

Women's Aid Briefing on the Domestic Abuse Bill

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). Despite welcome changes made by the government to the Bill, we remain highly disappointed by the failure of this law to guarantee equal protection and support for migrant women and deliver the wider changes that survivors and their children need. On International Women's Day, we urge all members of the House of Lords to ensure the Bill protects all survivors, regardless of immigration status.

Women's Aid's key priorities for the Domestic Abuse Bill are:

- 1. The statutory duty:** There is a 30% shortfall in the number of refuge spaces and 57% of referrals to refuges were turned away in 2019-20.¹ The statutory duty on local authorities to fund support in 'accommodation based' services could help tackle this crisis, but without reform we fear survivors will be put in unsafe and unsuitable forms of housing. The Bill nor accompanying statutory guidance do not define specialist refuge services – who deliver lifesaving, expert support that women and children need – at all. Without changes the duty will also not align to the Istanbul Convention, and risks specialist domestic abuse services being undercut by cheaper, generic providers – as recently happened to RISE in Brighton, who have lost their refuge service to a housing association. Stronger oversight is required to safeguard the future of this national network of services – including specialist refuges led 'by and for' Black and minoritised women, many of whom are not funded or commissioned by their local authorities. The £125 million announced by the government for the duty is welcome, however we estimate that £173.8 million is needed for refuges alone and wider investment is needed in community based services².
- 2. Protection for all survivors:** Survivors facing additional forms of discrimination – including Black and minoritised women, Deaf, disabled, and blind women, migrant women and LGBT+ survivors – continue to face acute barriers to protection, safety and support. Whilst the Bill crucially ratifies the Istanbul Convention, the legislation does not meet key commitments in this landmark treaty on VAWG – including, most urgently, equal protection and support for migrant women. No survivor should be left without access to a safety net and it is essential the Bill delivers reforms to no recourse to public funds (NRPF) and to safe reporting for migrant women. We urge all Peers to support amendments tabled by Baroness Meacher and the Lord Bishop of Gloucester in this regard.
- 3. Housing, welfare and family courts:** whilst improvements to the criminal justice response to domestic abuse are needed - and we welcome government amendments on non-fatal strangulation, threats to share intimate images and post-separation coercive control - survivors' priorities for change are housing, the welfare system, the family courts and protection and support for children. Amendments debated at Committee Stage highlighted simple solutions to real problems which would make a huge difference to survivors. It's vital that we do not miss the opportunity provided to deliver these reforms.

This briefing sets out our recommendations for the Bill based on expertise developed with survivors - including a group of *experts by experience*³ from across the country - and Women's Aid's national network of member services across England.

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¹ Women's Aid (2021) The Domestic Abuse Report 2021: The Annual Audit, Bristol: Women's Aid.

² Women's Aid (2019) Funding Specialist Support for Domestic Abuse Survivors Bristol: Women's Aid.

³ Women's Aid's Law in the Making project: <https://www.womensaid.org.uk/what-we-do/campaigning-and-influencing/campaign-with-us/law-in-the-making/>.

1. Statutory duty on local authorities

Why it is needed

Demand for life-saving refuge services far outstrips supply. 57% of total referrals to refuge services were declined in 2019-20, and England was 30% below the recommended level of spaces⁴. 70% of women killed by men from 2009 – 2018 were killed in their own home, or the home they shared with the perpetrator,⁵ demonstrating the vital need for survivors to be able to access safety.

61% of women living with their abuser during the first national lockdown said the abuse had worsened⁶. COVID 19 has also created enormous pressures on the refuge services women and children need, and during 2020 there were 21% fewer vacancies in refuges compared to 2019.

Yet refuges continue to face a competitive tendering crisis which pits specialist women's services against large, business-like organisations who can compete on cost, but never on quality. In January 2020, RISE - a Sussex-based specialist domestic abuse service who have supported survivors for 26 years – lost their refuge service to a housing association, after a procurement process which didn't assess providers on 'social value' at all. The competitive tendering crisis is disproportionately impacting organisations led 'by and for' Black and minoritised women. Our latest research demonstrates that, as a result, the national network of refuges is propped up by services who are not funded or commissioned by their local authority at all:

- 18.5% of all refuge bedspaces running in November 2020 were not funded through local authority commissioning;
- 57% of spaces in refuges led 'by and for' Black and minoritised women are not commissioned by local authorities, demonstrating the disproportionate impact of the funding crisis upon these highly specialist services⁷.

The funding crisis facing refuges has devastating consequences for survivors; **just under 40% of women we supported who were struggling to access refuge in 2019 were forced to sofa-surf or sleep rough while they waited for a space⁸**. Black and minoritised women, women with no recourse to public funds, Deaf and disabled women, women with mental health and substance use needs and LGBT+ survivors continue to face significant barriers to accessing refuge.

Changes required

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, to meet the full range of women and children's support needs in a safe and supportive environment. It is well evidenced that these specialist services are best delivered by women's organisations, and by experienced staff who have in-depth knowledge

⁴ Women's Aid (2021) The Domestic Abuse Report 2021: The Annual Audit, Bristol: Women's Aid.

⁵ Femicide Census, UK Femicides 2009-2018

⁶ Women's Aid. (2020) A Perfect Storm: The Impact of the Covid-19 Pandemic on Domestic Abuse Survivors and the Services Supporting Them. Bristol: Women's Aid.

⁷ Women's Aid. (2021) Fragile funding landscape: the extent of local authority commissioning in the domestic abuse refuge sector in England 2020, Bristol: Women's Aid

⁸ Women's Aid (2020) Nowhere to Turn 2020 – Findings from the fourth year of the No Women Turned Away project, Bristol: Women's Aid

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.

The Istanbul Convention makes clear that temporary accommodation and general forms of homelessness provision are not sufficient to meet the needs of women and children escaping violence and abuse⁹. 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, with landlords using the exempt provisions of Housing Benefit to access higher rent levels.

Whilst the Bill now contains an important legal duty on local authorities to deliver support to survivors of domestic abuse in "accommodation-based services", we are highly concerned that the Bill does not mention 'refuge services' at all. Women's Aid and Imkaan, the national second-tier women's organisation dedicated to addressing violence against Black and minoritised women and girls, developed amendments to address the following key concerns with the current duty which were debated during Committee Stage:

- **Requirements for local authorities to fund specialist refuge services**, not generic forms of accommodation that can be unsuitable and unsafe for women and children, and do not provide the expert support that survivors escaping abuse need to cope and recover from trauma. There is a real risk that women and children could be placed in unsafe forms of accommodation, with support delivered by organisations with no experience in domestic abuse, unless the definitions in the Bill are amended. During Committee Stage in the Lords, the Minister stated that regulations and statutory guidance will address these concerns. However, **the draft statutory guidance published by the government does not distinguish between specialist women's refuges and support delivered by generic housing organisations at all. Although guidance will require services funded under the duty to hold 'MHCLG's quality standards', these are not assessed and therefore mean very little. Without changes, the duty will not align to the standards set in the Istanbul Convention.**
- There are robust **national oversight arrangements** to ensure the national network of refuges can operate safely. With over two thirds of women residents in refuge coming from a different local authority area, a duty which places responsibility on local government to undertake local needs assessments alone just will not work for this national network of services¹⁰. Services led 'by and for' black and minoritised women, migrant women, and disabled and LGBT+ survivors, are also typically run across different local authorities and meet the needs of survivors across wide geographic areas. During Committee Stage, the Minister recognised that many victims will escape to a refuge in a different local authority area, but provided no solution as to how local authorities will assess this national need for support. **A national needs assessment for refuge services and a national oversight group of experts to monitor the duty** remains essential.
- The Spending Review in November 2020 announced that the government will deliver £125million in 2021-22 to local authorities to implement the duty. 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 base services**¹¹. We have

⁹ Council of Europe (2011) Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence

¹⁰ Women's Aid (2018) Survival and Beyond: The Domestic Abuse Report 2017. Bristol: Women's Aid

¹¹ Women's Aid (2019) Funding Specialist Support for Domestic Abuse Survivors Bristol: Women's Aid

published the methodology for our estimate and whilst we welcome the funding announced, we remain unclear how the government's spending commitment has been developed. We are also calling for dedicated funding for specialist refuges led 'by and for' Black and minoritised women and other marginalised survivors, as many are receiving no local authority funding at all. The new funding model must ensure sustainability for these services, which are often supporting survivors across the country but are not seen as 'local priorities'.

2. Protection for all survivors

The Istanbul Convention

Domestic abuse is a devastating form of VAWG - a cause and consequence of women's inequality. By including measures to deliver extra-territorial jurisdiction over VAWG offences, the Bill enables the UK government to finally ratify the Council of Europe Convention on preventing and combating violence against women and domestic violence (the 'Istanbul Convention'). This landmark international treaty requires states to take comprehensive action to protect the rights of all victims but we are seriously concerned that the Domestic Abuse Bill itself fails to do so.

"We cannot help you because we don't have responsibility for you." I showed what had happened to me and explained that I did not have any place to go. The police officer turned to me and said, "We are not a hotel."

**Survivor oral evidence,
Committee Stage**

Protection and support for migrant women

Ensuring full and equal protection and support for migrant survivors is an urgent priority for the Bill. During a public health emergency, it is crucial that every woman, regardless of her immigration status, is protected.

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%)¹².

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. 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**¹³.

Migrant women with no recourse to public funds (NRPF) face insurmountable barriers to accessing support services, including refuges. The housing costs of refuge services are largely met through housing benefit, but women with NRPF, due to their immigration status, are

¹² Kings College London and LAWRS (2019). *The Right to be Believed*. Available [online](#)

¹³ 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*

unable to access welfare benefits. Due to the continuing funding crisis facing refuge services, most are unable to cover housing costs without benefits or other funding in place; **only 4% of refuge vacancies are accessible to women with NRPF¹⁴. The options facing women with NRPF unable to access a refuge space are shocking** – homelessness or being forced to return to the perpetrator. The destitution of migrant women, who have no access to statutory support, is a severe concern within COVID 19.

"I have no benefits, nothing, and I cannot apply for indefinite leave ... My only chance is to go back to him."

Survivor

As participants in the government's 'migrant women' review, we share the concerns of Southall Black Sisters and Latin American Women's Rights Service that the findings of the 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*"¹⁵. **We do not agree that a pilot is needed to collate further evidence, when there is clear evidence about the scale of the problem and the urgency of improving protection and support in accordance with the Istanbul Convention.** We support the recommendations of the Step Up Migrant Women campaign¹⁶, urging the government 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. Whilst the Minister suggested that legislation is not needed to comply with Articles 4, evidence to the House of Lords International Agreements Committee by the Minister Victoria Atkins has now suggested that, in order to ratify the Convention, the UK may need to enter reservations in respect of the provisions which relate to non-discrimination on the grounds of immigration status¹⁷. It is vital that the government adopts non-discrimination amendments proposed by EAW, and ratifies the Convention without any further delay.
- Amend the Bill to include a provision establishing **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 that they will be treated first and foremost as victims and without fear of immigration enforcement. During Committee Stage, the Minister stated "*there can be many benefits to sharing information (for the victim)*"¹⁸, however as stated above the **police super complaint concluded that sharing of victim data causes significant harm.**
- **Extend eligibility for the existing Domestic Violence (DV) Rule and Destitution Domestic Violence Concession (DDVC) to all migrant women experiencing or at risk of abuse**, to ensure all survivors – whether on student visas, domestic workers or others – can escape abuse. During Committee Stage, the Minister claimed that expanding the scope of the DDVC or DV Rule would "*would lead to more exploitation of our immigration system*"¹⁹. There is no evidence to support this, and it directly contradicts the government's position that "**anyone who has suffered abuse, regardless of their immigration status, should first and foremost be treated as a victim**".²⁰
- As recommended by *experts by experience*, explore means to ensure serial perpetrators of domestic abuse are not able to apply for multiple spousal visas.

¹⁴ Women's Aid (2021) The Domestic Abuse Report 2021: The Annual Audit, Bristol: Women's Aid.

¹⁵ Southall Black Sisters & Latin American Women's Rights Service (2020) Migrant Victims of Domestic Abuse Review Findings: a response. Available [here](#)

¹⁶ https://drive.google.com/file/d/1rrLwxJtRdlqGseByDUOb8_QoHQY5YTrA/view

¹⁷ <https://committees.parliament.uk/publications/4670/documents/47065/default/>

¹⁸ <https://hansard.parliament.uk/Lords/2021-02-01/debates/3D604C08-7BD7-46DF-A1F6-71B8A7DB91B5/details>

¹⁹ <https://hansard.parliament.uk/Lords/2021-02-08/debates/0AD1E051-A663-45F6-ADE9-5683C1F79BC0/DomesticAbuseBill>

²⁰ <https://hansard.parliament.uk/Lords/2021-02-08/debates/0AD1E051-A663-45F6-ADE9-5683C1F79BC0/DomesticAbuseBill>

Protection for Deaf, disabled, and blind survivors

Disabled, Deaf and blind women face increased risks of gender-based violence²¹. Domestic abuse is often perpetrated by those whom they rely on for care and support, and there are often severe barriers to escaping. It can often take numerous attempts to leave because of the lack of understanding of disability within statutory and non-statutory organisations, a lack of information available in alternative formats, and poor provision of accessible refuge space. Changes to the Care Act 2014 during the pandemic are a particular concern for women with disabilities, who have seen their support arrangements disrupted. During 2019–20 only 0.9% of refuge vacancies in England were in rooms fully accessible for wheelchairs and a further 1.2% were suitable for someone with limited mobility²². The Bill must ensure disabled survivors have equal access to protection, support and justice.

"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**

- *Experts by experience* recommend a **duty on public sector bodies and support services to provide information in alternative formats** including braille, large print and audio. During the current COVID 19 crisis, all government communications must be made accessible for all, including translation into British Sign Language.
- We support **Stay Safe East's recommendations²³ to ensure the proposed definition includes paid and unpaid carers within the list of a 'personal connection'**, and for the repeal of the 'carer's defence' clause in the 2015 Serious Crime and Domestic Violence Act. We do not agree with the Minister's comments during Committee Stage that the "*defence is entirely necessary*"²⁴. **Stay Safe East have rightly highlighted that the clause has the potential to prolong the abuse of disabled survivors**, particularly due to the barriers disabled survivors face in disclosing and being believed.

Gendered approach

All victims of domestic abuse need support, but the response required for men and women is different because they have different experiences and needs. The Istanbul Convention also requires states to take a gendered approach when implementing laws and policies on domestic abuse²⁵. However one of the key elements of the Bill, the statutory definition, does not do this. This is particularly concerning 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. Whilst there is clear and established evidence that women escaping and recovering from abuse require women-only services, these services continue to be

undermined and put at risk by 'gender neutral' funding and commissioning decisions. The recent procurement process which led to RISE losing its refuge service for women in Brighton and Hove was 'intentionally gender neutral', ignoring the fundamental importance of women-only services for survivors.

"It is crucial that the gendered context of domestic abuse is recognised on the face of the Bill"

**Joint Committee on the Draft
Domestic Abuse Bill, June 2019**

²¹ Office for National Statistics (ONS). (2018) Domestic abuse: findings from the Crime Survey for England and Wales: year ending March 2017.

²² Women's Aid (2021) The Domestic Abuse Report 2021: The Annual Audit, Bristol: Women's Aid

²³ <https://drive.google.com/file/d/1GBA95OxOxOHMzmx3n3Pztag03uHbtn9gkD/view>

²⁴ <https://hansard.parliament.uk/lords/2021-02-08/debates/0AD1E051-A663-45F6-ADE9-5683C1F79BC0/DomesticAbuseBill>

²⁵ [Article Six](#), Council of Europe Convention on preventing and combating violence against women and domestic violence (2011)

Women will continue to be at risk of violence, and fail to access the support they need, if the government and statutory services fail to acknowledge the gendered nature. **The gendered dynamics, impact and consequences of domestic abuse must be included in the definition, or the preamble to the Bill, as a gendered definition is crucial for the right response.**

There is also no inclusion in the definition of the types of abuse disproportionately experienced by Black and minoritised women²⁶, including forced marriage and so-called 'honour-based' abuse, although there is a proposal to include these in statutory guidance. It also fails to offer better support to British Jewish women who are refused a 'Get'²⁷. If a husband refuses, the woman cannot remarry within their faith. **It is therefore crucial that 'Get refusals' are recognised as a specific form of domestic abuse within the statutory definition to ensure Jewish women are protected and can access a domestic abuse protection order (DAPO) on the grounds that a 'Get' is being withheld by an abuser.**

'Parental alienation' or alienating behaviour

'Parental alienation' has been increasingly invoked in the family courts in recent years²⁸, but there is a dearth of robust empirical studies to back up the concept and no reliable data on its prevalence²⁹. We are also seeing an increased use of the term 'alienating behaviour' or descriptions including behaviour deliberately designed to damage the relationship between a child of the parent and the other parent.

There remains no robust evidence to back up this concept, or data demonstrating its prevalence. Studies also demonstrate the gendered assumptions and myths underlying ideas about parental alienation and similar terms, and the increasing use of this concept by perpetrators as a tactic to undermine domestic abuse allegations in child arrangements proceedings.³⁰ This can have disastrous impacts, leading to unsafe child contact arrangements and even cases where a child is removed from a non-abusive parent and made to live with those alleging parental alienation. Theories of parental alienation, no matter how they are packaged or theorised, should not be accepted without analysis of the damaging impact they have on survivors of domestic abuse and their children. **We therefore urge Peers to oppose the amendment tabled seeking to include descriptions similar to parental alienation or alienating behaviour in the definition of domestic abuse.**

"He denied the allegations and he claimed I was manipulative, bitter. He said it was parental alienation. He used the term a lot – he's a clever man, he knew what to say, how to act"

Survivor testimony, 2018

3. Coordinated government response

Nationally, just one in five victims of domestic abuse will report to the police³¹. The harm caused by domestic abuse is far-reaching and includes impacts on housing and homelessness, health, finances and debt, employment and education. It is essential that the Bill delivers reform beyond the criminal justice system alone if it is truly to make a difference to women and children experiencing domestic abuse.

²⁶ Forced marriage, FGM, so-called 'honour-based' violence, dowry-related abuse and transnational marriage abandonment.

²⁷ The name of the Jewish divorce document which must be given by the husband and accepted by the wife.

²⁸ 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

²⁹ Meier, J. (2013) Parental alienation syndrome and parental alienation: A research review. National Online Resource Center on Violence Against Women

³⁰ 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 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

³¹ Office for National Statistics (2018) [Domestic abuse in England and Wales: year ending March 2018](#)

Housing

Domestic abuse is, by its very nature, a housing issue. Lack of access to safe, secure housing is a major barrier to escaping and factors strongly into a survivors' decision making about whether they stay or leave a perpetrator. Women are most at risk at the point of, or shortly after, separating from a perpetrator; 70% of women killed by men between 2009-2018 were killed in their own home, or in the home they shared with the perpetrator³².

"We were in three different Travel Lodges and one Holiday Inn or something ... We were in a hotel for a week, then we moved to another"
Child Survivor

During 2019-2020 Women's Aid's No Woman Turned Away project supported 243 women struggling to access a refuge space, 40% of whom were forced to sofa-surf while they waited and 7% slept rough - of which one woman was pregnant³³. The report found that the response of local authority housing teams to women made homeless due to domestic abuse is inconsistent, with women often being told they weren't in priority need or the local authority refused them help as they were from outside their 'local area'³⁴.

Women's Aid's *Nowhere to Turn for Children and Young People* report highlights that children and young people make up more than half of those who live in a refuge, however only some of the available refuge spaces are suitable for families. Of the spaces available on Routes to Support, only 20% are suitable for women with three or more children³⁵. While waiting for a refuge space, women fleeing with children spend time, for example, in emergency accommodation, hostels, B&Bs or hotels.

The extension of automatic priority need through the Bill is therefore warmly welcome, and especially important during COVID 19, as the number of women seeking to escape domestic abuse is anticipated to increase and refuges struggle to meet demand. However alongside priority need, a number of other housing reforms are also required:

- **The Bill must deliver a statutory ban on local authorities imposing 'local connection restrictions'** on survivors' access to refuge services and other forms of housing. The Minister stated during Committee Stage that existing legislation and guidance addresses this, but we continue to hear about dangerous 'local connection' restrictions placed on survivors' access to refuge services and other forms of accommodation. These restrictions threaten the operation of the national network of refuges, and create severe barriers to survivors who need to relocate in order to be safe from an abuser. Our amendment would ban local connection restrictions and residency requirements to ensure all survivors are able to access safe housing when escaping from their local area.
- It is welcome that after years of cross-sector campaigning, **that the Bill will ensure survivors of domestic abuse will be automatically considered in 'priority need' for housing.** We 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.
- As recommended by Latin American Women's Aid, prevent the service of family court orders on refuge residential addresses, and **ensure that refuge residential addresses**

"After a year of fallout, I'm still homeless...it feels like I'm worse off for having gone through 'the system'."
Survivor

³² Femicide Census (2020) *UK Femicides 2009-2018*. Published online: nia

³³ Women's Aid (2020) *Nowhere to Turn 2020: Findings from the fourth year of the No Woman Turned Away project*, Bristol: Women's Aid

³⁴ *Inside Housing* (2020). Hundreds of vulnerable people refused temporary housing, exclusive data reveals. Published [online](#)

³⁵ Women's Aid. (2020) *Nowhere to Turn for Children and Young People: Documenting the Journeys of Children and Young People into Refuges*. Bristol: Women's Aid.

and the identity of refuge workers remain confidential. During Committee Stage, the Minister highlighted her concern about this: *"I have been to see many refuges and, while I have been told their general area, I have never been told the address. This is quite a concerning point."*³⁶ It is vital that the Bill protects the safety of women and children in refuge by ensuring their addresses remain strictly confidential.

- As recommended by *experts by experience* group, **a duty on local authorities to ensure that housing allocation for survivors is safe and suitable. This must take into account the impact of trauma, physical safety, and additional needs** – including suitable accommodation for women with disabilities, and the provision of women-only spaces.

Economic abuse, welfare and work

We welcome the government's proposal to include economic abuse in the new statutory definition of domestic abuse. Economic abuse is a common part of the coercive control that survivors experience and can happen to any woman, but disproportionately impacts women in poverty. It is a fundamental barrier to escaping; over half of survivors surveyed by Women's Aid and the TUC could not afford to leave an abuser³⁷. These concerns are acute during COVID 19; our member services are reporting serious concerns about women's access to the money they need to leave an abuser, including concerns about access to food and basic essentials.

However the Bill also must take practical steps to tackle the risk, and impact, of economic abuse in practice. Access to financial assistance, through welfare benefits, is vital for women survivors of domestic abuse – particularly for those who are forced to flee their homes. During Committee Stage, the Minister noted that the Department for Women and Pensions are obliged to consider the impacts of its policies through existing equality assessments. However we are highly concerned that despite this, welfare reforms are restricting survivors' access to safety and increasing the barriers they face in leaving abusers. This includes single payments of Universal Credit, the five-week wait for payment, and the 'two child tax credit limit' and benefit cap which disproportionately impact single women with children. The European Court of Human Rights ruled in 2019 that the 'spare room subsidy' (bedroom tax) unlawfully discriminated against vulnerable victims of domestic violence who are living in Sanctuary Schemes – properties which have been specifically adapted to ensure women are safe in their own homes. If this policy had been assessed for its impact on survivors in the first place, victims of domestic abuse could have been exempt from the first place.

We are calling for the Bill to:

- **Place a duty on the government to assess all welfare reforms** for their impact on women's ability to escape abuse.
- **Deliver separate payments of Universal Credit by default** to ensure they are safe for survivors of domestic abuse.
- **End the benefit cap**, which prevents survivors from finding a safe new home or moving on from refuge.
- Include a **statutory right for employees affected by domestic abuse to vary their working arrangements** in the Bill - including a period of paid leave - to help cope with its impacts.
- The Department for Work and Pensions to build on work with Women's Aid which trained all Jobcentre Plus managers on domestic abuse in 2019, with a full roll-out of specialist training for all work coaches.

³⁶ <https://hansard.parliament.uk/lords/2021-02-01/debates/3D604C08-7BD7-46DF-A1F6-71B8A7DB91B5/DomesticAbuseBill>

³⁷ Howard, M and Skipp, A, Unequal, trapped and controlled, Women's Aid and TUC, 2015 - from 126 respondents to this survey.

Children and the family courts

Domestic abuse can have a devastating impact on children and young people and is the most common factor in cases where children are at risk of serious harm in the country³⁸.

Recognition of the serious impacts to children, however, remains severely lacking within the family justice system - where the approach to child contact is undermining the safety and welfare of children experiencing domestic abuse³⁹. Women's Aid's research demonstrates that safeguarding concerns resulting from domestic abuse are still not believed or understood within the child contact system - leading to potentially unsafe contact decisions which, in the most extreme cases, has resulted in children being seriously harmed and murdered⁴⁰. Since 2016 our *Child First: Safe Child Contact Saves Lives* campaign has pushed for change.

"My experience of family courts - horrific, traumatic, psychological warfare. Mind games replicate the abuse from the relationship."

Survivor

Survivors and their children are falling between two court systems, and often report that they are re-victimised and re-traumatised within the family courts. 24% of survivors surveyed by Women's Aid in 2017 had been directly cross-examined by their perpetrator in the family courts, and 61% had no access to special measures⁴¹. Whilst the government's commitment to widen access to this ban to all those who have 'evidence' of domestic abuse is progress, we remain concerned that this will not work for all survivors. 'Evidence' of domestic abuse requires reporting it, and many survivors never talk to anybody about the abuse they've experienced.

In 2020 the Ministry of Justice published the [final report](#) of its expert panel, which Women's Aid was part of, on assessing risk of harm to children and parents in family law children cases⁴². The panel's landmark report concluded that the family courts do not effectively protect many child and adult victims of domestic abuse from further harm. It calls for fundamental reform of the child arrangements programme, arguing that the system should be redesigned to be safety focused and trauma aware, taking an investigative, problem solving approach, and working in a joined up, connected and consistent manner with other areas of justice and agencies, with adequate resources.

Following the report, the government amended the Bill to make victims of domestic abuse automatically eligible for special measures in the family courts and promised to act on a number of other recommendations⁴³. We now urge members of the House of Lords to ensure the Bill delivers the wider reforms required to ensure the family courts protect survivors and their children:

- **Change the legal presumption of parental involvement** in the Children Act 1989 through the Domestic Abuse Bill. This presumption should be ended in cases where children are at risk of harm from domestic abuse, with contact arrangements in domestic abuse cases based on informed judgement of a child's best interests and safety. The Ministry of Justice (MoJ) panel concluded in June 2020 that the presumption should be 'urgently reviewed', and the government announced a review in November 2020. During Committee Stage, the government argued that it would be premature to amend the Bill before this review has been completed. We remain clear however, that after more than a

"The judge said 'a father has a right to see their child.'...The psychology report stated my husband's actions were causing further trauma...but this took nearly 6 months which in the meantime meant that my son further suffered."

Survivor

³⁸ Ofsted, HMICFRS, CQC, HMIoP, [The multiagency response to children living with domestic abuse](#), 2017

³⁹ Dr Ravi Thiara and Dr Christine Harrison, *Safe Not Sorry: Key issues raised by research on child contact and domestic violence*, University of Warwick 2016.

⁴⁰ Women's Aid (2016), *Nineteen Child Homicides*, Bristol: Women's Aid

⁴¹ Birchall, J. and Choudhry, S. (2018), "What about my right not to be abused?" Human rights, domestic abuse and the family courts.

⁴² Ministry of Justice (2020). *Assessing risk of harm to children and parents in private law children cases: Final report*. Available [online](#)

⁴³ Ministry of Justice (2020). *Assessing risk of harm to children and parents in private law children cases: Implementation plan*. Available [online](#)

decade of research on this issue, including, most recently, the clear evidence produced by the MoJ expert panel, the Bill is a critical opportunity to safeguard children now.

- **Prohibit unsupervised contact** for a parent waiting for trial, or on bail for, a domestic abuse related offence, or where there are ongoing criminal proceedings for domestic abuse. At Committee Stage the government argued that a ban would remove the court's ability to exercise discretion. Women's Aid is clear that where criminal proceedings are ongoing, child safety should be prioritised, rather than judicial discretion.
- As recommended by the MoJ panel, **extend the welcome ban on cross-examination in the Bill** to ensure that it applies in any family cases involving domestic abuse (including where abuse has been admitted or is being established).
- **We welcome the government's amendment to ensure civil courts make a special measures direction for a party or witness who "is or is at risk of being a victim of domestic abuse"**. Whilst this is an improvement, we are concerned that this remains up to judicial discretion. Women's Aid does not believe that relying on judges' discretion is enough to guarantee equality and fairness across jurisdictions. **We recommend the Civil Procedure Rules, which will detail how this provision operates in practice, clarifies the need to ensure judicial consistency.**
- We welcome that the government has amended the Bill to clarify the circumstances where **section 91(14) orders ('barring orders') will be used in the family courts, to prevent perpetrators repeatedly bringing survivors back to court to cause harm**, as recommended by the MoJ panel.
- We welcome the government's amendment to recognise children as victims in the proposed statutory definition, and in addition we are clear the **Children Act 1989 needs to name coercive control as 'harm to children'**.
- As recommended by experts by experience group, reverse the legal aid cuts delivered in the Legal Aid, Sentencing and Punishment of Offenders Act 2012, and make non-means tested legal aid available for all domestic abuse cases.
- Statutory guidance delivers a clear **cross-government strategy** for protecting and supporting child survivors.
- As recommended by *experts by experience* and the MoJ panel, deliver **a national and accredited training programme**, and on-going competency checks, for all CAFCASS officers, judges and magistrates, and child contact centre staff. During Committee Stage, the government stated that it recognises the central importance of training in improving the experience and outcomes of domestic abuse victims and their children in the family courts. It stressed the efforts already underway to improve training in different professional sectors. Women's Aid is clear however, that this training needs continuous national oversight and specialist input, in order to ensure quality, consistency and long-term change.

Criminal justice response

Domestic abuse now accounts for 23% of police recorded crime⁴⁴. Whilst national policing bodies are prioritising their response to survivors during COVID 19, we know that delays to

⁴⁴ Office for National Statistics, Domestic abuse in England and Wales overview: November 2020

investigations and charging, court closures, and stretched probation teams and early releases from prison will all pose threats to survivors' safety. It is important that the Bill strengthens the power of the police response and ensure that survivors' safety is always paramount.

- We welcome that following the successful campaigning by survivors and organisations, the government will amend the Bill to criminalise threats to share intimate images; non-fatal strangulation; and post-separation abuse.
- In light of the serious capacity constraints facing the police in responding to domestic abuse, **we share the joint committee's concerns about how the new Domestic Abuse Protection Order (DAPO)** will be implemented safely and effectively. Further clarity is needed to ensure these new orders - which will introduce a range of positive requirements and prohibitions on perpetrators - can be robustly monitored and enforced by the police and other agencies. Our *experts by experience* group remain unconvinced the DAPO will resolve the barriers they have faced, and recommend **a review into the criminal justice system response to breaches of restraining and non-molestation orders**, and ensure sufficient resourcing, capacity and legislation to enforce these now.
- As highlighted by RISE (Refuge, Information, Support and Education), **survivors' safety and privacy is being compromised by being named in press at a time where they are at the highest risk to their safety from their perpetrator**⁴⁵. Survivors who have been through the trauma of abuse and the added ordeal of Magistrate's Court should be free from the further danger and privacy invasion that being named in the news can cause. **We support RISE's amendment which will change the law to protect domestic abuse survivors' anonymity in the press.**
- A more effective response to perpetrators is needed. **We call for the removal of measures to enable pilots of polygraph testing** with high risk perpetrators from the Bill, as they are not evidence based and were not consulted on with the domestic abuse sector. The government must deliver **high quality probation service** for supervising perpetrators, alongside measures to **ensure all responses to perpetrators funded by government or statutory agencies are safe** - Respect accredited, led by experienced staff who receive ongoing specialist training, and delivered alongside separate support for survivors.
- Changes in the Policing and Crime Act 2017 have led to a dangerous drop in the use of pre-charge bail in domestic abuse cases, and dangerous offenders being released under investigation with no conditions attached⁴⁶. 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.**

"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."

Survivor

⁴⁵ In 2018, 37 women had separated or taken steps to separate from their male partner when they were killed by them...89% [were killed] within the first year [of separation]. From the [2018 Femicide Census: 2018 Findings, p. 24](#)

⁴⁶ BBC, [Thousands of violent crime suspects released without conditions](#), 30 March 2018