

Domestic Abuse Bill: Women's Aid Briefing for Committee Stage

Women's Aid welcomes the Domestic Abuse Bill as an opportunity to deliver a step change in the response to domestic abuse and other forms of violence against women and girls (VAWG). For the past two years specialist services and survivors have shared their expertise in the development of the Bill, including through Women's Aid's 'Law in the Making' project which engaged twenty survivors as 'experts by experience' in the [development of the legislation](#). Despite some welcome changes made in the Commons, we remain disappointed by the lack of government commitment to guarantee equal protection and support for migrant women and deliver the wider changes which survivors and their children need. Our long-standing recommendations for improving the Bill remain urgently needed.

This briefing is to support Peers with scrutiny during the committee stage of the Bill. It covers measures within the Bill and information on amendments that Women's Aid is proposing or supporting:

Part 1 - Definition	Pg 2
Part 2 – Domestic Abuse Commissioner	Pg 4
Part 3 – Powers for dealing with domestic abuse - Domestic Abuse Protection Orders	Pg 5
Part 4 – Local Authority support	Pg 7
Part 5 – Protection for victims and witnesses in courts	
• Special measures	Pg 10
• Prohibition on cross-examination in person in family proceedings	Pg 11
Part 6 – Offences involving violent or abusive behaviour	
• "Rough-sex" defence	Pg 12
• Extra-territorial jurisdiction	Pg 12
Part 7 – Other provisions	
• Polygraph Testing	Pg 13
• Clare's Law	Pg 13
• Homelessness	Pg 14
• Secure Tenancies	Pg 15
• Powers of Secretary of State	Pg 16
Wider amendments	
• Housing - local connection and joint tenancies	Pg 16
• Safe child contact	Pg 17
• Migrant women	Pg 20
• Welfare reform – impact assessment, benefit cap, and paid employment leave	Pg 22
• Statutory defence	Pg 24
• Pre-charge bail	Pg 25
• Routine enquiry	Pg 25
• Post-Separation Abuse and Coercive Control Legislation	Pg 26
• Non-fatal strangulation	Pg 26
• Disabled survivors	Pg 27
• Devolved issues	Pg 28

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Part 1

Definition of Domestic Abuse

- Women's Aid welcomes a statutory definition of domestic abuse to improve understanding and awareness, and challenge myths and stereotypes, about this form of crime.
- 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 fear¹, higher rates of repeated victimisation, and are much more likely to be seriously injured² or killed by a partner/ex-partner. Recent ONS homicide statistics show that women are more likely to be killed by a domestic perpetrator and are five times more likely to be killed by an intimate partner than men. The majority of domestic homicide victims (killed by ex/partner or a family member) for the year ending March 2017 to the year ending March 2019 were female (77%) and most of the suspects were male (96%).³ During the first five weeks of lockdown, it is known that at least 19 women were killed by men [or where the principal suspect is a man].⁴
- The UK is a signatory to a range of international treaties and conventions that recognise that this crime is a form of gender-based violence - including the Istanbul Convention⁵, which the government has committed to ratify through the Domestic Abuse Bill, which 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"*. The statutory definition in the Bill, however, does not recognise gender at all.
- Article 4(3) of the Istanbul Convention also requires states to ensure all survivors of domestic abuse can equally access support, welfare systems and legal tools that provide protection from abuse, without discrimination on any grounds. This is a fundamental principle of the Convention, and we support the End Violence Against Women and Girls (EVAW) Coalition's amendment which would ensure accordance with this.
- We welcome government commitment to recognise in statutory guidance that victims of domestic abuse are predominantly female. We are clear, however, that this is required in statute too to ensure compliance with international law and deliver the right response:
 - Women's Aid is increasingly concerned by a shift to gender neutral service provision, which lacks understanding that women are disproportionately the victims of repeated, serious and long-term domestic abuse and coercive control and require gender-specific services to meet their needs.
 - All survivors, regardless of gender or sexual orientation and other protected characteristics, must be able to access support that they need. Treating men and women equally, however, does not mean treating them the same. Gendered legislation, including a gendered definition, is crucial to guide effective and safe responses.
 - 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

"It is essential that women feel believed and supported"

Anonymous survivor

¹ Dobash & Dobash, 2004; Hester, 2013; Myhill, 2015; Myhill, 2017

² Walby & Towers, 2017; Walby & Allen, 2004

³ Office for National Statistics (ONS). (2020) Domestic abuse in England and Wales: year ending March 2020.

⁴ <https://www.theguardian.com/society/2020/apr/15/domestic-abuse-killings-more-than-double-amid-covid-19-lockdown>

⁵ [Council of Europe Convention on preventing and combating violence against women and domestic violence](https://www.councilofeurope.eu/conventions/147-convention-on-preventing-and-combating-violence-against-women-and-domestic-violence/), Article 6.

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

- This is particularly crucial in light of the government's recent announcement that they plan to create a Domestic Abuse Strategy, separate from the long-established cross-government VAWG Strategy. Gender-neutral approaches remains a pressing issue for the VAWG sector.
- **We therefore urge Peers to support the amendment tabled by Baroness Gale to establish a gendered definition of domestic abuse in the Bill.**
- There are also a number specific problems with the proposed definition that, if passed into law, will undermine an accurate and shared understanding of domestic abuse as a form of VAWG:
 - Types of abuse: the definition must clarify the significant differences between types of abuse perpetrated in the home. There is no clarity that intimate partner abuse differs in frequency, context and impact from other forms of family abuse, such as sibling abuse.
 - Patterns vs incidents: we agree that both patterns and single incidents must be included in the definition, but accompanying statutory guidance must clarify that repeated patterns of abuse are much more common and single incidents should be explored in the context of likely coercive control.
 - Experiences of Black and minoritised women: the statutory definition does not include the types of abuse - including forced marriage, 'honour' based violence, transnational marriage abandonment, dowry-related abuse and female genital mutilation (FGM) - that are disproportionately experienced by Black and minoritised women. The joint pre-legislative committee recommended that the Bill makes clear that these crimes are always categorised as domestic abuse. The government did not support this recommendation, but stated that these types of abuse will be set out in statutory guidance. The draft of the statutory guidance we have seen did not include clear and accurate definitions of all of these forms of abuse - which will be essential to ensure that Black and minoritised survivors' experiences are consistently recognised and understood.
 - Experiences of disabled survivors: 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 carer is all too common.
- **We urge Peers to support the amendment proposed by Lord Rosser to ensure the proposed definition includes paid and unpaid carers within the list of a 'personal connection'.**
- **We welcome the Government's amendment to recognise children as victims in the statutory definition, and in addition we are clear the Children Act 1989 needs to name coercive control as 'harm to children'.**
- **The remaining issues must be resolved, at the very least in statutory guidance which should: clarify the significant differences between the forms of abuse experienced by intimate partners and family members; shift the focus from 'single incidents' to patterns of abusive behaviour, which are far more common in intimate partner cases; and include the types of abuse disproportionately experienced by Black and minoritised women.**

'Parental alienation'

- 'Parental alienation' has been increasingly invoked in the family courts in recent years⁷, but there is a dearth of robust empirical studies to back up the concept and no reliable data on its prevalence⁸.
- Studies demonstrate the gendered assumptions and myths underlying ideas about parental alienation, and the increasing use of these ideas by perpetrators as a tactic to undermine domestic abuse allegations in child arrangements proceedings⁹.

⁷ Barnett, A. (2020) 'A Genealogy of Hostility: Parental alienation in England and Wales' in Journal of Social Welfare and Family Law 42 (1) p. 18-29

⁸ Meier, J. (2013) Parental alienation syndrome and parental alienation: A research review. National Online Resource Center on Violence Against Women

⁹ Birchall, J. and Choudhry, S. (2018) What about my right not to be abused? Domestic abuse, human rights and the family courts. Bristol: Women's Aid; Harrison, C (2008) 'Implacably hostile or appropriately protective? Women managing child contact in the context of domestic violence' in Violence Against Women 14 (4) p.381-405; Meier, J. (2013) Parental

- The 'pro-contact' culture in the family courts means that parents are expected to facilitate contact, even if they have concerns about safety¹⁰. It also means that allegations of parental alienation – where one parent is accused of encouraging their child to resist contact with the other parent – are taken more seriously than allegations of domestic abuse and other forms of harm.
- Theories of parental alienation, no matter how they are packaged or theorised, should not be accepted without analysis of the impact they have on survivors of domestic abuse and their children. **We therefore urge Peers to oppose the amendment tabled seeking to include parental alienation in the definition of domestic abuse.** For further information about the family courts, see page 17.

Part 2

Domestic Abuse Commissioner

- Central to the legislation is the development of a new Domestic Abuse Commissioner role, and Women's Aid welcomes the appointment of Nicole Jacobs to the position of designate Domestic Abuse Commissioner. With 57% of domestic abuse service providers running an area of their service with no dedicated funding at all in 2018¹¹, it is welcome that the new Commissioner is someone who understands the specialist sector.
- We are clear that the role of the Commissioner must be able to hold government and public authorities truly accountable for change. **Women's Aid therefore supports the 'general duties' amendment proposed by the Equality and Human Rights Commission in this regard, and the amendment tabled by Lord Rosser which would require the Commissioner to report to Parliament.**

"We would like to see uniformity across the country so no matter where you live if you disclose domestic abuse you will have access to the same services."
Women's Aid Member Service

Oversight mechanism – Domestic Homicide Reviews (DHRs)

- Over the last decade there has been no significant reduction in the number of domestic homicides each year, indicating that further work is needed to identify broader policy change needed to prevent future deaths as well as following up on individual recommendations in local areas.
- DHRs are carried out by Community Safety Partnerships and brings together parts of the statutory and non-statutory system to consider how to prevent future deaths. However, too often recommendations are not implemented effectively, or are implemented in the short-term.
- We therefore support calls for there to be a systematic collection of reviews into suicides and homicide in which domestic abuse is identified as a contributory factor. It's also vital that there is a robust accountability framework to ensure that individual recommendations are acted upon, and identification of key themes across reviews to help target key policy changes needed to prevent future deaths.
- **Women's Aid urges Peers to support amendments tabled which would enable the Domestic Abuse Commissioner to establish an oversight mechanism, working in conjunction with the Home Office, on reviews relating to domestic homicides and suicides.**

alienation syndrome and parental alienation: A research review. National Online Resource Center on Violence Against Women, p. 20; Radford, L. and Hester, M. (2006) Mothering through domestic violence, London: Jessica Kingsley

¹⁰ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/895174/implementation-plan-assessing-risk-children.pdf

¹¹ Women's Aid (2019) The Domestic Abuse Report 2019: The Annual Audit, Bristol: Women's Aid.

Part 3

Powers for dealing with domestic abuse - Domestic Abuse Protection Orders

Current situation

- The Domestic Abuse Protection Order (DAPO) will deliver requires significant training and awareness to be implemented consistently across criminal, civil and family proceedings. The joint pre-legislative scrutiny committee raised concerns about whether the DAPO will be implemented safely and effectively as currently proposed.
- Protection orders can play a pivotal role in securing safety for survivors. However, the current system is failing many.
- The current range of protection orders include Restraining Orders, Non-Molestation Orders, Domestic Violence Protection Orders, and Occupation Orders. The government has stated that much of the current failings are to do with the complexity of the system and the number of different orders available, and propose the DAPO as the new 'go to' order in cases of domestic abuse.
- However, feedback from survivors and support services makes clear that current failings in the system largely result from lack of training and understanding, lack of resources including legal aid cuts, and poor enforcement. Recent data on the use of Domestic Violence Protection Orders by police found that they were only being used in 1% of all domestic crimes¹², with suggested reasons including poor training, expensive court fees, and lack of knowledge. During COVID 19, some police forces have been reluctant to grant orders such as DVPOs because there are limited alternative housing options for perpetrators. Frontline support services have also raised concerns that the police often encourage survivors to apply for civil protection orders rather than using their powers.
- We are concerned that there is little proposed in the Bill which will remedy these challenges, and without significant implementation planning and additional resources, the new DAPO will only add to current failings. As we move into the post-COVID 19 period, the challenges facing the public sector are likely to be severe. Further clarity is therefore needed to ensure these new orders can be robustly monitored and enforced by the police and other agencies.
- We are also concerned that DAPOs, whilst potentially offering longer term protection, are still only a temporary legal measure and do not currently address a survivor's housing needs. We know that current legal options available to a survivor on a joint tenancy with their perpetrator are complex, costly and uncertain. This often leaves survivor's facing an awful choice between becoming homeless or the perpetrator claiming his rights to the jointly shared property and returning to the home. A DAPO does not provide a long-term guarantee to the survivor that they will be safe in their own home, and this must be addressed within the Bill.

"My last 11 years were built on 13 harassment warnings, 4 restraining orders, and 1 non molestation order - averaging a breach a month. It's not easy to get a protection order, and when we do get them they are not enforced time and time again."

Expert by Experience, Women's Aid's Law in the Making Project

Reforms in the Bill

¹² Office of National Statistics data for the year ending 31 March 2018

- A breach of a DAPO will be a criminal offence, which is welcome. This must trigger an immediate police response with a swift return to court. Enforcing orders properly, and delivering sanctions when they are breached, is essential for protecting survivors.
- The Bill would enable victims, the police and relevant third parties to apply for a DAPO. Any agencies - including social care, probation and health services - who can apply for a DAPO on a victims' behalf will require adequate capacity, training and support to do so safely. Court fees must also never be a disincentive when applying for a DAPO, as is currently the case for DVPOs.
- Anyone can apply for a DAPO on a victim's behalf, and the courts will be able to impose a DAPO of their own volition. Although there is a requirement for courts to take into account the wishes of victims before making an order, more clarity is needed on how the applicant and the court are responding to the victims' views and wishes. **Clearer obligations on the applicant to consider the views of the victim, and provisions to ensure victims are kept fully informed of the process, understand the protections in force, and know what to do if there is a breach, are required.** Access to specialist support services and advocacy is also essential to ensure victims can understand and can participate in legal processes, and resources will be required for this.
- Although we welcome the proposal that courts will be able to order 'positive requirements' such as perpetrator programmes and drug and alcohol programmes, there is currently insufficient detail of how such requirements will be safe, monitored and resourced. The provision and quality of perpetrator programmes are currently inconsistent the country, and without significant additional resources the police or other third-party agencies applying for the order will not have the capacity to monitor compliance. Enforcement and ensuring survivors' safety must be central to any positive requirement as, if implemented poorly, such measures could increase harm. **It is essential that perpetrator programmes are Respect accredited to ensure they are safe and high quality, and that sufficient resources are available for the delivery of positive requirements.**
- We also welcome that the proposed DAPO could include both online and offline restrictions on perpetrators from abusing and harassing survivors, and notification requirements. This would include a requirement on perpetrators subject to a DAPO to notify the police about changes to their name, address and any new relationship they enter into, which over 90% of the survivors we surveyed on the Bill agreed would be beneficial.¹³ However, further information is needed on how this will be monitored, how the police will act on this information. It will also be important to ensure that these requirements will not make judges reluctant to make orders on the basis that the perpetrator's rights are infringed.
- Further work is required to ensure DAPOs made in one court system will align to other proceedings. There is currently major disparity in the response to domestic abuse within different jurisdictions. Whilst we welcome the intention to introduce this order across all court systems, there is currently little detail about this will work in practice. For example, clarity is needed on how DAPOs made in the criminal courts will be reflected in child contact arrangements made in the family courts, and how DAPO restrictions and requirements would be applied to a perpetrator in the family courts when there is no criminal case or police involvement.
- **Survivors must be central to the future development of the DAPO, which should be fully tested, piloted and evaluated before national roll-out.** Specifically, electronic tagging of perpetrators requires full evaluation before implementation to ensure that it improves survivors' safety and will be monitored effectively by police forces.

"Making breach of a DAPO an automatic criminal offence needs power of arrest attached and solid action taken against the perpetrator by police and CPS"
Survivor

¹³ Of 166 responses to this question, 93% (n=154) of survivors responding agreed that perpetrators should be required to notify the police when they move house, change name, start a new relationship

- To truly utilise DAPOs to provide survivors with the opportunity to stay safe within their own homes over the long-term, the Bill must introduce a new general mechanism through which survivors could apply for the transfer of tenancy, if a survivor shares a joint secured or assured social tenancy with the perpetrator. **We urge Peers to support our joint amendment, alongside the Domestic Abuse Housing Alliance and Standing Together, tabled by Baroness Burt and supported by Lord Young and Baroness Deech. More information can be found on page 16.**

Part 4

Local Authority support

- The Ministry for Housing, Communities and Local Government (MHCLG)'s new statutory duty on local authorities to deliver support for survivors in safe accommodation, including life-saving refuges, has the potential to save lives.
- For women and children escaping domestic abuse and other forms of violence against women and girls (VAWG), safe accommodation is a vital need. 'Safety' for survivors is not only about the physical safety from an abuser, but the emotional safety, space and support required to cope with traumatic experiences and start to rebuild their life in safety and independence. Refuge services provide far more than a 'roof' – they deliver a holistic package of support, delivered by expert staff, in a safe and supportive environment for women and children who are no longer safe at home.
- 241 women were killed in the year ending March 2019, a fourteen year high. A third of women were killed by their current or former partner¹⁴. Early research from City University and the University of Durham shows that separations from domestic abuse restrictions are likely to increase when lockdown restrictions finally end¹⁵. We can predict a surge in harm to survivors and increased demand for refuge services at this point because, for women experiencing abuse, leaving can be the most dangerous time of all.
- However the national network of refuges continues to face a funding crisis; 64% of referrals to refuges were declined in 2018-19 and one in five of referrals were refused because the refuge had a lack of space or capacity to support the survivor. The number of refuge spaces in England is now 30% below the number recommended by the Council of Europe.¹⁶
- 13% of refuge services receive no funding at all from their local authority, and many more are 'not-commissioned'. These services, who tend to be smaller and include specialist services led 'by and for' Black and minoritised women, are essential for meeting survivors needs but continue to be financially insecure. As they rely heavily on fundraising for income they have been particularly hard hit by the impact of COVID 19.
- The funding crisis facing refuges has devastating consequences for survivors; just under 40% of women we supported who were struggling to access refuge in 2020 were forced to sofa-surf or sleep rough while they waited for a space.¹⁷ Black and minoritised women, women with no recourse to public funds (NRPF), Deaf and disabled women, women with mental health and

"By running domestic abuse services to the bone we have not left any resilience for times like this"
Women's Aid Member Service

¹⁴Office for National Statistics, Homicide in England and Wales: year ending March 2019

¹⁵ Katrin Hohl (City, University of London) and Kelly Johnson (Durham University), A Crisis Exposed: How COVID 19 is impacting domestic abuse reported to the police: <https://www.womensaid.org.uk/how-covid-19-is-impacting-domestic-abuse-reported-to-the-police/>

¹⁶ Women's Aid (2020) The Domestic Abuse Report 2020: The Annual Audit, Bristol: Women's Aid.

¹⁷ Women's Aid (2020) Nowhere to Turn 2020 – Findings from the fourth year of the No Women Turned Away project, Bristol: Women's Aid

substance use needs and LGBT+ survivors continue to face significant barriers to accessing refuge.

- Whilst we the legal duty on local authorities to deliver support to survivors of domestic abuse in “accommodation-based services” is welcome, we continue to have significant concerns that the detail of the duty will not fix the crisis facing refuge services without further reform. Women’s Aid and Imkaan, the national second-tier women’s organisation dedicated to addressing violence against Black and minoritised women and girls, have drafted amendments to address the following key concerns with the current duty:

Definitions:

- The Bill does not define ‘relevant accommodation’ or ‘domestic abuse support’ and does not mention ‘refuge services’ at all. We concerned that as currently drafted, this will lead to unsafe forms of temporary accommodation, which aren’t designed meet survivors needs, being funded under the duty.
- The Istanbul Convention makes clear that temporary accommodation and homeless hostels are not sufficient to meet the needs of women and children escaping violence and abuse.¹⁸ However, across the country women and children continue to be housed in unsafe forms of temporary or emergency accommodation which provide little or no support at all. Our member services are increasingly concerned by a rapid rise in unsafe accommodation providers targeting survivors, which we fear could increase further if the duty is not reformed.
- A clear definition of ‘relevant accommodation, which includes refuge services, is essential. The definition should clarify that a refuge address should never be publically available or disclosed, to resolve the challenges that one of our member services is currently facing with High Court orders threatening to disclose the address of their refuge.¹⁹ A definition of ‘specialist domestic abuse support’ is also required to ensure services are delivering the holistic support women and children need.
- During Committee Stage in the Commons, the Minister stated that the wide definitions aim to ensure a range of accommodation types can be funded through this duty. Our amendments do not seek to stop this – as specialist support services are provided in different forms of accommodation. It is the safety and expert support that specialist services deliver which distinguishes them from general ‘accommodation’, and this must be defined in the Bill.

Quality and expertise

- It is well evidenced that refuge services are best delivered by women’s organisations, and by experienced staff who have in-depth knowledge of gender-based violence. Services led ‘by and for’ Black and minoritised women, migrant women, women with disabilities and LGBT survivors, are also essential for meeting the specific support needs of these marginalised groups.
- Without appropriate safeguards around quality and standards, the duty could further incentivize local authorities to fund generic services which can be provided at lower cost, but which do not have the required quality or expertise to support survivors. Our members are already reporting that unsafe accommodation providers are able to house survivors with no understanding or experience in domestic abuse or VAWG at all. Our amendments include clear reference to quality standards already established within the VAWG sector, to ensure that services funded under this duty are safe.

Commissioning:

- The Bill must ensure that funding and commissioning decisions made under the duty are based on a gendered understanding of domestic abuse, as a form of VAWG which affects women disproportionately.

¹⁸ Council of Europe (2011) Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence

¹⁹ <https://www.telegraph.co.uk/news/2020/05/17/domestic-abuse-victims-put-risk-court-rulings-reveal-refuge/>

- The duty must also tackle long-standing and increasing challenges with complex and onerous commissioning practices. We are calling for an end to competitive tendering for domestic abuse services where it is not required, replaced with an approach based on quality and expertise and long-term funding and grant arrangements where possible.
- The law must also make clear that local authorities must undertake equalities impact assessments (EIA) in full compliance with the Public Sector Equality Duty when taking decisions on commissioning and procurement.

National oversight and safeguards

- With over two thirds of women resident in refuge coming from a different local authority area, a duty that places responsibilities on local government alone just will not work for this national network of services²⁰.
- Safeguards are also required for specialist services led 'by and for' black and minority ethnic women, disabled and deaf women and LGBT survivors. These services are essential for meeting obligations under the Equality Act 2010 and Public Sector Equality Duty but face severe challenges in a fully localised funding system. They are meet the needs of survivors across wide geographic areas, but aren't seen as 'local funding priorities'. Ring-fenced national funding for these services is required to deliver sustainability for these services, which support survivors across local areas and even across the whole country.
- The 'national steering group' proposed by the government should be established as a formal oversight group, linked to the Domestic Abuse Commissioner's office, on the face of the Bill. It must be responsible for ensuring the national network of refuges can operate safely, including through: robust oversight and monitoring to ensure that all survivors can access the support they need; undertaking a national needs assessment, as local needs assessments alone are inadequate for refuges; and powers to sanction ineffective or inadequate provision and practice.

Resources:

- Women's Aid estimates that £393 million annually is required for specialist women's domestic abuse services, including 173.8 million for the national network of refuge services and £219.5million for wider community based services. We have published the full methodology for our estimate.²¹ We are also calling for dedicated funding for specialist refuges led 'by and for' Black and minoritised women and other marginalised survivors, as they face significant challenges in local funding systems. Imkaan estimates that at least £57million annually to ensure that the existing highly specialist support services for Black and minoritised women are sustainable.²²
- It is still not clear how the government's funding of £125million to support the duty in 2021-22 was calculated. At Second Reading of the Bill in the House of Lords, the Minister stated that it was to "*cover the estimated cost of providing unmet need for support in safe accommodation for victims and their children, as well as needs previously supported through MHCLG short-term challenge funds.*"
- We have three main concerns with this approach to funding 'unmet need'. Firstly, Women's Aid's estimate was not based on existing levels of funding being provided by local authorities, it was based on what full cost recovery for specialist refuges would be. Second, it is not clear how MHCLG have calculated the current level of spending by local authorities on refuges, as these figures are not consistently collected or published, and therefore it is unclear how they have calculated funding for 'unmet need'. Thirdly, it is highly unlikely that, once the funding for the statutory duty is delivered, local authorities will continue funding

²⁰ Women's Aid (2018) Survival and Beyond: The Domestic Abuse Report 2017. Bristol: Women's Aid

²¹ Women's Aid (2019) Funding Specialist Support for Domestic Abuse Survivors Bristol: Women's Aid

²² Letter to Chancellor, Comprehensive Spending Review and funding towards ending and preventing Violence Against Women and Girls, September 2020: <https://www.endviolenceagainstwomen.org.uk/wp-content/uploads/Treasury-Letter-CSR.pdf>

refuges from their core revenue support grant – given the budget constraints they currently face. Our amendments place requirements on national government to fully fund the duty.

Other legislative reforms:

- The statutory duty alone will not tackle some of the significant challenges that survivors face in accessing refuge. Reforms to ensure that women with no recourse to public funds can access a refuge space (page 18) and to ban on ‘local connection’ restrictions for survivors accessing refuges and other forms of accommodation (page 16) are also required.
- **We urge Peers to support the amendments proposed by Imkaan and Women’s Aid, and tabled by Lord Rosser and supported by Lord Young and Lord Woolley, to ensure that the statutory duty truly secures the future of the national network of specialist refuges and does not lead to survivors being housed in unsafe and unsuitable forms of accommodation.**

Part 5

Special Measures

Family and criminal cases

- The seriousness and impact of domestic abuse is already treated very differently between different court systems. The original Bill only provided survivors with automatic eligibility for special measures in the criminal courts, which would have increased this disparity further still.
- Survivors continue to report to Women’s Aid that they are re-victimised and re-traumatised within family proceedings, where court infrastructure and practices too often fail to protect them. The provision of special measures in the family courts, and the difficulties that survivors face in requesting them, is of particular concern.
- Following recommendations from Women’s Aid, Rights of Women and Welsh Women’s Aid – and the landmark Ministry of Justice expert panel report on the response of the family courts to domestic abuse in July 2020 – the government introduced amendments to provide for automatic eligibility of special measures in the family courts for survivors without the need to prove vulnerability (Section 61).
- We welcome these important amendments to the Bill, which should improve access essential safety measures – including separate entrances and exits, waiting areas and screens – in the family courts.
- Women’s Aid’s research with Queen Mary University of London, which included a survey of over 70 survivors in 2018, showed clearly why this is urgent needed:
 - 61% of respondents had no access to any form of special measures in court;
 - Only 33% stated that they had a separate waiting room from their perpetrator;
 - Just 7% were provided with separate entry and exit times into the court room, a no-cost and practical measure that can protect victims;
 - Just 7% had access to screens in the court room, and 4% had a video link;
 - Of the women who had some sort of special measure, 59% told us that the measures were only in place in some hearings they attended, rather than all.²³

“My experience of family court - horrific, traumatic, psychological warfare. Mind games replicate the abuse from the relationship.”
Expert by Experience, Law in the Making Project

Civil courts

²³ 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

- However, protection for survivors in the civil courts – which survivors may use for libel cases or small claims courts where there has been economic abuse – will not be consistent. Section 62 provides a discretion for special measures in the civil courts, but does not ensure automatic eligibility. Access to the provision is restricted to survivors whose alleged perpetrator has been convicted, cautioned or charged with an offence, and even then it is subject to judicial discretion. This provision will not apply to the vast majority of survivors do not report their abuse to the police, and research by the Ministry of Justice also shows that “judicial discretion” in respect of special measures continues to be highly inconsistent in the family courts.
- We recommend the Bill delivers automatic eligibility for special measures for survivors in the civil courts, as in the family courts, ensuring consistency of protection across all jurisdictions – as recommended by the Draft Bill Committee.²⁴
- **We urge Peers to support amendments from Women’s Aid, Equality and Human Rights Commission (EHRC), and Rights of Women to ensure that survivors are consistently protected across all court systems, including with civil proceedings.**

Cross-examination in the family courts

Current situation

- The growth in Litigants in Person (LiPs) in the family courts, as a result of legal aid reforms, has led to a significant rise of direct cross-examination in the family courts. This means survivors can face direct cross-examination by their abuser, and may have to directly cross-examine them in return.
- A survey of survivors by Women’s Aid and Queen Mary University of London (QMUL) in 2017 found that 24% of survey respondents had been directly cross-examined by their perpetrator in the family courts.²⁵ Abusers use direct cross-examination to exert power, control and fear within the court room. This abhorrent practice prolongs the impact and trauma caused by abuse, diminishes the quality of evidence that survivors can provide and bars them from advocating for their child’s best interests and safety.
- We are delighted that the government has included a ban on direct cross-examination of domestic abuse survivors by their abuser in the family courts in the Bill (section 63). However, we remain concerned about the fact that survivors will need to provide ‘evidence’ in order to access this protection in the family courts, and where the court makes a direction to prohibit cross-examination in the civil courts. We know that survivors continue to fall through the gaps when evidence tests are applied; evidence requires disclosing domestic abuse to another professional or service, which many women will never do. Ministry of Justice research has also shown that many survivors face barriers to evidencing domestic abuse – including language barriers, and the unwillingness of organisations (and health professionals in particular) to write supporting letters.²⁶ As Lord Kennedy has noted, there have been examples of survivors being charged survivors for producing evidence – including shocking examples where GPs have charged up to £150 for obtaining a letter.
- Women’s Aid, Rights of Women, Welsh Women’s Aid and the Equality and Human Right Commission (EHRC) recommend there should be an automatic prohibition of cross-examination in person in all cases where a survivor makes a statutory declaration of domestic abuse, and

“It was horrible, I mean it was the worst thing I’ve ever had to do in my life, I mean the cross-examination was just disgusting, and you know, the judge twice stepped in and stopped him. The questions were about my sex life and previous boyfriends and who was going in my house, and it was ridiculous”

Survivor

²⁴ House of Lords, House of Commons, [Joint Committee on the draft Domestic Abuse Bill](#), First Report of Session 2017–19, para 153.

²⁵ Birchall, J. and Choudhry, S. (2018), “What about my right not to be abused?” Human rights, domestic abuse and the family courts.

²⁶ Ministry of Justice (2017), Farai Syposz, [Research investigating the domestic violence evidential requirements for legal aid in private family disputes](#), pp. 2-3

that this should apply in both the family and civil courts to ensure consistency across all systems. We further recommend an additional discretionary provision in the civil courts where the quality of the witness's evidence would be diminished or where significant distress would be caused to the witness or party (which would cover other vulnerable witnesses accessing the civil courts).

- **We urge Peers to support amendments by Women's Aid, Rights of Women and EHRC to ensure that survivors of domestic abuse are adequately protected from direct cross-examination by their abuser in the family and civil courts.**

Part 6

"Rough Sex" defence

- Recent cases of women killed by partners as a result of claimed "rough sex" have gained significant public attention, however this is not a recent problem.
- The 'We Can't Consent to This' campaign found that since 1972 67 people in the UK who have been killed in claimed sex "gone wrong", and more injured. All suspects in these killings and injuries are male, and 60 of those killed were female.
- Established case law on this issue - R v Brown – relates to violent sex among gay men, but in all but one (total of 101) of these other cases of "consensual" violence, so far all of the victims are female, and all accused are male. Many of the accused men were previously abusive to their partners or had convictions for serious violence.
- The law should be clear that you can't consent to serious injury or death, and ensure that all cases are investigated, charged and sentenced at the correct level of the crime committed.
- **Women's Aid therefore welcomes that the Government have incorporated MPs Harriet Harman and Mark Garnier's amendment into the Bill to ensure consent cases are successfully prosecuted in England & Wales, moving the "clear" case law of R v. Brown into statute, and to introduce Director of Public Prosecutions review when prosecutors are proposing to charge a lesser crime, like manslaughter, in a domestic homicide.**

Extra-territorial jurisdiction

Current situation

- The Istanbul Convention's is a landmark international treaty which enshrines states' obligations to take comprehensive action to tackle all forms of violence against women, including domestic abuse. The UK government signed the Istanbul Convention in 2012, but it is still to ratify it. The government state that extending extra-territorial jurisdiction over certain sexual and violent offences within the Domestic Abuse Bill they will be able to ratify the Convention.
- Women's Aid welcomes the government's commitment to ratify the Convention, and the measures in the Bill to take extra-territorial jurisdiction (ETJ) over VAWG offences - including coercive control, stalking, rape and sexual assault - in order to prosecute British nationals committing these crimes abroad. We recommend that the government consider how spousal or child abandonment could also be included in this list of offences.
- Furthermore, we are not assured that the government will be compliant with the Convention once ETJ over these offences is delivered. Women and children survivors are routinely turned away from the help that, under the Convention they are entitled to without discrimination on

any ground – including migrant status.²⁷ For example, only 5% of refuge vacancies listed last year could accommodate women with no recourse to public funds.²⁸

- In addition, the government have decided to end 10 years of cross-party consensus on the need for an integrated VAWG strategy – undermining the principle in the Convention that parties must take an integrated approach to eliminating violence against women. The call for evidence for the VAWG strategy, published in December 2020, makes clear that a “*Domestic Abuse Strategy will follow Royal Assent of the landmark Domestic Abuse Bill*” – a significant policy change that the government has not consulted on at all. We fear this will fragment the joined-up response we need to gender-based violence, and understanding of VAWG as a cause and consequence of women’s inequality. It also separates domestic abuse from forms of violence that disproportionately impacts Black and minoritised women – such as forced marriage, honour-based violence and FGM – when these are all linked.
- The government must ensure the Bill delivers full compliance with the Convention. Critical to this will be reforms to the statutory duty to ensure that local authorities fund specialist refuge services, fully funding the wider range of community-based services, and amendments to the Bill to deliver equal protection and support for migrant women (see page 20).
- **We urge for Peers to support Baroness Lister’s amendment, which requires any guidance issued under the Bill to consider the cross-government VAWG strategy and support joined up responses to domestic abuse and gender-based violence.**

Part 7

Polygraph Testing

- Section 54 of the Bill will enable the National Probation Service (NPS) to pilot polygraph (lie detector) testing with high risk domestic abuse perpetrators, with the aim of monitoring compliance to their licence conditions after release. This proposal was not included in the government’s original consultation on the Bill, so survivors, experts and relevant stakeholders have not been able to provide views or feedback on this measure.
- The government states that these examinations are successfully used in managing sexual offenders released on licence, but the evidence on the effectiveness of polygraph testing remains highly contested.²⁹ We would be concerned if the NPS relied on the results of polygraph testing, which has not been evaluated for effectiveness in domestic abuse cases, to risk assess and manage dangerous offenders.
- **We urge Peers to ensure this measure is removed from the Bill. The government should consult properly on this proposal before legislating, and explore other more effective options for using technology to manage perpetrators.**

Clare’s Law

- A statutory footing for ‘Clare’s Law’, or the Domestic Violence Disclosure Scheme (DVDS), is a welcome opportunity to improve the delivery of the scheme and protect survivors.
- There remains significant variation of use between police forces of the DVDS. Whilst the number of recorded domestic abuse related crimes has risen by 88% since 2014³⁰ – but there has not been a corresponding increase in the use of Clare’s Law in this time. The variation of forces’ use

²⁷ <https://www.coe.int/fr/web/conventions/full-list/-/conventions/rms/090000168008482e>

²⁸ Women’s Aid (2020) The Domestic Abuse Report 2020: The Annual Audit, Bristol: Women’s Aid.

²⁹ Houses of Parliament, Parliamentary Office of Science & Technology, POSTNOTE 375 May 2011: Detecting Deception

³⁰ Her Majesty’s Inspectorate of Constabulary, Fire and Rescue Services, The Police Response to Domestic Abuse - An Update Report, February 2019: Domestic abuse-related crime in England and Wales in the 12 months to 30 June 2017 and 12 months to 30 June 2016.

of 'Right to Know' and 'Right to Ask' remains extremely wide – and there are unacceptable delays in police disclosure of information about a partner's history of domestic abuse or violent acts.

- Whilst the scheme is an important measure in the response to domestic abuse, it will only ever protect a small number of women as most cases of domestic abuse will never be known to the police. As survivors have told Women's Aid:

- *"Clare's Law only covers those who have been convicted of domestic violence. It is notoriously difficult to get a conviction (...) no-one has been protected from my ex."*
- *"It only shows convictions so it doesn't show very many abusers."*
- *"Only captures perpetrators who have been convicted; there are numerous perpetrators who have not been convicted due to the intense difficulty for a victim to get to court and stay engaged in the process."*

"I had heard of Clare's law. The police at first didn't seem to know what I was talking about."

Survivor

- Women's Aid supports placing the statutory guidance underpinning the DVDS on a statutory footing to help improve consistency, but we call for a number of additional measures to improve the effectiveness of the scheme:
 - Any survivor making a "Right to Ask" application clearly has very serious concerns that their partner is, or will be, abusive. It is critical that any disclosures from the police are: made as quickly as possible; accompanied by robust safeguarding measures; and supported by signposting and referral to specialist domestic abuse services who can support them with safety planning, any decisions they may then make about their relationship, and through future recovery.
 - Even when no disclosure of abuse is made, there are likely to be serious concerns about the safety of the relationship. The police should be required to ensure those requesting information are signposted to information and advice about domestic abuse, regularly follow up with the survivor to prevent further harm and, if consent is provided, take proactive safeguarding measures - such as flagging her mobile number or arranging follow up from a specialist domestic abuse officer.
 - Ensure that police forces are resourced to deliver the scheme effectively. The anticipated cost of this policy – between £2.4 and 4.8 million over the next 10 years³¹ – will fall entirely on the police. In particular, forces are likely to face significant resource constraints post COVID 19. Funding is needed to ensure continued investment in training and professional development on domestic abuse for police forces, to ensure a safe and effective disclosure process.
- Extensive evidence shows that women and children face continued, and often heightened, risks of abuse and harm after the relationship has ended. We recommend that the Government further considers how Clare's Law could be extended to cover requests and disclosures from ex-partners.

Homelessness - priority need

- Women's Aid welcomes, 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.
- Over one in ten of all homeless acceptances in England were accepted as homeless by a local authority because of a relationship breakdown due to domestic abuse in 2010³², though the true scale of the problem is far greater, and as women's and survivors' homelessness is often 'hidden'.

³¹ HM Government, HO0328- Impact Assessment: Draft Domestic Abuse Bill, 21 January 2019

³² The Department for Communities and Local Government (DCLG), Live Tables on Homelessness, Table 774. Available at: <https://www.gov.uk/government/statistical-datasets/live-tables-on-homelessness> [accessed: 12/04/19]

- Under current rules, despite domestic abuse being classified as a ‘vulnerability’ under Part VII of the Housing Act 1996 and the Homelessness Act 2002, in reality domestic abuse in isolation is rarely considered to qualify someone as in priority need if they do have an additional vulnerability - such as being pregnant, having dependent children or being vulnerable as are result of mental illness or disability.
- This announcement that survivors in England will be given automatic priority for housing will be hugely beneficial, and will align with the current practice of Wales and Scotland.
- **We now urge for the guidance to state 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 no recourse to public funds.** Please see page 20 for recommendations on migrant women.

Secure Tenancies

Current situation

- Since 2012 local authorities and housing associations have been able to offer new fixed term tenancies for a minimum of two years, as well as ‘lifetime tenancies’ in social housing. The risk of losing a lifetime tenancy is a significant concern for survivors, who understandably fear the consequences of losing security of tenure if they leave. This is sadly a common occurrence for the survivors and children who escape to refuge.
- Solace Women’s Aid tracked the housing journeys of 84 survivors escaping abuse in London in 2019³³ and found that 53 per cent of the women starting their journey with a secure tenancy lost their tenancy and ended up in temporary accommodation; staying with family and friends or became homeless.

“After a year of fallout, I was still homeless and on my backside - it felt like I was worse off for going through ‘the system’.”

Expert by Experience, Law in the Making Project

Reforms in the Bill

- We therefore warmly welcome section 56 of the Bill which will help to ensure that survivors in England who already have a local authority tenancy, or an assured tenancy with a housing association, do not experience further barriers to escaping an abusive home.
- The provisions will guarantee the transfer of a secure tenancy for survivors who need to leave their home, have recently left their home, or need to terminate a joint tenancy, in order to escape an abuser.
- However as set out on page 16 of this briefing, local authorities do not currently take a consistent approach to rehousing women and children fleeing domestic abuse without a ‘local connection’ to their area. Many survivors will need to move their secure lifetime tenancy to a new local authority area in order to be safe from the perpetrator. The provision therefore must extend to women who need to be rehoused in a secure lifetime tenancy within a new local authority area.

“A lot of women I work with have a secure tenancy. They really don’t want to leave the secure tenancy. But then often they might not have a lot of choice (...) some women will prefer to (...) take massive risks ...than leave it.”

**Key Worker, Solace Women’s Aid:
quoted in *Finding the Costs of Freedom***

³³ Solace Women’s Aid (2019) ‘Safe as Houses? How the system is failing women and children fleeing abuse in London’. Available [online](#)

- **We urge Peers to support these provisions, and call for the Bill to make robustly clear that local authorities must rehouse survivors with a secure tenancy regardless of their local authority of origin or whether they have a ‘local connection’.**

Powers of Secretary of State

- Tackling domestic abuse must be everyone’s business, and impacts upon all government departments. However, there currently remains little cross-departmental working or joined-up funding for this issue. In particular we are concerned that there has been very limited engagement from the Department of Health and Social Care, the Department for Education or the Department for Work and Pensions on the Bill and the wider VAWG Strategy.
- This is of particular concern when the government’s own research estimates the annual cost of domestic abuse at £66 billion³⁴ impacting all areas of government and parts of society. Children’s services and health agencies are frequently cited in domestic homicide reviews as areas that need urgent improvement in their response to domestic abuse.³⁵
- **In order to ensure all government departments are taking responsibility for tackling domestic abuse, working together, and adequately funding protection and support for survivors, Women’s Aid supports the ‘general duties’ amendments proposed by the EHRC. These would provide a robust framework for accountability and action on domestic abuse across government, and require all Ministers to deliver in this regard.**

OTHER AMENDMENTS

Housing

- Safe and secure housing for survivors is a vital need. 70% of women killed by men between 2009-2018 were killed in their own home, or in the home they shared with the perpetrator.³⁶ A secure and consistent pathway to escaping an abusive partner is therefore a life-line.
- Too often, however, women and children fleeing abuse face years of homelessness, unsafe and unsuitable temporary accommodation – including hostels and B&Bs – and waiting for social housing. This instability can have severe and long-lasting impacts, increase welfare and housing costs, and impede recovery from trauma. Housing concerns are a major barrier for many women trying to escape domestic abuse - who can face a choice between staying with an abuser, or risking future housing insecurity and homelessness.
- The government needs to go far further to ensure all survivors secure a safe home. In addition to the welcome statutory duty, the priority need and secure tenancies provision, Women’s Aid is calling for Peers to deliver further reforms to the housing response to domestic abuse.

End local connection restrictions

- 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 face ongoing and severe threats to their safety from the perpetrator, and their family and friends.

³⁴ Home office. (2019). *The Economic and Social Cost of Domestic Abuse*. Available:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/772180/horr107.pdf

³⁵ For example “just over half (13/24) of the interpersonal homicide reports note that the GP missed opportunities to ask the victim about inter-personal violence.” In. Standing Together (2016). *Domestic Homicide Review – Case Analysis*. Available: http://www.standingtogether.org.uk/sites/default/files/docs/STADV_DHR_Report_Final.pdf

³⁶ Femicide Census (2020) *UK Femicides 2009-2018*. Published online: nia

- Women and children escaping to refuge, in particular, will often need to cross local authority boundaries to remain safe. On one day in 2017, over two thirds of women resident in refuge services in England had come from a different local authority area.³⁷
- Government guidance³⁸ makes clear that local connection rules should not apply in cases of domestic abuse. 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. Such restrictions including 'capping' the number on non-local women able to access the refuge, or requiring a specific proportion of women in refuge to be from the local authority area.
 - Homelessness teams refusing to support women escaping abuse because they are not from their local area. Nearly a fifth women supported by Women's Aid's No Woman Turned Away project in 2016-17 were prevented from making a valid homeless application on the grounds of domestic abuse, for reasons including that they had no 'local connection' to the area.³⁹
 - Local housing teams de-prioritising survivors who don't have a local connection within their housing allocation policy.
- The government already requires local authorities to make exemption for certain groups from these local connection requirements, or 'residency tests' – including for members of the armed forces⁴⁰ and those seeking to move for work.⁴¹
- To tackle these inconsistencies, a statutory bar on local authorities imposing local connection restrictions on refuges or any temporary or permanent accommodation should be included within the Bill, to sit alongside MHCLG's proposed statutory duty on local authorities to fund support in refuges and other forms of safe accommodation. This will ensure that all women and children fleeing domestic abuse can access safe accommodation, where and when they need to.
- **We are urging for Peers to support our amendment tabled by Lord Randall to bar local authorities from imposing dangerous 'local connection restrictions' on survivors of domestic abuse.**

Joint tenancies – social housing

- Survivors who seek to remain in their home often face significant barriers which force them to become homeless, needing to access local housing services, and carry the practical, economic, and emotional burden of starting again. For these survivors, research¹ highlights that sharing a joint tenancy with the perpetrator is the primary barrier to staying safely within their own homes.
- Alongside the statutory duty for accommodation-based services, it is vital the Bill also delivers legal solutions for survivors with joint tenancies to gain housing security and stay safely within their own homes long-term.
- To improve the existing complex, costly and uncertain routes to safety, we recommend a transfer of tenancy in the family court if a survivor of domestic abuse shares a joint secured or assured social tenancy with the perpetrator.

³⁷ Women's Aid, Data on Service Provision, 2017. [Accessible online.](#)

³⁸ Ministry of Housing, Communities and Local Government (2018), Homelessness Code of Guidance for Local Authorities. Available [online.](#)

³⁹ Women's Aid, [Nowhere to Turn: Findings from the First Year of the No Woman Turned Away Project](#), 2017 - 19% of 404 women supported by the NWTAP project.

⁴⁰ The Allocation of Housing (Qualification Criteria for Armed Forces) (England) Regulations 2012

⁴¹ The Allocation of Housing (Qualification Criteria for Right to Move) (England) Regulations 2015

- **We are urging for Peers to support the amendment tabled by Baroness Burt that will deliver this transfer of tenancy and enable a survivor to stability and housing security. This amendment has cross-party support.**

The presumption of parental involvement in the Children Act

Concerns about safe child contact in cases of domestic abuse

- Women's Aid recognises the importance of safe child contact, when it is proved to be in the best interests of the child and where the arrangements for contact prioritise the child's safety and wellbeing. A child's interests must be of paramount importance in all decisions made about his or her welfare, including within child contact arrangements.
- Section 1(2A) of the Children Act 1989 says that the family court is to presume that the involvement of a parent in the child's life will further the child's welfare, unless that would put the child at risk of suffering harm. This change was made to the Children Act in 2014. Concerns were raised at the time that it would strengthen the "contact at all costs" approach in the family courts.
- Although judicial guidance (Practice Direction 12J) makes clear that "the court must in every case consider carefully whether the statutory presumption applies, having 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"⁴², this is not as strong as the legal presumption. Since its introduction in 2014, the evidence suggests that the presumption leads to unsafe contact arrangements being ordered despite safety concerns for the child being raised.
- Women's Aid evidence, along with a significant body of academic research, demonstrates that the presumption undermines the court's ability to examine the impact of domestic abuse on children when making contact arrangements. This 'pro-contact' culture can lead to unsafe contact decisions which, in the most extreme cases, has resulted in children being seriously harmed and murdered. Women's Aid's *Nineteen Child Homicides* report documents the cases of 19 children, in 12 families, who had been killed in circumstances relating to child contact by a father who was a perpetrator of domestic abuse. 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 linked.⁴³
- Research published in 2017 by Cafcass, in partnership with Women's Aid, showed that: more than two thirds of the 216 child contact cases in the sample involved allegations of domestic abuse, yet in 23% of these cases, unsupervised contact was ordered at the first hearing.⁴⁴
- Women's Aid and Queen Mary University of London research in 2018 examined the experiences of survivors of domestic abuse in family proceedings, including the outcome of contact arrangements for children in 57 cases. The results, below, show that unsupervised contact in different forms, including overnight and weekend stays between the child and a parent who has been accused of domestic abuse, was by far the most common arrangement ordered. Echoing other studies in this area, supervised

"The fact finding hearing was in my favour. With police documentation, hospital records, photographs of my injuries, you name it, we had it. Yet still they pushed for contact."
Survivor

"[The report said] that my ex-partner would have unsupervised contact with the children at weekends. Despite his abuse towards me being assessed as high risk, it was considered he was no risk to the children."
Survivor

⁴² Ministry of Justice (2017) *Substituted practice direction: Practice direction 12J – Child Arrangements and Contact Orders: Domestic Violence and Harm*

⁴³ Women's Aid (2016), *Nineteen Child Homicides*, Bristol: Women's Aid

⁴⁴ Cafcass and Women's Aid. (2017) *Allegations of domestic abuse in child contact cases*. London: Cafcass.

contact was only ordered in only a low number of cases. Sole residence was awarded to the women's ex-partners more often than it was to the women themselves.⁴⁵

Table 7: Type of contact ordered	
Type of contact	Percentage of women who said this type of contact had been ordered in their case
No contact order was made	11% (6 women)
Sole residence was awarded to me	18% (10 women)
Sole residence was awarded to my ex-partner	21% (12 women)
Shared residence awarded	9% (5 women)
My ex-partner to have supervised contact at an accredited contact centre	7% (4 women)
My ex-partner to have supervised contact with a third party or volunteer	11% (6 women)
My ex-partner to have unsupervised contact visits	30% (17 women)
My ex-partner to have overnight stays	23% (13 women)
My ex-partner to have weekend stays	21% (12 women)
Other	49% (28 women)

The Ministry of Justice harm panel report

- In July 2020 the Ministry of Justice published the final report of its expert panel on assessing risk of harm to children and parents in family law children cases.³ Women's Aid and Welsh Women's Aid – alongside leading academics, senior members of the judiciary, and the Chief Social Worker for England – were members of the panel, and we warmly welcome its findings.
- The expert panel found that the *"presumption further reinforces the pro-contact culture and detracts from the court's focus on the child's individual welfare and safety."* The panel also concluded that there are currently deep-seated and systematic issues with how the family courts recognise and respond to allegations of domestic abuse, sexual violence and other forms of harm.
- The panel clearly concluded that the *"presumption should not remain in its present form"*, and *"recommend that the presumption of parental involvement be reviewed urgently in order to address its detrimental effects."*

Amendments needed

- The expert panel recommended that the presumption be 'urgently' reviewed in July 2020. This review was announced in November 2020 but will not report in time for the Bill to reach Royal Assent.
- Our amendment is a sensible 'holding position' while the review is ongoing. It clarifies for the court that the presumption does not apply in cases where there are allegations, findings or admissions of domestic abuse. The evidence is clear that this change is needed to protect women and children in family proceedings now.

⁴⁵ Birchall, J. and Choudhry, S. (2018) *What about my right not to be abused? Domestic abuse, human rights and the family courts*. Bristol: Women's Aid, p. 38. 57 out of 63 survey respondents answered this question. Respondents could choose multiple options and different types of contact – e.g. supervised and unsupervised, which may have been ordered at different stages of the process.

- Women's Aid is calling for the Bill to end the presumption in the Children and Families Act (that the welfare of the child is best served by the involvement of both parents) in cases of domestic abuse, replaced with child arrangements that are based on an informed judgement of a child's best interests and safety. We also want to see a safer approach to child contact where there are ongoing criminal proceedings for domestic abuse.
- Our proposed amendments, tabled by Lord Rosser and supported by Baroness Gardner, will:
 - Introduce an explicit statutory framework which makes clear the presumption that the involvement of a parent will further a child's welfare does not apply when there has been an allegation, admission or finding of domestic abuse to the child or other parent. This encourages fact-finding early on to determine the truth of such allegations. Whatever the outcome of that fact-finding exercise, the welfare principle, which is applied with the rights of both the child and the non-resident parent in mind, will then be applied by the court to ensure any orders made are in the child's best interests.
 - Prohibit unsupervised contact for a parent waiting trial or on bail for a domestic abuse, related offence or where there are ongoing criminal proceedings for domestic abuse.
- **We urge Peers to support amendments by Women's Aid, Rights of Women and Welsh Women's Aid to reform the presumption of contact in domestic abuse cases to protect children from harm.**

"In court I explained the situation to the judge who said my actions were 'wholly inappropriate', that he didn't believe me and that a father 'has a right to see their child'...I was ordered to take my son to the contact centre and wait for CAFCASS and psychologists reports. These reports stated that at age six, my son was having to judge his own safety, my husband's actions were causing further trauma, and that the contact centre was not providing enough protection. This took nearly six months which in the meantime meant that my son further suffered."

Survivor

Protection for migrant women

Women's Aid, as a member of the Step Up! Migrant Women UK campaign, is clear that the Bill must deliver full and equal protection for migrant survivors. The Istanbul Convention makes clear that victims should be protected regardless of immigration status⁴⁶ but the Bill contains no provisions to tackle the multiple forms of discrimination and often insurmountable barriers to support facing migrant women. We are supporting organisations led 'by and for' Black, minoritised and migrant women, we are calling for the Bill to deliver reform across three main areas:

1. Safe reporting

- Migrant women face severe barriers to reporting domestic abuse and seeking help. Perpetrators use immigration status as a form of coercive control - threatening to inform authorities, exploiting survivors' fears of deportation and destitution, and withholding information or documentation on their status. More than half of women surveyed by Kings College London and Latin American Women's Rights Service, reported they felt they would not be believed by the police because of their immigration status (54%), with more than half feeling that the police or the Home Office would support the perpetrator over them (52%).⁴⁷
- In many cases these abusive tactics and fears are upheld by the state through 'hostile environment' policies; data-sharing agreements between public services and immigration enforcement deter survivors without secure immigration status from accessing the services they need. In 2019 the Draft Bill Committee made a clear recommendation to Government to "establish

⁴⁶ Council of Europe Convention on preventing and combating violence against women and domestic violence, Article 59.

⁴⁷ Kings College London and LAWRS (2019). *The Right to be Believed*. Available: <https://stepupmigrantwomenuk.files.wordpress.com/2019/05/the-right-to-be-believed-key-findings-final-1.pdf>

*a firewall at the levels of policy and practice to separate reporting of crime and access to support services from immigration control.*⁴⁸

- In 2020 the investigation into the police super-complaint, brought by Southall Black Sisters and Liberty, on the police practice of sharing immigration data of victims of crime concluded clearly that it is causing significant harm. It found that victims of crime with insecure immigration status are fearful that, if they report to the police, their information will be shared with the Home Office and the crimes will not be investigated. It also concluded that there is no evidence that sharing of personal victim data between the police and the Home Office supports safeguarding of victims of domestic abuse.⁴⁹
- **As members of Step Up! Migrant Women campaign, Women's Aid supports calls led by the Latin American Women's Rights Service to separate immigration control from the public services survivors seek help from. We support Baroness Meacher's amendment to establish safe reporting mechanisms for survivors accessing vital public services, so they can safely report abuse to the police, social services, health professionals and others with confidence they will be treated as victims and without fear of immigration enforcement.**

2. No recourse to public funds

- Survivors with 'No Recourse to Public Funds'⁵⁰ (NRPF) currently often face insurmountable barriers to accessing support. Without access to public funds they are not eligible for welfare benefits, which are required to cover the cost of a stay within a refuge service. Very few refuge services, which face a funding crisis, are able to cover the costs of a woman's stay without this funding; only 5.8% of refuge vacancies in England in the year 2017-18 would even consider a woman with NRPF.⁵¹
- Since 2016, Women's Aid's No Woman Turned Away project has supported nearly 1000 survivors who are struggling to access a refuge space. Each year, between 20%-25% of women refused access to a refuge space had NRPF.⁵²
- The Destitution Domestic Violence Concession (DDVC) - secured through advocacy from 'by and for' the Black and minoritised women's sector - is a life-line to support, providing survivors with welfare benefits for three months so they can stay in refuge while applying for indefinite leave to remain under the Domestic Violence Rule (DVR). However, the DDVC and DVR are only available to those on spousal visas, where their spouse or partner is a British citizen or has settled status in the UK.
- Many migrant survivors are therefore barred from accessing this protection:
 - 67% of the women supported by our No Woman Turned Away project in 2016 who had NRPF were not eligible for the DDVC.⁵³
 - Advice can only be provided by an immigration solicitor or barrister, or an accredited immigration adviser⁵⁴ - and, given legal aid restrictions, accessing this advice can be a severe challenge. 25% women

Magda's story

Magda was a woman with NRPF seeking refuge with one child. She was unable to access the housing benefit she needed to stay in refuge, and was told by social services that her only option was to return to 'her own country'. She gave up her search and stayed with the perpetrator.

⁴⁸ House of Lords, House of Commons, [Joint Committee on the draft Domestic Abuse Bill](#), First Report of Session 2017-19

⁴⁹ HM Inspectorate of Constabulary and Fire and Rescue Services (HMICFRS), the College of Policing (CoP) and the Independent Office for Police Conduct (IOPC), Safe to Share? Report on Liberty and Southall Black Sisters' super-complaint on policing and immigration status, 2020

⁵⁰ Including those with insecure status, undocumented migrants, asylum seekers and European Economic Area (EEA) nationals

⁵¹ Women's Aid (2019) The Domestic Abuse Report 2019: The Annual Audit, Bristol: Women's Aid.

⁵² Women's Aid, Nowhere to Turn: Findings from the First, Second and Third Years of the No Woman Turned Away Project, 2017, 2018 and 2019.

⁵³ Women's Aid, Nowhere to Turn: Findings from the First Year of the No Woman Turned Away Project, 2017. [Accessible online.](#)

⁵⁴ An immigration adviser registered with the Office for the Immigration Services Commissioner and accredited to provide immigration advice and services at Level 1 or above.

with NRPF supported by the NWTa project who were eligible for the DDVC were then unable to access advice to apply for it.⁵⁵

- The DDVC provides access to public funds as long as a woman applies for leave to remain within three months. For women escaping their abuser and who are experiencing trauma this timeframe is often not sufficient to enable them to undertake this process.
- The experiences of survivors with NRPF unable to access refuge are shocking. Only 11% of the women with NRPF supported by the NWTa project in 2019 were accommodated in a suitable refuge. Many had to sleep rough, sofa surf or even return to the perpetrator while they waited for help.⁵⁶ Urgent changes to the DDVC and DVR are required to ensure that migrant women can access these basic protections.
- We share the concerns of Southall Black Sisters and Latin American Women's Rights Service that the findings of the Government's Migrant Women Review show "a lack of meaningful engagement with the evidence that was submitted by key specialist organisations, resulting in inaccurate, poor and misleading analysis and conclusions"⁵⁷. We do not agree that a pilot is needed to collate further evidence, when the scope of the problem and the urgency of improving protection and support in accordance with the Istanbul Convention are clear.
- **We urge peers to support Southall Black Sisters amendments to the Bill, which will ensure access to public funds, and extend eligibility for the existing Domestic Violence (DV) Rule and Destitution Domestic Violence Concession (DDVC), to all migrant women experiencing domestic abuse.**

3. Non-discrimination

- Article 4(3) of the IC sets out that the provisions in the treaty "shall be secured without discrimination on any ground" including "migrant or refugee status, or any other status."⁵⁸
- Given the extent and range of barriers migrant women face in accessing protection and support, we are not assured that the government will be compliant with this article after the Convention is ratified.
- **Women's Aid supports the End Violence Against Women and Girls (EVAW) Coalition's amendment to ensure all survivors of domestic abuse can equally access support, welfare systems and legal tools that provide protection from abuse, without discrimination on any grounds, in accordance with the language in Article 4(3) and fundamental principle of the Istanbul Convention.**

"Being a non-citizen of UK keeps women in fear of being deported, not helped, no rights to benefits and fear from their children to be separated from them. Returning back to face trial and accusation becoming further subject to different kinds of abuse."
Expert by Experience, Women's Aid's Law in the Making Project

Welfare reform impact assessment

- Access to welfare benefits is vital to ensure women can access the financial support they need to escape and rebuild independent lives. A robust safety net that enables survivors to escape and rebuild independence is a lifeline. However, the cumulative impacts of numerous changes to welfare reform policy in recent years are having serious consequences for survivors. This includes the benefit cap, the two child limit, and the under occupation deduction ('bedroom tax'). For example, the European Court of Human Rights has recently upheld a challenge to the

⁵⁵ Women's Aid, *Nowhere to Turn: Findings from the First Year of the No Woman Turned Away Project*, 2017. [Accessible online.](#)

⁵⁶ Women's Aid, *Nowhere to Turn: Findings from the First Year of the No Woman Turned Away Project*, 2017. [Accessible online.](#)

⁵⁷ Southall Black Sisters & Latin American Women's Rights Service (2020) *Migrant Victims of Domestic Abuse Review Findings: a response*. Available [here](#)

⁵⁸ [Council of Europe Convention on preventing and combating violence against women and domestic violence](#), Article 59.

benefit cap for penalising a woman with a panic room in her home to stay safe from an abuser.⁵⁹

- Women's Aid also remained seriously concerned about the impact of Universal Credit (UC) on survivors. The design of Universal Credit risks exacerbating economic abuse for survivors, and poses an additional barrier to their ability to escape abusive relationships. Reforms are also needed to ensure Universal Credit works effectively in refuges, where women who have escaped domestic abuse struggle with the complexity of making a claim and face lengthy delays to accessing income.
- In August 2018 the cross-party Work and Pensions Select Committee made clear that the single household payments for UC "could put claimants living with domestic abuse at risk". **Women's Aid therefore support amendments tabled by Baroness Lister that seek to address additional barriers posed by Universal Credit.**
- Welfare reforms are restricting the resources women need to leave; we receive direct reports from our member services about the stark choices between poverty and safety that women are being forced to make as a result of welfare changes. This has sharply increased during COVID 19 – our member services have reported serious concerns about women's access to food and basic essentials.
- The government currently has to retrospectively revise welfare policies because of unintended consequences, which is inefficient and time consuming. Welfare reforms which do not consider survivors needs in the 'design stage' risk undermining the government's intention to transform the response to domestic abuse - including economic forms of abuse - through the Bill. Although the government's consultation on the Bill stated the intention to '*identify practical issues that make it harder for a victim to escape*' and '*consider what can be done to help victims of economic abuse*', no mention of welfare reform policy has been made throughout the proposes.
- The range and severity of concerns with the current welfare reform agenda demonstrates that a new approach is needed. It is vital that the impacts - and unintended consequences - of social security policies on survivors' safety are robustly assessed before implementation in the future.
- **We are urging Peers to support Women's Aid's amendment, tabled by Baroness Lister, to establish a duty on government to assess social security policies for their impact on survivors**, with specific focus on the ability of women to escape abusive relationships and rebuild their lives.

Benefit cap

- The 'benefit cap' - a limit on the total level of benefits⁶⁰ - that a household can receive - was introduced in 2013 and has impacted a quarter of a million households since⁶¹. In 2016, the limit was lowered to £23,000 in London (£15,410 for single people) and £20,000 (£13,400 for single people) in the rest of the country.
- The government's evaluation shows that only 5% of households moved into work because of the cap, which is largely impacting on lone parents and those with an illness or disability.⁶² The cap is having a devastating impact on single women with children and, consequently, survivors

⁵⁹ http://www.hmsolicitors.co.uk/news/category/item/index.cfm?asset_id=1751

⁶⁰ Benefits that count towards the cap include: Income Support, Jobseeker's Allowance, Income related Employment and Support Allowance, Incapacity Allowance, Maternity Allowance, Child Tax Credit, Child Benefit, and Housing Benefit.

⁶¹ Department for Work and Pensions, Benefit Cap Data to May 2019.

⁶² House of Commons Work and Pensions Committee, The benefit cap, March 2019, HC 1477

- 7 out of 10 capped households are single parent families, of which 69% had at least one child under the age of five years and 24% had a child under two years of age at May 2019⁶³. Around 90% of single parents are female, so it is unsurprising that single female parents make up 85% of all householders whose benefits have been capped.⁶⁴
- The cap increases the barriers women face in leaving an abuser. There is no free childcare before the age of two, meaning that lone parents with young children can often not work enough hours to avoid the impact of the cap. This issue is particularly acute where a woman has fled domestic abuse and is far from her support network, so is unable to rely on friends or family for childcare and may be unable to work due to the abuse she has experienced.
- The cap also restricts survivors' abilities to find a safe new home or move on from refuge, as their benefits may not cover the costs of housing - either in social housing or the private rented sector. This can lead to 'bed blocking' - where women ready to leave a refuge are stuck in the service, blocking spaces that other survivors fleeing abuse desperately need.
- DWP states that Discretionary Housing Payments (DHPs), which are paid by local authorities, are available for survivors in such circumstances. However DHP allocations remain inconsistent, short-term and dependent on different councils' policies and practices - a 'postcode lottery'. They are not monitored by the government centrally so it is impossible to know whether they are providing an effective solution.
- **We support the amendment tabled by Baroness Lister which exempts survivors of domestic abuse from the benefit cap whilst making a new universal credit claim in her own name.**

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 abuse⁶⁵ and we hear that survivors face significant difficulty in navigating HR policies and retaining a job at what is an incredibly traumatic time.
- 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. The New Zealand legislation included a number of key details, including:
 - Survivors not needing to provide proof of their circumstances
 - Being entitled to fast-tracked flexible work conditions designed to ensure their safety, such as changing their work location
 - Changing their email address
 - Having their contact details removed from the business's website
- Whilst some organisations already provide paid leave to their employees, it is vital that all survivors, no matter who they work for, are able to access this support.
- We welcomed the Department for Business, Energy and Industrial Strategy's review into domestic abuse and the workplace, which reinforced the important role that employers can play. However, despite the review highlighting that best practice included implementing an internal policy and introducing paid leave for survivors, the department's recommendation only

⁶³ Department for Work and Pensions, Benefit Cap Data to May 2019.

⁶⁴ ONS, Families and households, 2017. Table 1.

⁶⁵ Trades Union Congress, Domestic Violence in the Workplace: A TUC Survey Report, August 2014.

committed to a further review. We are clear that the Bill provides a clear opportunity to address this issue.

- **We urge Peers to support the amendment tabled by Lord Kennedy that will deliver requirements on employers to provide a period of paid leave and other flexible working arrangements for survivors of domestic abuse.**

Statutory Defense

- The majority of women in prison are survivors of domestic abuse and many have been driven to offend as a direct result of that abuse; 57% of women in prison report having been victims of domestic abuse as adults⁶⁶, though this is likely to be an underestimate⁶⁷. The case of Sally Challen highlighted the devastating impact of coercive and controlling behavior, and the lack of legal protection for survivors who offend because of the abuse they are experiencing.
- Whilst a statutory defence exists for victims of modern slavery, no such protection is currently in place for victims of domestic abuse. The Prison Reform Trust is calling for a new statutory defence and an amendment to the law on self-defence in the Bill for those whose offending is driven by their experience of domestic abuse. The amendments to tackle current gaps in legal protection for survivors, strengthen recognition of the links between victimisation and offending and deter inappropriate prosecutions.
- **Alongside the Victims Commissioner and Domestic Abuse Commissioner, Women's Aid supports the Prison Reform Trust's proposals for improved legal protection for survivors who are driven to offend by their experience of abuse.**

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. However reforms to pre-charge bail in the Policing and Crime Act 2017 led to 65% decrease in the use of bail.⁶⁸ This means 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 reforms also 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.
- Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services (HMICFRS) inspection into the police and Crown Prosecution Service's (CPS) responses to pre-charge bail following the reforms found that: too little consideration was given to how bail legislation changes would affect victims; 'released under investigation' (RUI) leaves too many victims without the protection that bail conditions can provide; the police don't seek the views of the victim when deciding whether to bail a suspect and impose conditions; and RUI cases are given less priority than bail cases.⁶⁹
- In addition, when bail conditions are not imposed, we hear that the police are 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.

⁶⁶ Ministry of Justice (2014) Thinking differently about female offenders. Transforming Rehabilitation, Guidance Document.

⁶⁷ Gelstrop, L., Sharpe, G. and Roberts, J. (2007) Provision for women offenders in the community, London: Fawcett Society

⁶⁸ Her Majesty's Inspectorate of Constabulary, Fire and Rescue Services, PEEL: police effectiveness 2017 - a national overview, March 2018

⁶⁹ HMICFRS and HM Crown Prosecution Service Inspectorate (HMCPISI) (2020) Pre-charge bail and released under investigation: striking a balance. Published [online](#).

- On 14th January 2021 the government announced their intentions to bring in new laws to reform pre-charge bail - named 'Kay's Law' in memory of Kay Richardson, who was murdered by her ex-partner following his release under investigation, despite evidence of previous domestic abuse. The government will bring these measures before Parliament in a criminal justice bill, which will be introduced 'as soon as parliamentary time allows'.
- **We welcome this commitment and urge that these reforms take place swiftly to ensure pre-charge bail is routinely used in domestic abuse and sexual offences cases to safeguard victims.**

Routine Enquiry

- Survivors 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.
- The pre-legislative scrutiny committee urged the Government to consider how there might be greater consistency in approach across the UK, particularly in terms of the provision of public service early interventions and training for front-line staff in publicly funded services in order to transform the response to domestic abuse.
- When the Government responded to these recommendations 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 Agenda⁷⁰ 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 varies 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 urge Peers to support the amendment tabled by Baroness Armstrong, Baroness Crawley, Baroness Ritchie, and Lord Hunt calling for a duty on all public authorities to train those staff who provide a service to people who suffer or may suffer domestic abuse to make enquiries about domestic abuse.**

"I found that I wasn't taken seriously for a long time because I didn't "appear" to be sick."
Survivor

Post-Separation Abuse and Coercive Control Legislation

- Abuse perpetrated by an ex-partner is a substantial proportion of the domestic abuse that takes place in England and Wales – often involving coercive and controlling behavior, and economic abuse.
- However, existing laws on stalking and harassment do not adequately cover all forms of abuse occurring after separation, including coercive control and economic abuse. The offence of controlling or coercive behavior in the Serious Crime Act 2015 is currently limited to those living together or in an existing relationship, due to the restrictive definition of 'personally connected' in the Act.
- This definition is not in line with the definition of 'personally connected' in the Domestic Abuse Bill, which defines this phrase and thereby domestic abuse more widely, so that it covers abuse which occurs after a couple are no longer in a relationship or living together. There is therefore

⁷⁰ Agenda (2019) *Ask and Take Action: Why public services must ask about domestic abuse*

an inconsistency between the criminal law and the new statutory definition of domestic abuse being introduced by the Bill.

- **We therefore urge Peers to support the amendment tables by Baroness Lister, Lord Harries, Baroness Bertin and Lord Rosser to extend the offence of controlling or coercive behavior to include post-separation abuse.**

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% or 17% - as compared to only 3% of male homicides.⁷¹ 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 attempt.⁷²
- There is currently no distinct offence of non-fatal strangulation or asphyxiation⁷³ 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).
- However, since the second reading of the bill in the House of Lords, the government has announced it is set to make non-fatal strangulation a specific criminal offence, and is intending to include this new offence in the Police and Sentencing Bill.
- **We urge Peers to support the amendment as tabled by Baroness Newlove, Baroness Wilcox, Baroness Meacher, and the Lord Bishop of London, to include this new offence within the Domestic Abuse Bill to ensure this protection is available to survivors at the earliest opportunity.**

Disabled survivors

- We share concerns that the Bill does not go far enough in addressing the additional barriers to protection and support facing Deaf and disabled survivors, and their intersectional needs. This is of particular concern when we know that disabled women are three times more likely to experience domestic abuse than non-disabled women⁷⁴, and that this abuse is often perpetrated by those whom they rely on for care and support.
- Deaf and disabled survivors may also face specific forms of abuse, including; control of communication, medication (and over/under medication), restricting access to disability support or equipment, rough treatment when being assisted, and using the person's impairment to control them. There are also often severe barriers to escaping domestic abuse for Deaf and disabled survivors, from a lack of accessible information to inaccessible services. For example, during 2018–19 only 0.9% of refuge vacancies in England were in rooms fully accessible for wheelchairs and a further 1.0% were suitable for someone with limited mobility.¹⁸
- It is essential that all the provisions in the existing Bill and the amendments put forward meet the needs of disabled survivors. For example, amendments to the statutory duty on local authorities to provide accommodation-based services covered on page 7, and amendments put forward to ensure the ratification of the Istanbul Convention detailed on page 12.

⁷¹ Office for National Statistics Homicides in England and Wales year ending March 2019

⁷² Thomas, Joshi and Sorenson (2014) https://repository.upenn.edu/cgi/viewcontent.cgi?article=1190&context=spp_papers

⁷³ 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.

⁷⁴ Office for National Statistics (2018) Women most at risk of experiencing partner abuse in England and Wales

- Women's Aid *Experts by Experience* group made recommendations in regard to accessible information for survivors for example braille, large print and British Sign Language. **We therefore urge Peers to support the amendment tabled by Lord Ramsbotham, Baroness Andrews, Baroness Finlay and Baroness Burt to ensure that all information and communication relating to support is provided in an accessible and inclusive formats.**
- **We support Stay Safe East's recommendations to ensure the proposed definition includes paid and unpaid carers within the list of 'personally connected', and urge Peers to support amendments tabled by Lord Rosser to this effect.**
- There are a number of further calls from specialist services to improve support for disabled survivors which Women's Aid support, including:
 - Stay Safe East's call for the repeal of the 'carer's defence' clause in the 2015 Serious Crime and Domestic Violence Act.
 - Extension of the Domestic Violence Easement so it is available to survivors claiming Employment Support

"There was a lack of understanding in relation to disability and issues around gender-based violence. I found that services were not accessible. There was a lack of information in accessible formats."

**Survivor oral evidence,
Committee Stage**

Law in Making Experts by Experience briefing available [here](#).

⁷⁵ Violence Against Women, Domestic Abuse and Sexual Violence (Wales) Act 2015. Available [online](#)