



Joint Recommendations on the Domestic Abuse Bill

The Domestic Abuse Bill has the potential to deliver a step change in the national response to domestic abuse, but the legislation requires significant change to tackle gaps in the system and ensure equal protection and support for all survivors. The COVID 19 crisis has exposed the lack of protection and support for survivors of domestic abuse and other forms of violence against women and girls (VAWG), especially those discriminated against on the basis of sex, race, immigration status, disability, sexual orientation and gender reassignment.

As specialist organisations working with survivors of VAWG, we have set out comprehensive recommendations on the Bill to ensure it delivers the change required. Whilst we welcome amendments made to the legislation – including on priority need for housing, access to special measures in the family courts, the removal of the ‘rough-sex’ defence, and the recognition of children in the definition – we remain severely disappointed by the government’s refusal to commit to the reforms that survivors need. Critically, there remain no provisions to protect and support migrant women, who face systemic barriers in escaping abuse and accessing safety.

The pandemic could not have come at a worse time for specialist services who have faced years of funding crises and are now operating in a 'perfect storm' of lost fundraising income, additional costs of remote working, increasing complexity of caseloads, and staff shortages. We remain concerned that emergency funding announcements have been piecemeal and have to be spent within four months’ time. We continue to call for a long-term funding solution, including ring-fenced funding for specialist services led ‘by and for’ BME and migrant women, Deaf and disabled women, and LGBT+ survivors.

Whilst we welcome the Bill’s statutory duty on local authorities to deliver support in accommodation based services, the future of community based services is uncertain. There remain many questions about how the duty will resolve the challenges facing the national network of specialist women’s refuges and deliver the funding required for services for children, community based support, prevention and work with perpetrators. Just one in five victims are estimated to report to the police,

so to be truly transformative this legislation must deliver significant change across housing, health, the immigration system, welfare reform, the family courts and support for children. **We urge MPs to back our long-standing recommendations, listed below, to ensure the Bill delivers a safe and effective system of support for survivors in the future.**

It also remains crucial that the Bill sits within a robust response to all forms of violence against women and girls. The UK Government has not currently committed to renew and deliver a fully funded VAWG Strategy, which ended in March 2020, which is a serious concern. There are also 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 [legislation in Wales](#).

We are clear that the following recommendations are key for the success of the Bill and wider non-legislative package of action.

Equal protection and support for migrant women

The Bill does not meaningfully acknowledge or address the significant barriers faced by migrant women in accessing protection, safety and support. Despite the evidence that exists, and the expertise of the organisations working with these women, government has refused to make any amendments to the Bill in this regard. Abusers commonly use women's fears of immigration enforcement and separation from their children as a form of coercive control, which is compounded by current immigration policy. Research has pointed to particular vulnerabilities of migrant women¹, including:

- Higher proportion of homelessness;
- Greater financial impact of abuse because of their own inability to work on account of their immigration status;
- More likely to experience domestic abuse from multiple perpetrators;
- Children's social services failing to uphold their duty of care to migrant children and their mothers;
- More likely to face a justice gap, with police not pursuing criminal charges.

Women with insecure immigration status are routinely denied access to refuge, safe accommodation and other welfare support in order to escape violence and abuse. Due to NRPF conditions, they are therefore faced with the impossible decision of becoming destitute/homeless or returning to the perpetrator. Just 5.8% of refuge spaces are accessible to women with NRPF². This issue has been stark during COVID 19, as migrant women with NRPF have been excluded from VAWG policies due to the absence of commitment or guidance to ensure they are protected during this period. In order to address this gap in protection, specialist organisations (Southall Black Sisters and Solace Women's Aid) have worked with the Mayor's Office for Policing and Crime (MOPAC) to establish a crisis accommodation project in London. Within the first two weeks of the scheme, the 20 spaces allocated for migrant women with NRPF had been filled; demonstrating the scale of unmet need at this time.

Immigration enforcement has been prioritised over treating victims as victims and providing health, safety and security to survivors of domestic abuse; over half (27) of police forces in England and Wales confirmed in response to Freedom of Information requests that they share victims' details

¹ <http://www.bristol.ac.uk/media-library/sites/sps/documents/justice/migrant-women-policy-evidence-summary.pdf> (2018)

² Women's Aid (2019) The Domestic Abuse Report 2019: The Annual Audit, Bristol: Women's Aid.

with the Home Office for immigration control purposes³. Invasive data-sharing agreements between public services and immigration enforcement mean migrant women are often too scared to report abuse and are prevented from accessing the services they need to escape, as they fear and face the real risk of detention or deportation.

The severe restrictions migrant women face in escaping domestic abuse and accessing safety have been made clear at each stage of the Bill's passage to date – including by the joint pre-legislative scrutiny committee, by MPs across all political parties during two previous Second Reading debates, and during Committee Stage of the Bill. The Istanbul Convention, which this legislation seeks to ratify, also makes clear that protection and support for women experiencing domestic abuse and VAWG must be available without discrimination on “migrant or refugee status, or any other status”⁴. We remain highly concerned that the Bill fails to tackle the inequalities facing migrant survivors, and that the government has not accepted the recommendations of VAWG organisations led ‘by and for’ migrant and BME women for reform in this regard.

The ‘review’ of protection for migrant women, led by the Home Office, is still yet to be published and the £1.5 million pilot fund for enabling women on non-spousal visas to access refuges and safe accommodation announced during the Second Reading [is a wholly inadequate solution](#). **We remain clear that the following amendments are vital:**

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

An accurate definition of domestic abuse

Gendered nature

Domestic abuse is a devastating form of violence against women and girls (VAWG) - a cause and consequence of women's inequality. We welcome government commitment to recognise in statutory guidance that victims of domestic abuse are predominantly female. We are clear, however, that this is also required in statute to ensure compliance with international law:

- All survivors, regardless of gender or sexual orientation and other protected characteristics, must be able to access the support that they need. Treating men and women equally, however, does not mean treating them the same.

³ Latin American Women's Rights Service, Safe reporting of crime for migrants with insecure immigration status, May 2018.

⁴ Council of Europe Convention on preventing and combating violence against women and domestic violence, Article 4(3)

- Women are disproportionately the victims of repeated, and severe forms of abuse, including sexual violence, and are much more likely to be seriously hurt or killed than male victims⁵.

A gendered definition is crucial to guide effective and safe responses that meet survivors' needs. The joint committee that undertook pre-legislative scrutiny of the legislation called for a new clause in the Bill that would make clear that "public authorities providing services must have regard to the gendered nature of abuse and the intersectionality of other protected characteristics of service users in the provision of services, as required under existing equalities legislation."⁶

The Istanbul Convention⁷, which the government has committed to ratify through the Domestic Abuse Bill, requires states to recognise "the gendered dynamics, impact and consequences of these forms of violence and [operate] within a gender equality and human rights framework". **We therefore urge for the proposed definition be amended to:**

- **Acknowledge the gendered nature of domestic abuse, in line with the UK's commitments under international law - including the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Istanbul Convention and the UN Convention on the Rights of Persons with Disabilities (Article 16).**

Disabled survivors

We are also concerned that the statutory definition refers to people who are 'personally connected' as partners, spouses or family members only, which does not reflect the reality of disabled people's lives. Paid and unpaid carers, and personal assistants, are a key part of the lives of disabled people, and whilst many are supportive and/or professional, domestic abuse by non-family carers is all too common. Despite Government Ministers stating that existing legislation protects disabled survivors from this, 'by and for' specialist disabled organisations are clear that this continues to be a gap in protection. **We therefore also urge for the proposed definition be amended to:**

- **Accurately distinguish between, and not conflate, intimate partner abuse with other forms of family abuse, and include abuse perpetrated by unpaid carers of disabled women within the definition of 'personal connection'.**

Honour Based Abuse

Whilst the government recognises Honour Based Abuse (HBA) as a form of domestic abuse, the proposed definition falls short of recognising some of the most prominent offenders of HBA. The proposed definition refers to people who are 'personally connected' as partners, spouses or family members, however this does not reflect the reality and lived experiences of many victims and survivors of HBA. Whilst perpetrators of HBA can include a partner or immediate family member, evidence highlights that abuse is also often perpetrated by 'in laws', extended family and community members⁸. Many survivors of HBA describe being "controlled" and "conditioned" to feel 'dishonourable' if they speak out and 'bring shame' upon the family and community status and reputation. Many safeguarding practitioners lack confidence to respond to abusive practices that take place within some minority communities out of fears of "causing offence" or "being deemed racist or culturally insensitive". Including HBA within the proposed definition will support many victims and safeguarding practitioners to clearly recognise abusive practices and respond appropriately. **We urge the proposed definition to:**

⁵ Walby, S. and Towers, J. (May 2017) 'Measuring violence to end violence: mainstreaming gender', Journal of Gender-Based Violence, vol. 1.

⁶ <https://publications.parliament.uk/pa/jt201719/jtselect/jtddab/2075/2075.pdf>

⁷ Council of Europe Convention on preventing and combating violence against women and domestic violence, Article 6.

⁸ Evidence from Karma Nirvana Honour Based Abuse helpline: Annual data report 2019

- **Include extended family and community members within the definition of ‘personal connection’.**

Tackle the housing barriers facing survivors of domestic abuse

Local connection

We welcome that after years of cross-sector campaigning, that the government will ensure survivors of domestic abuse will be automatically considered in ‘priority need’ for housing. We urge for the Government to revise their amendment to ensure that priority need status for settled housing can be granted, even if the homelessness application is not made directly by the individual who was experiencing domestic abuse in a household but with the survivors’ consent, and for this to include those with NRPF. It will also be critical to ensure that housing allocations are safe and suitable for survivors and their children.

Many survivors escaping abuse need to leave their local authority area in order to be safe. Leaving an abuser is statistically a highly dangerous time, and survivors can face ongoing and severe threats to their safety from the perpetrator, and the perpetrator’s family and friends. Government guidance⁹ makes clear that local connection rules should not apply in cases of domestic abuse, which Government Ministers highlighted during Committee Stage. We remain highly concerned, however, about the inconsistency between local authorities across England in meeting their obligations to house women fleeing domestic abuse from another local area. This includes: councils imposing ‘local connection’ restrictions on their refuge funding contracts; homelessness teams refusing to support women escaping abuse because they are not from their local area; and survivors without a local connection being de-prioritised within local authority housing allocation policies.

The government already requires local authorities to make exemptions for certain groups from these local connection requirements, or ‘residency tests’ – including for members of the armed forces¹⁰ and those seeking to move for work¹¹. **We therefore urge for the Bill to be amended to include:**

- **A bar on local connection rules for survivors who need to flee their local area to access refuge, and extend residency requirements to wider homelessness duties and housing allocations too to ensure all survivors are able to access safe housing.**

Safe and suitable accommodation

Lack of safe and suitable housing options are severe barriers to survivors’ recovery. Women can face years of housing insecurity after escaping domestic abuse, including placements in unsuitable and unsafe types of accommodation¹² which fail to meet their needs and can expose them to further harm and trauma¹³. There is an urgent need to increase the supply of genuinely affordable housing to ensure survivors can access safe and suitable accommodation, including when moving on from refuge¹⁴. ‘By and for’ specialist organisations are often the first line of support for marginalised women accessing housing after refuge accommodation; therefore to

⁹ Ministry of Housing, Communities and Local Government (2018), Homelessness Code of Guidance for Local Authorities. Available online.

¹⁰ The Allocation of Housing (Qualification Criteria for Armed Forces) (England) Regulations 2012

¹¹ The Allocation of Housing (Qualification Criteria for Right to Move) (England) Regulations 2015

¹² Solace Women’s Aid (2019) Safe as Houses. Available [online](#)

¹³ Latin American Women’s Aid (2019) A Roof Not a Home: the housing experiences of black and minoritised women survivors of gender-based violence in London. Available [online](#)

¹⁴ DAHA (2020) Whole Housing Approach Toolkit https://www.dahalliance.org.uk/media/10647/1_-wha-toolkit-introduction.pdf

address homelessness, the government must invest in the by and for specialist sector to strengthen housing expertise¹⁵. **We call for the Bill to include:**

- **A duty on local authorities to ensure that housing allocation for survivors is safe and suitable. This must take into account the impact of trauma, physical safety, and additional needs – including suitable accommodation for BME women and disabled women, and the provision of women-only spaces.**

Social security and protection

Separate payments

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. The process of obtaining a 'split payment' 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. Whilst the government have made changes to 'nudge' the main carer in a household to receive UC payments directly, it is not being monitored, is likely to be manipulated by perpetrators and provides no solution for survivors without children. **We therefore urge for the Bill to:**

- **Deliver separate payments of Universal Credit by default.**

Advance payments

Access to money is crucial for physical safety, as a lack of economic resources restricts women from leaving and accessing long-term independence. The five week wait for Universal Credit is a severe barrier to escaping and it can be even lengthier for survivors who have escaped without ID and documentation, or who have no bank account due to economic abuse. Specialist VAWG services are reporting that delays to applying for and accessing Universal Credit are worsening due to COVID 19. This is leaving women and children without enough money to buy food and other basic essentials, and services are seeing women who are considering returning to the perpetrator because they do not have enough money to live¹⁶. The requirement to repay advances pushes women into cycles of debt. **We therefore call for the Bill to ensure:**

- **Universal Credit advances are paid as grants to survivors of domestic abuse.**

Paid Employment Leave

Access to an independent income is a lifeline for survivors. Perpetrators often sabotage women's ability to work and earn their own money – stopping them from getting or keeping a job, preventing their access to education and training, and withholding earnings. The serious and long-term physical and psychological effects of domestic abuse also create severe barriers to work for some survivors. It is estimated that around one in five victims in the UK have to take time off work because of the abuse¹⁷ and we hear that survivors face significant difficulty in navigating HR policies and retaining a job at what is an incredibly traumatic time. Whilst some organisations already provide paid leave and flexibility for employees who are experiencing domestic abuse, it is vital that all survivors, no matter who they work for, are able to access this support. Whilst we

¹⁵ Imkaan (2019) The Alternative Bill: From the Margin to the Centre. An Alternative Bill addressing Violence against Women and Girls

¹⁶ Imkaan (2020), The Impact of the Dual Pandemics: Violence Against Women and Girls and COVID 19 on Black and Minoritised Women and Girls. Available [online](#)

¹⁷ Trades Union Congress, Domestic Violence in the Workplace: A TUC Survey Report, August 2014.

welcome the Department for Business, Energy and Industrial Strategy's review into domestic abuse and the workplace, **we urge for the Bill to:**

- **Require employers to provide flexible working arrangements and a period of paid leave for survivors of domestic abuse.**

Disabled Survivors

Currently the Domestic Violence Easement for Jobseekers Allowance does not apply to disabled people or those with health conditions who are claiming or start a claim for Employment Support Allowance (ESA), or are in the support group for ESA or Universal Credit (UC). We are concerned that this is incompatible with the Equality Act 2010 as it fails to account for the specific circumstances of disabled claimants who are victims of domestic abuse. It is also essential that all survivors can receive information in an accessible format to ensure they receive all the support they need and are entitled to. **We therefore urge for the Bill to:**

- **Extend the Domestic Violence Easement so it is available to survivors claiming Employment Support Allowance, as well as Job Seekers' Allowance.**
- **Include a duty to provide British Sign Language and Language Interpreters where necessary at JobCentre Plus offices and to provide accessible means of claiming benefits.**

A safer family court and child contact system

In May 2019 the Ministry of Justice's announced a review into how the family courts protect children and parents in cases of domestic abuse and other serious offences. On 25th June the expert panel published their final report on assessing risk of harm to children and parents in family law children cases, and we warmly welcome its findings. The panel concludes that the family courts do not effectively protect many child and adult victims of domestic abuse from further harm. The government has introduced amendments to the Bill that will make victims of domestic abuse automatically eligible for special measures in the family and civil courts¹⁸, and to ensure cross-examination is prohibited in the civil as well as the family courts. We warmly welcome these new clauses but we urge for the Bill to go further on the presumption of contact. **We call for:**

- **Extend the welcome ban on cross-examination in the Bill to ensure that it applies in any family cases involving domestic abuse (including where abuse has been admitted or is being established). This extension should also apply to the newly added provision in civil cases, and should not be subject to an 'evidence test', as this will not protect all survivors.**

Child Contact

While there is no automatic right to contact between a parent and child in England and Wales, section 1(2A) of the Children Act 1989 contains a legal presumption that the involvement of both parents in a child's life will further the child's welfare, unless there is evidence that the involvement of one parent in the child's life would put the child at risk of harm. A child's interests must be of paramount importance in all decisions made about his or her welfare, including within child contact arrangements. This is made clear in judicial guidance (Practice Direction 12J) which states that "the court must in every case consider carefully whether the statutory presumption applies, having

¹⁸ Ministry of Justice (2020). Assessing risk of harm to children and parents in private law children cases: Implementation plan. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/895174/implementation-plan-assessing-risk-children.pdf

particular regard to any allegation or admission of harm by domestic abuse to the child or parent or any evidence indicating such harm or risk”¹⁹.

However, a significant body of academic research has shown that this guidance is consistently undermined, and the presumption of contact is routinely prioritised above the child’s best interests in cases of domestic abuse. A study published by the Ministry of Justice found that all professional groups involved in the child arrangements process start from a position in favour of contact and “make considerable efforts to bring this about”²⁰. Subsequent research published during the last decade demonstrates that little has changed²¹.

We are concerned that this ‘pro-contact’ approach leads to potentially unsafe contact decisions being made and can result in serious safeguarding concerns. Women’s Aid’s 19 Child Homicides research uncovered the tragic cases of 19 children and two women in 12 families who were killed by known perpetrators of domestic abuse in circumstances related to unsafe child contact from 2005-2015. We found that in the cases where contact was arranged through the courts, abuse of the mother was often seen as a separate issue from the child’s safety and wellbeing, rather than the two being intrinsically linked²². In 2019, the Victoria Derbyshire programme highlighted this issue in a special programme which looked at serious case reviews published between 2015 and 2019. Their research found that at least two further children have been killed by a parent in circumstances relating to child contact where there is a history of domestic abuse.

The Ministry of Justice’s recent report calls for a review the ‘presumption of parental involvement’ which applies in certain private law children’s proceedings and fundamental reform of the child arrangements programme. The safety of the child contact process remains a serious concern, and **we are calling for some vital changes to the Bill to tackle these issues and put the child’s best interests at centre of child contact arrangements:**

- **Change the legal presumption of parental involvement in the Children Act 1989 through the Domestic Abuse Bill. This presumption should be ended in cases where children are at risk of harm from domestic abuse, with contact arrangements in domestic abuse cases based on informed judgement of a child’s best interests and safety.**
- **Prohibit unsupervised contact for a parent waiting for trial, or on bail for, a domestic abuse related offence, or where there are ongoing criminal proceedings for domestic abuse.**
- **Amend the Children Act 1989 to name coercive control as ‘harm to children’.**

Service of family court orders on families in refuges

Family court orders, particularly location orders, are often applied for by fathers when mothers and children have fled the family home to refuges following allegations of domestic abuse. The family courts use the services of Tipstaff and the police to locate the mother and children in refuges, despite the fact that a refuge address is not publicly available.²³ Once they are located, the police attend the refuge’s residential address and serve the order on the mother. This causes upset, anxiety and distress to the mother that is served with the order and the other women and children in the refuge who have reported feeling re-traumatised by the process. For women who experience a number of intersectional inequalities such as race, language barriers and insecure

¹⁹ Ministry of Justice (2017) Substituted practice direction: Practice direction 12J – Child Arrangements and Contact Orders: Domestic Violence and Harm

²⁰ Hunt, J. and McLeod, A. (2008) Outcomes of Applications to Court for Contact Orders After Parental Separation or Divorce, London, Ministry of Justice

²¹ Women’s Aid, Safe Not Sorry, Bristol: Women’s Aid, 2016.

²² Women’s Aid, Nineteen Child Homicides, Bristol: Women’s Aid, 2016.

²³ A refuge service is defined out Routes to Support, the UK wide violence against women and girls service directory run in partnership by Scottish Women’s Aid, Welsh Women’s Aid, Women’s Aid Federation of England and Women’s Aid Federation Northern Ireland.

immigration status, they have reported receiving a heavy-handed response from the police, unable to understand what the police are saying, and feeling that they are treated as criminals.

In such cases the highly confidential location of the refuge is given to the family courts. As a result of disclosing the refuge's residential address upon the court, in at least one case²⁴, the mother and child were located and stalked, they had to move to two different refuge addresses and then the father abducted the child abroad. In another case²⁵, the police served a family court order on a vulnerable mother who does not speak English and sought safety with her two children. The mother found the experience degrading and humiliating. Concerns arose in that case that the father might discover the family's location. **We are therefore calling for the government to:**

- **Prevent the service of family court orders on refuge residential addresses²⁶.**
- **Ensure that refuge residential addresses and the identity of refuge workers remain confidential²⁷.**

Disabled survivors

The Bill should place a duty on children's and adult social care to address the barriers faced by disabled mothers experiencing domestic abuse, in order to tackle the discrimination faced by disabled mothers in the child protection system and the family courts. This includes, and is often rooted in, the assumption that a disabled mother cannot be a good enough mother²⁸.

The experience of Stay Safe East clients is that children's social care frequently sees an abusive father as a preferable option to the children remaining with their disabled mother, regardless of her impairment²⁹. The Court may collude with this approach, en/forcing contact between the children and their abusive father, and seeing mothers in need of support as problematic. Consequently, disabled mothers are reluctant to ask children's services or adult social care for help, including when they are experiencing domestic abuse. **We urge for the Bill to:**

- **Place a duty on children's and adult social care to address the barriers faced by disabled mothers experiencing domestic abuse.**

The Domestic Abuse Protection Order (DAPO)

There are a number of concerns around the details of the proposed DAPO, including: the workability of the proposed arrangements for notifying perpetrators; uncertainties around which third parties might apply for DAPOs without victim consent; and the implications that such applications will have. There are clear steps the government can take to address these, but there must also be a transparent and thorough review of DAPOs. It is essential for this review to have input from the Domestic Abuse and Victim's Commissioners, specialist domestic abuse sector and survivors, and that this review is given appropriate consideration before any national roll out. **We therefore urge for the Bill to:**

- **Ensure survivors' voices are heard within the DAPO process, establish robust procedures for monitoring compliance and positive requirements, and ensure the strict**

²⁴ Evidence provided by Latin American Women's Aid and Dr Charlotte Proudman, Barrister at Goldsmith Chambers concerning a case in 2019-2020.

²⁵ Evidence provided by Latin American Women's Aid and Dr Charlotte Proudman, Barrister at Goldsmith Chambers concerning a case during Covid-19 in 2020.

²⁶ The Family Procedure Rules 2010 require amendment to prevent service of court orders on women's refuges, instead they could be served by 'alternative method or at an alternative place' pursuant to [PD 6.1 of the FPR 2010](#).

²⁷ At present it is not explicitly clear that refuge residential addresses must remain confidential including the identity of those that work for the refuge; this must change.

²⁸ Stay Safe East (2020) Domestic Abuse Bill Briefing. Available [online](#)

²⁹ <https://www.disabilityrightsuk.org/news/2018/september/disabled-parents-often-seen-risk-their-children-rather-given-support-warns>

nature of notification requirements does not impact on judges' decision as to whether to impose a DAPO.

- **Require a transparent and thorough review of DAPOs with expert and lived experience input before a national roll out.**

An effective response to perpetrators

There are evidenced ways to reduce domestic abuse offending amongst the most harmful perpetrators. It is extremely costly for the police and other parts of the system to continuously respond to the same perpetrators without interventions to address their abuse, challenge them and hold them to account. But more importantly, it is harmful and unsafe for victims. It is time for the government to take a more coherent approach to challenging and risk-managing perpetrator behaviour, rolling out proven interventions and investing in the development of best practice, as part of a new perpetrator strategy.

The new DAPO – the above concerns notwithstanding – is an important step on the journey towards a more strategic approach. It will enable judges to require domestic abuse perpetrators to attend behaviour change interventions, such as perpetrator programmes, as part of their sentence. In principle, this could be transformative. However, there are currently no proposals to ensure that such interventions meet a minimum standard. At worst, poorly run programmes can increase risk to victims. At best, they are a waste of money. **We are therefore calling for the government to:**

- **Publish and fund a national Domestic Abuse Perpetrator Strategy.**
- **Place a requirement on the Home Secretary to publish standards for domestic abuse perpetrator interventions, to ensure any such interventions mandated under DAPOs meet a minimum standard and do not put victims at further risk.**

Specialist LGBT+ interventions and services

LGBT+ survivors face additional barriers in access to support and justice due to their sexual orientation and gender identity³⁰. Specialist services fail to appropriately address LGBT+ issues in service provision and delivery, which is the main reason why LGBT+ people fear that they will be misunderstood or dismissed, or that they might receive a discriminatory response. Studies show that these fears are often confirmed³¹. It is also concerning that by the end of 2019, there were only six voluntary sector providers delivering LGBT+ specialist support based in Birmingham, Brighton, London, Manchester, and Sheffield. LGBT+ specialist services often work outside of their geographical remit and beyond their capacity. There are currently no LGBT+-specific refuge services in England³² and less than 1% of refuges nationally provide specialist support to LGBT+ survivors³³. **We therefore urge the government to:**

- **Ensure that any legislation, policy and commissioning arising from the measures of the Bill clearly recognises and responds to the needs, experiences and distinct barriers that LGBT+ survivors face in accessing support.**
- **Ensure the Domestic Abuse Commissioner has a duty to support and hold all statutory agencies to account in appropriately meeting the needs of LGBT+ survivors.**

³⁰ J. Magić and P. Kelley, "Barriers to accessing services for LGBT+ victims and survivors," Spotlight #6: LGBT+ people and domestic abuse, 2018. Available [online](#)

³¹ S. Harvey, M. Mitchell, J. Keeble, C. McNaughton Nicholls, and N. Rahim, "Barriers Faced by Lesbian, Gay, Bisexual and Transgender People in Accessing Domestic Abuse, Stalking and Harassment, and Sexual Violence Services." NatCen Social Research, Cardiff, 2014

³² J. Magić and P. Kelley, "Recognise & Respond: Strengthening advocacy for LGBT+ survivors of domestic abuse." Galop, LGBT+ anti-violence charity, London, 2019.

³³ Women's Aid (2017) Nowhere to Turn: Findings from the first year of the No Woman Turned Away project, Bristol

- **Provide long-term ring-fenced funding to ensure sustainability and expansion of LGBT+ services delivering specialist support to LGBT+ survivors.**

Specialist Sexual Violence and Abuse services

We are clear that the marginalisation of sexual violence within the Bill needs to be urgently addressed. Survivors commonly experience sexual violence as part of domestic abuse, but it remains a ‘hidden crime’. The Bill only includes a single reference to sexual violence, in the definition of domestic abuse in clause one³⁴. This is disappointing, given the prevalence of sexual violence within domestic abuse: for 45% of female victims of rape or assault by penetration (including attempts), the offender was a partner or ex-partner³⁵.

The distinction between sexual violence and domestic abuse is not simply a matter of semantics. Although domestic abuse and sexual violence are both forms of gender-based violence, which can overlap, survivors require different specialist services. Despite acknowledging sexual violence as an integral aspect of domestic abuse, the Bill fails to recognise this important distinction in needs. As a result, sexual violence specialist support services are absent from the Bill.

Service users are referred to Rape Crisis Centres for specialist counselling and advocacy. These referrals come from statutory services, including the police, and social services, as well as domestic violence charities; however, these referrals are unfunded. **We therefore call for the Bill to:**

- **Provide long-term ring-fenced funding to specialist sexual violence and abuse services delivering specialist counselling and advocacy to victims and survivors who suffer sexual violence and abuse within a domestic abuse setting.**

Specialist Deaf and disability interventions and services

Needs of Deaf and disabled survivors

Data on Deaf and disabled victims is poor or non-existent at a local level. For example, on average, only 4% of victims referred to local MARACs are identified as disabled people, but in Waltham Forest where Stay Safe East has been working for 10 years, the percentage is between 20 and 24% over the last two years³⁶. This shows that early identification and referrals can help identify the true extent of domestic abuse against disabled people. As national data becomes more accurate, it is beginning to show the incidence or severity of domestic abuse against some groups, including Deaf and disabled victims. Currently, local service commissioners rarely consider the need for services to be inclusive of disabled victims, and the model for commissioning (short term and mainly phone contact) often fails disabled victims. **We therefore call for the Bill to:**

- **Introduce a public duty to record and report on interventions for and experiences of Deaf and disabled survivors.**
- **Provide long-term ring-fenced funding of user-led specialist services for Deaf and disabled survivors and for the development of new user-led specialist services outside London. Funding must also be provided for all services, refuges and helplines to ensure they are accessible and meet the needs of Deaf and disabled survivors.**

Criminal and family justice system

³⁴ Clause 1(3) Behaviour is “abusive” if it consists of any of the following—(a) physical or sexual abuse

³⁵ [Crime Survey for England and Wales \(2017\)](#), Figure 10: Victim-offender relationship for rape or assault by penetration (including attempts) experienced since age 16 by women aged 16 to 59

³⁶ Stay Safe East (2020) Domestic Abuse Bill Briefing. Available [online](#)

There is no statistical data on how many victims who fail to attend court are disabled, but the experience of Stay Safe East's clients shows that the failure to meet disabled and other victims' needs may be part of the explanation. **We therefore urge for the Bill to:**

- **Collect consistent disaggregated data, including all protected characteristics, on the experiences of victims of domestic abuse within the criminal and family system.**

We are also aware and concerned by the number of barriers for Deaf and disabled survivors to access justice. A case study from Stay Safe East³⁷ highlights these barriers:

“A Deaf client was called to give evidence at Magistrates Court in a case involving assault by her former partner. The first time she attended court with her IDVA, no BSL interpreters had been booked. The second time, almost two months later, she was asked to ‘share’ the only interpreter with the defendant, which would have been a breach of professional code of practice for the interpreter. With the support of her advocate, she refused, but the magistrates were threatening to dismiss the case. The case was finally heard six months after the original hearing with appropriate BSL interpreting provision, and the defendant was found guilty and given a suspended sentence with a five year restraining order. However, during the period of six months to the final hearing, the defendant stalked the witness/survivor. If she had had a legal right to appropriate communication support, she would not have experienced six months of further abuse.”

We call for the Bill to:

- **Ensure criminal and family justice systems and processes meet all the needs of Deaf and disabled survivors, including access to appropriate communication support.**

Effective routine enquiry into domestic abuse

Survivors of domestic abuse are likely to come into contact with a range of publicly funded services, from the health system to social services, throughout their lives. These services have a vital role to play in recognising the signs of abuse and ensuring survivors get the support they need. When the Government responded to the pre-legislative committee's recommendation on early intervention and training for front-line staff, they said that routine enquiry – whereby trained practitioners routinely ask patients about experiences of abuse – is already in place in services such as mental health and maternity. Unfortunately, research carried out by Agenda³⁸ found that this often doesn't happen in practice:

- A third of mental health trusts who responded to an FOI did not even have a policy on routine enquiry.
- Where trusts did have policies on routine enquiry, the effectiveness of these policies varied considerably, with one trust asking just 3 per cent of patients about experiences of domestic abuse – when they should be asking everyone, particularly as over two thirds of women who have a mental health problem have experienced domestic abuse.

We therefore call for the Bill to include:

- **A public duty on publicly funded services to enquire into current and historic domestic abuse and sexual violence as standard practice, with learnings from the Welsh legislation incorporated.**

Health and social care services

³⁷ Stay Safe East (2020) Domestic Abuse Bill Briefing. Available [online](#)

³⁸ Agenda (2019) Ask and Take Action: Why public services must ask about domestic abuse

The accompanying non-legislative package to the Bill must include specific provision for the response to domestic abuse within the NHS, including embedding evidence-based interventions that combine training for professionals with specialist support for patients. For example, IRIS is a general practice based domestic abuse training, support and referral programme which has been positively evaluated in a randomised controlled trial, and found to increase both identification of domestic abuse and referral to support services³⁹. Such interventions are vital when we know that almost half a million patients affected by domestic abuse look for help from health care professionals⁴⁰. Many of these patients will be presenting within general practice and will not get the support they seek. Adult social care also has a potentially key role to play in identifying disabled survivors and signposting them to support. **We therefore call for the Bill to include:**

- **A duty to fund evidence-based interventions in health that effectively support survivors who come forward from enquiry.**
- **A duty on health and social care professionals to ensure safeguarding procedures are used to protect survivors and to ensure they get the support they need and do not place survivors at further risk.**

Coercive control legislation

We are concerned that Section 76 of the Serious Crime Act 2015 discriminates both directly and indirectly against disabled victims for the following reasons:

- The 'best interest' defence is likely to be used when referring to disabled victims where the abuser is a 'carer' who can claim they have the victim's best interests at heart;
- The defence is most likely to be used in relation to people who have learning disabilities or cognitive impairments, mental health issues, are neuro-diverse or have communication issues and who may have – or be seen to have – capacity issues. This defence may cover an alleged lack of capacity to consent before, during or after the offence or pattern of coercive control.

This clause has the potential to prolong the abuse of disabled victims, to prevent victims getting justice and disadvantages disabled victims of coercive control and those lacking the capacity to consent. **We therefore urge for the Bill to:**

- **Repeal the discriminatory 'carer's defence' clause in the 2015 Serious Crime and Domestic Violence Act (Part 5, Section 76).**

Use of protective measures in the criminal justice system

Pre-charge bail

Given the repeat nature of virtually all domestic abuse-related crimes, bail conditions are an essential measure of protecting and safeguarding victims whilst an investigation is ongoing. Unfortunately following reforms to pre-charge bail in the Policing and Crime Act 2017, the use of bail has reduced by 65%⁴¹ and highly dangerous offenders are being released while investigations are ongoing without basic bail conditions, such as not to contact the victim or go to her home.

The pre-charge bail regime introduced in April 2017 established an initial bail period for 28 days only, with any extensions requiring approval by a Superintendent. This is an onerous burden on the police, which has resulted in the avoidance of bail use altogether – forces are commonly either releasing suspects under investigation (RUI) or interviewing them on a voluntary attendance, when bail is not available. In addition, when bail conditions are not imposed, we hear that the police are

³⁹ Feder G, Davies RA, Baird K, et al. Identification and Referral to Improve Safety (IRIS) of women experiencing domestic violence with a primary care training and support programme: a cluster randomised controlled trial. *Lancet* 2011;378:1788–95.

⁴⁰ SafeLives (2019) A Cry For Health: Why we must invest in domestic abuse services in hospitals. Available [online](#).

⁴¹ Her Majesty's Inspectorate of Constabulary, Fire and Rescue Services, PEEL: police effectiveness 2017 - a national overview, March 2018

advising victims to obtain a non-molestation order through the civil courts. This places the burden of obtaining protection onto victims themselves, rather than the state, which has a duty to protect.

The government's consultation on revising the Act is welcome, however there are swift changes that can be made now to ensure pre-charge bail is routinely used in domestic abuse and sexual offences cases to safeguard victims. **We therefore urge for the Bill to:**

- **Extend the initial bail period to 3 months, reverse the presumption in favour of pre-charge bail in all domestic abuse and sexual offences cases, and require police to use a DAPO when pre-charge bail is breached.**

Non-fatal strangulation

It is widely recognised that non-fatal strangulation and asphyxiation (eg. suffocation with a pillow) are a common feature of domestic abuse. Strangulation and asphyxiation are the second most common method of killing in female homicides: 29% as compared to only 3% of male homicides⁴². In addition, research highlights how non-fatal strangulation is frequently used as a tool to exert power and control, and to instil fear, rather than being a failed homicide attempt⁴³.

There is currently no distinct offence of non-fatal strangulation or asphyxiation⁴⁴ and it can be difficult to prove intent for an offence of attempted murder. In the majority of cases prosecutions can only be brought for an assault offence. The lack of observable injuries means that offenders' conduct is often minimised, and they are charged with common assault rather than with actual bodily harm (ABH). **We therefore call for the Bill to:**

- **Introduce a new criminal offence of non-fatal strangulation.**

Threats to share intimate images

Threats to share intimate images are being used by abusers to coerce, control, and frighten survivors both during relationships and following separation. Threats are having chronic, long-term impacts on some survivors, with many feeling like there is no escape due to threats to share a private sexual photo or video of them online, with friends and family, their new partner, or their employer, hanging over them. However, while the actual sharing of such images was criminalised in 2015 as part of the Criminal Justice and Courts Act (colloquially known as the 'revenge porn' offence⁴⁵), threats to share were not, although both the disclosure and threats are offences in Scotland⁴⁶. This means that when survivors approach the police about the threats, they are told to wait until their abuser shares the photo or film and come back, as only then is it a police issue. This is unacceptable and fails to recognise that the threat itself is being used as a powerful tool of coercive control and abuse. **We therefore call for the Bill to:**

- **Extend the law on the non-consensual sharing of intimate images or films to include threats to disclose such images or films.**

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;](#)

⁴² Office for National Statistics Homicides in England and Wales year ending March 2019

⁴³ Thomas, Joshi and Sorenson (2014) https://repository.upenn.edu/cgi/viewcontent.cgi?article=1190&context=spp_papers

⁴⁴ Section 21 Offences Against the Person Act 1861 sets out an offence of attempting to choke, suffocate or strangle in order to commit an indictable offence, however this only applies when this is done in order to commit some other serious offence

⁴⁵ Criminal Justice and Courts Act 2015, section 33 <http://www.legislation.gov.uk/ukpga/2015/2/section/33/enacted>

⁴⁶ Abusive Behaviour and Sexual Harm (Scotland) Act 2016, section 2 <http://www.legislation.gov.uk/asp/2016/22/section/2/enacted>

- Southall Black Sister's [#ProtectionForAll campaign](#), including a comprehensive strategy on violence against and abuse of migrant women.
- Rights of Women's campaign to improve victims' and survivors' access to legal aid.
- Imkaan's '[Alternative Bill](#)', which outlines a response to VAWG that is gendered and intersectional.
- [Surviving Economic Abuse's call](#) to extend the offence of controlling or coercive behaviour in the Serious Crime Act to post-separation abuse.
- [DRIVE's call](#) for the government to publish and fund a new Domestic Abuse Perpetrator Strategy.
- [Prison Reform Trust's call](#) for an introduction of a statutory defence for domestic abuse victims compelled to offend by their abusers.
- [Stay Safe East's briefing](#) and recommendations for disabled survivors.
- [Galop's briefing](#) and recommendations for LGBT+ survivors.
- Agenda's [Ask and Take Action](#) campaign.

Please contact Sophie Francis-Cansfield, Senior Campaigns and Policy Officer, at Women's Aid Federation England, for further information at: s.francis-cansfield@womensaid.org.uk