they face when leaving an abuser and/or as a result of their abuse.**

### **11. Two Child Limit**

The 'two child tax credit limit' is a dangerous policy which disproportionately impacts women and children, threatens to increase child poverty, and forces survivors to disclose domestic and sexual abuse if they want to access exceptions - which many will never do because of trauma, shame and fear. The requirement to have left the perpetrator in order to claim the 'non-consensual conception' exception ignores the risks facing women and children who leave abusive partners and the reality that many women will be trapped with abusive partners due to lack of access to financial resources. **We recommend the Bill -**

- **Reverse the two child tax credit limit, particularly as the exemption on the grounds of rape and coercive control remains fundamentally unworkable and at odds with principles enshrined in human rights legislation.**

### **12. Paid Employment Leave**

It is estimated that around one in five victims in the UK have to take time off work because of domestic abuse<sup>15</sup> and we hear that survivors face significant difficulty in navigating HR policies and retaining a job at what is an incredibly traumatic time. A number of VAWG sector organisations are working with the Employers' Initiative on Domestic Abuse to improve the employment response, and call for legislative action. The Philippines, a number of states in the United States and, most recently, New Zealand have all passed laws requiring employers to provide paid leave to victims of domestic abuse. **We recommend –**

- **The Domestic Abuse Bill goes beyond criminal justice system alone and delivers requirements on employers to provide survivors with a period of paid leave.**

We would like to note that whilst other countries have limited their legislation to domestic abuse, we believe in the UK it should go further and also apply to cases of sexual abuse, stalking and harassment. Survivors in these circumstances will face similar challenges to survivors of domestic abuse.

### **13. Direct cross-examination**

The most severe impact of the legal aid reforms has been the rise of direct cross-examination in the family courts. The growth of Litigants in Person (LiPs) following legal aid changes means that women now frequently face direct cross-examination by an unrepresented former partner, and may have to directly cross-examine them in return. Perpetrators are using direct cross-examination to exert power, control and fear within the court room.

Women's Aid Federation of England and Queen Mary University of London's (QMUL) survey of survivors of domestic abuse found that 24% of survey respondents had been directly cross-examined by their perpetrator. This abhorrent practice prolongs the impact and trauma caused by

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<sup>15</sup> Trades Union Congress, Domestic Violence in the Workplace: A TUC Survey Report, August 2014.

abuse, diminishes the quality of evidence that survivors can provide and bars them from advocating for their child's best interests and safety.

We welcome the prohibition on direct cross-examination of domestic abuse victims by their abuser in the family courts within the draft Bill<sup>16</sup>. The proposal stipulates that no party to the proceedings who has been convicted of, or given a caution for, or charged with, a specified domestic abuse offence, or who has an on-notice injunction in force may directly cross-examine a person who is the victim, or alleged victim of that offence.

We know that many victims of DA never go to the police and that even fewer pursue criminal charges. Therefore, in many cases family court proceedings will be the first time that allegations of abusive behaviour have been raised in the justice system, so there will be no prior record of charges or convictions. We therefore propose that the prohibition is based on the alleged behaviour of the defendant rather than their previous record.

The proposals will enable judges to use their discretion to ban direct cross-examination if the quality of evidence is likely to be affected or significant distress would be caused if direct cross-examination goes ahead. However, courts will only be able to make this decision effectively and fairly if they have good domestic abuse training and understand how both perpetrators and survivors of domestic abuse may behave in court. **We therefore recommend the proposed measure be amended to ban direct cross-examination –**

- **In any family or civil proceedings in which contested allegations of domestic abuse, sexual abuse, stalking or harassment are being determined;**
- **And in family or civil proceedings in any circumstances in which the party has been found or has admitted (whether in civil or criminal proceedings) to have perpetrated domestic abuse, sexual abuse, stalking or harassment against the witness.**

We would also like to note that whilst the UK Government's draft provisions are limited to domestic abuse, we believe they should go further and apply to cases where domestic abuse, sexual abuse, child abuse, stalking and harassment are raised. Survivors in these circumstances will face similar challenges to survivors of domestic abuse. The Istanbul Convention requires governments to provide measures to protect the rights and interests of victims, including their special needs as witnesses, and this applies to victims of VAWG (not just domestic abuse). It is important that the issue of direct cross-examination is addressed fully and properly now as failing to do so will leave dangerous loopholes in the law.

#### **14. Access to Special Measures**

Special protection measures - such as separate waiting rooms, separate entrance and exit times for the parties, screens and video-links - support victims to give quality evidence and can reduce some of the trauma of the process.

We welcome the UK Government's commitment to make legislative changes to provide automatic eligibility for special measures in domestic abuse cases in the criminal courts; to improve the court environment with new waiting rooms designed to ensure victim safety and accessibility; to continue to use video link where possible, and to revise the Crown Prosecution Service's legal guidance on special measures. But this problem is most acutely felt on the family court estate, where access to special measures is so poor that survivors are being attacked, abused, harassed and left too frightened to effectively advocate for the ongoing safety of their child.

Women's Aid Federation of England's and QMUL's research found clear failings in survivors' access to special measures; 61% of respondents had no access to any form of special measures in court.<sup>17</sup> Failure to ensure parity in the court systems will leave survivors at continued risk of harm and an inconsistent approach to safety between the court systems. **We recommend –**

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<sup>16</sup> Birchall, J. and Choudhry, S. (2018), "What about my right not to be abused?" Human rights, domestic abuse and the family courts.

<sup>17</sup> Birchall, J. and Choudhry, S. (2018), "What about my right not to be abused?" Human rights, domestic abuse and the family courts, Bristol: Women's Aid Federation of England. [Available online](#); from 63 women respondents to this question.

- **A guarantee of access to special measures – such as separate entrances and exits, waiting rooms, screens and video links – for survivors of domestic abuse in the family courts.**

## 15. Child Contact

Our organisations frequently hear from survivors about how family courts are often used and manipulated by perpetrators of domestic abuse as an avenue to further control, coerce and abuse their victims. Despite domestic abuse cases accounting for a high volume of welfare concerns in the family courts, a significant body of research has shown that child contact arrangements leave survivors feeling re-victimised and re-traumatised, lead to unsuitable and unsafe contact for children, and perpetrators able to exploit a ‘contact at all costs’ culture of the family courts<sup>18</sup>. There remain clear gaps between safeguarding and child contact, **and we therefore recommend the Bill –**

- **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.**

This prohibition would be an important step in tackling dangerous unsupervised contact orders, however, we are clear that far wider reform is needed to ensure the safety of survivors and their children in the family courts and child contact arrangements. The VAWG and women’s sector has a range of existing recommendations in this regard.

## 16. Perpetrator Programmes

We would like to see the UK Government step up their approach to prevention and deliver a whole system approach to domestic abuse perpetrators that puts the safety, wellbeing and freedom of survivors and children at its heart. **We recommend<sup>19</sup> -**

- Coordinated multi-agency responses, that bring together all agencies responding to perpetrators to reduce harm;
- Early intervention to ensure that perpetrators are identified and responded to at the earliest possible opportunity;
- Assessment of harm, capacity to change and need, essential for targeting the right response within a diverse cohort of perpetrators;
- A range of responses – including the criminal justice system, intensive case management, disruption activities, support for additional needs and behaviour change programmes;
- Standard setting and quality assurance of the delivery of perpetrator work to include all statutory and civil society services, including appropriate thematic programmes within relevant inspectorates, for example; Her Majesty’s Inspectorate of Constabulary and Fire & Rescue Services (HMICFRS) and HM Inspectorate of Probation (HMIP).

## 17. Specialist LGBT+ interventions and services

The specialist LGBT+ sector has developed innovative solutions and has played an essential part in addressing LGBT+ domestic abuse. Despite this, LGBT+ specialist provision is inconsistent and often lacks sustainability due to funding or short term commissioning decisions at both local and national levels. There are currently no LGBT+ specific refuge services in England and only two refuges provide specialist support to LGBT+ survivors<sup>20</sup>. There are currently also no specific National Offender Management Service (NOMS) accredited or other programmes for people who

<sup>18</sup> Dr Ravi Thiara and Dr Christine Harrison Centre, Safe Not Sorry: Supporting the Campaign for Safer Child Contact: Study of Safety and Wellbeing, University of Warwick 2016

<sup>19</sup> <http://respect.uk.net/wp-content/uploads/2018/06/DA-bill-2018-Respect-response-final.pdf>

<sup>20</sup> Smith, K., & Miles, C. (2017). Nowhere to Turn: Findings from the first year of the No Woman Turned Away project. Bristol: Women’s Aid Federation of England.

perpetrate abuse in LGBT+ relationships and only four services currently provide LGBT+ specialist independent domestic violence advisors (IDVAs) support. **We recommend –**

- **The creation, expansion and sustainability of specialist LGBT+ interventions and services, which recognise the intersections between VAWG and different forms of structural oppression and can provide integrated services.**

## **18. Enquiry into Domestic Abuse**

Survivors of domestic abuse, in particular those facing multiple disadvantage, are likely to be in contact with a range of public services in order to get support for the challenges they face as a result of abuse, for example addiction as a result of using substances to cope with trauma from abuse. Frequently, women are first in contact with other forms of services before they access any other specialist domestic abuse service. It is essential, therefore, that those services are able to identify and respond appropriately to domestic abuse. Evidence shows, however, that often services do not ask about abuse, or women are asked but are let down by the culture of disbelief, resulting in frequent missed opportunities for support, and sometimes responses that can make the situations survivors face worse<sup>21</sup>. **Learning from the current Welsh legislation, we recommend the Bill introduce -**

- **A public duty on publicly funded services to enquire into current and historic domestic abuse and sexual violence as standard practice. This should be part of organisational strategies and policies for culture change, staff training and accurate data collection;**
- **Gender and trauma-informed training for staff across all publically funded services, to be accompanied by appropriate trauma-informed support and pathways into care, alongside recording of this data to measure the true scale of the problem.**

## **19. Requirement to collect data on RSE opt outs**

The Children and Social Work Act 2017 makes relationships education (RE) or relationships and sex education (RSE) compulsory in all schools, however it also makes provision for parents to opt out according to guidance. This has implications for the prevention of domestic abuse and other forms of VAWG, and our organisations are concerned that opt outs are likely to affect the children who are most vulnerable. Understanding how many pupils are opting out and some of their key characteristics (for example, gender, age, and SEN status) will be crucial for evaluating the effectiveness of the new policy. **We therefore recommend that provisions within the Bill -**

- **Amend the Children and Social Work Act 2017, to ensure that the Secretary of State for Education is required to publish anonymised annual data about the numbers and characteristics of those opting out of RSE.**

## **20. Domestic Abuse Commissioner**

The VAWG sector have been highlighting the current high levels of inconsistency in responding to all forms of abuse, which results in a lottery of access to support for survivors. The UK Government's National Statement of Expectations sets out the actions local areas should take to ensure survivors get the support they need, but there is no oversight of delivery or consequences if expectations are not met. We also note that the Impact Assessment proposes an annual budget of £1.1 million for the Commissioners' office, and that the UK Government's recent publication of the costs of domestic abuse indicate that the pursuable costs alone amount to £365 million a week. We are therefore clear that investing in the Commissioner to have a bigger, well-skilled team would be money well spent. To ensure the role is effective, **we recommend the Bill ensures that –**

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<sup>21</sup> AVA & Agenda (2019) Breaking Down the Barriers: findings of the National Commission on Domestic and Sexual Violence and Multiple Disadvantage

- **Underlying all of the Commissioner's duties must be the power to effectively enforce a clear framework of national accountability and to assess the response to all forms of abuse from across the public sector.**
- **The role is fully independent of Government, must report to Parliament as well as to the UK Government, and be supported by an increased budget that ensures the role is properly resourced;**
- **The Commissioner has a duty to collect and publish comprehensive data across all relevant sectors, public bodies and agencies, and this data must allow for an intersectional analysis across equality characteristics.**

We welcome the commitment to ensure the Commissioner establishes a victims' and survivors' advisory group to incorporate their expertise and insights. It is also welcome that the Commissioner must establish a broader advisory board consisting of representatives from; criminal justice agencies, local government, health sector, academia, as well as victims and survivors, with a wide range of representation including those facing multiple disadvantage.

However the detail in the draft Bill states that the board must include 'persons appearing to the Commissioner to represent the interests of charities and other voluntary organisations that work with victims of domestic abuse in England', and is not specific that this must be a representative from a specialist VAWG sector organisation. It will be crucial for meaningful engagement and consultation with the VAWG sector to be at the heart of the role, and be someone that survivors and specialist VAWG sector organisations can trust. We are also concerned that Wales is not included in this, as the Commissioner will be dealing with some non-devolved areas impact Wales. **We therefore recommend that the Commissioner be required -**

- **To establish a VAWG sector scrutiny board, which the role must consult with in prior to major possible recommendations and reports being made to the UK Government;**
- **To work closely with the VAWDASV National Advisors in Wales to ensure joined up working, sharing of best practice and to avoid duplication.**

**For further information or to arrange a meeting please contact Sophie Francis-Cansfield, Campaigns and Public Affairs Officer at Women's Aid Federation England: [s.francis-cansfield@womensaid.org.uk](mailto:s.francis-cansfield@womensaid.org.uk)**

## Annex A - the UK Government's legislative proposals

The UK Government's draft Domestic Abuse Bill sets out nine legislative proposals. Our position on four of these - the statutory definition, a Commissioner, cross-examination and special measures - is set out in our recommendation above. Our shared position on the remaining five is:

- We welcome the extension of **extra-territorial jurisdiction** over VAWG offences, which will enable the UK Government to ratify the Istanbul Convention.<sup>22</sup> This will ensure that UK national committing VAWG offences - including coercive control, grievous bodily harm, rape, sexual assault, murder and manslaughter - overseas can be prosecuted in UK courts.
- We support the UK Government's granting **secure lifetime tenancies** to survivors in England, which will ensure that when local authorities are re-housing an existing lifetime tenant who needs to move or has recently moved from their social home to escape domestic abuse - or are granting such person a new sole tenancy in their existing home after the perpetrator has left/been removed - the tenant will be given a further lifetime tenancy.
- We welcome the statutory footing for the **Domestic Violence Disclosure Scheme (Clare's Law)**, which can be a useful tool to provide some women with information about their partner's behaviour. It is important to recognise, however, that most cases of domestic abuse will not be reported to the police and many perpetrators will never feature on a disclosure scheme. If a woman makes a 'Right to Ask' application but then receives no information on her partner's history she may be left with a false sense of security, or feeling that her own fears have been undermined.
- We are concerned that the UK Government's proposal for **polygraph testing** have been introduced without consultation, and on the basis of evidence which is highly contested.<sup>23</sup> We recommend that this measure is removed from the legislation, and options for using technology in perpetrator management are further explored with the VAWG sector.
- There a number of issues the UK Government must consider before the implementation of **Domestic Abuse Protection Orders**, including: a clear plan for training, implementation and enforcement, removal of cost barriers, representation for survivors, evaluation of electronic monitoring before implementation and the accreditation of perpetrator, drug and alcohol programmes which perpetrators are referred to as a 'positive requirement' of a DAPO. We overall welcome the UK Government's focus on protection of women, however we are concerned by the current failings of statutory agencies to utilise and enforce the protections currently available (i.e. bail, non-molestation orders, restraining orders and DVPN[O]'s) as per the Centre for Women's Justice super complaint.

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<sup>22</sup> The UK Government's decision to remove the proposal to extend extra-territorial jurisdiction to procuring an abortion, which we welcome, nonetheless provokes wider debate on abortion law. We recognise the need for wider reforms to the law around abortion in the UK and particularly in Northern Ireland. We support calls for wider reforms to sections 58 and 59 of the Offences Against the Person Act, and calls to decriminalise abortion in the UK and women's right to choose.

<sup>23</sup> Houses of Parliament, Parliamentary Office of Science & Technology, POSTNOTE 375 May 2011: Detecting Deception

## **Annexe B – Organisation’s contact information**

### Imkaan

Leah Cowan, Policy and Communication Coordinator  
[leah@imkaan.org.uk](mailto:leah@imkaan.org.uk)

### Surviving Economic Abuse

Nicola Sharp-Jeffs, Founder and Director  
[nicola.sharp@survivingeconomicabuse.org](mailto:nicola.sharp@survivingeconomicabuse.org)

### Latin American Women’s Rights Service

Illary Valenzuela-Oblitas, Policy Coordinator  
[illary@lawrs.org.uk](mailto:illary@lawrs.org.uk)

### Step Up! Migrant Women Coalition

Illary Valenzuela-Oblitas, Policy Coordinator  
[illary@lawrs.org.uk](mailto:illary@lawrs.org.uk)

### Against Violence and Abuse

Donna Covey, Chief Executive  
[donna.covey@avaproject.org.uk](mailto:donna.covey@avaproject.org.uk)

### Agenda: Alliance for Women and Girls at risk

Jemima Olchawski, Chief Executive (maternity cover)  
[jemima@weareagenda.org](mailto:jemima@weareagenda.org)

### End Violence Against Women Coalition

Andrea Simon, Public Affairs Manager  
[Andrea.Simon@evaw.org.uk](mailto:Andrea.Simon@evaw.org.uk)

### Rights of Women

Mandip Ghai, Solicitor and Senior Legal Officer  
[mandip@row.org.uk](mailto:mandip@row.org.uk)

### Southall Black Sisters

Pragna Patel, Chief Executive  
[Pragna@southallblacksisters.co.uk](mailto:Pragna@southallblacksisters.co.uk)

### Welsh Women’s Aid

Eli Crouch-Puzey, Policy and Research Officer  
[EliCrouch-Puzey@welshwomensaid.org.uk](mailto:EliCrouch-Puzey@welshwomensaid.org.uk)

### Solace Women’s Aid

Mary Mason, Chief Executive Officer  
[m.mason@solacewomensaid.org](mailto:m.mason@solacewomensaid.org)

### Galop

Jasna Magic, Research and Policy Development  
[jasna@galop.org.uk](mailto:jasna@galop.org.uk)

### Refuge

Ellie Butt, Senior Policy and Public Affairs Manager  
[eleanor\\_butt@refuge.org.uk](mailto:eleanor_butt@refuge.org.uk)

### SafeLives

Veronica Oakeshott, Head of Public Affairs and Policy (maternity cover)  
[Veronica.Oakeshott@safelives.org.uk](mailto:Veronica.Oakeshott@safelives.org.uk)