



Domestic Abuse Act 2021



Ministry
of Justice

Policy Equality Statement

Demonstrating Compliance with the Public Sector Equality Duty (PSED)

1. Name and outline of policy proposal, guidance, or operational activity

Background

1. Domestic abuse is a cruel and complex crime that can affect anyone, leaving physical and emotional scars that can last a lifetime. While there has been a welcome gradual fall in the incidence of domestic abuse in recent years, there are still some 2.3 million victims a year (aged 16 to 74), the majority of whom are women. Far too many individuals have their lives destroyed by abuse. We need to build a society that has zero tolerance towards domestic abuse and actively empowers victims, communities and professionals to confront and challenge it and to provide victims with the support they deserve.
2. That is why the Government is committed to transforming the response to this terrible crime, including by enacting the landmark Domestic Abuse Act. The prevention of abuse and the protection of victims lies at the heart of the Act and the wider programme of work. The measures in the Act seek to:
 - promote awareness - to put abuse at the top of everyone's agenda, including by legislating for a statutory definition of domestic abuse.
 - protect and support victims, including by introducing a new Domestic Abuse Protection Notice and Domestic Abuse Protection Order and placing a new duty on tier one local authorities to provide support to victims of domestic abuse and their children in refuges and other safe accommodation.
 - transform the justice response, including by helping victims to give their best evidence in the criminal, family and civil courts through the use of video evidence, screens and other special measures, and ensuring that victims of abuse do not suffer further trauma in family and civil court proceedings by being cross-examined by their abuser.
 - improve performance – the new Domestic Abuse Commissioner will help drive consistency and better performance in the response to domestic abuse across all local areas and agencies

3. The Bill was published in draft in January 2019 for pre-legislative scrutiny. The Joint Committee on the Draft Domestic Abuse Bill published its report on 14 June 2019. Following this, the Government published its response and in parallel introduced the Bill in Parliament on 16 July 2019. The Bill was given an unopposed Second Reading on 2 October 2019. The Bill fell on the dissolution of Parliament and was re-introduced in March 2020. It received Royal Assent on 29 April 2021.
4. Most of the provisions in the Act apply to England and Wales, or England, only. At the request of the Scottish Government and Northern Ireland Department of Justice, measures in the Act extending the extraterritorial jurisdiction of the criminal courts apply to Scotland and Northern Ireland.

Act provisions

5. The associated overall policy objective is that the Domestic Abuse Act would underpin a lasting culture change in terms of the understanding of and response to domestic abuse, leading to:
 - increased awareness and understanding of domestic abuse across statutory agencies and in public attitudes;
 - improved support for all victims of domestic abuse and their children;
 - improved access to protection and redress through the justice system;
 - a reduction in victimisation, offending and reoffending; and
 - improved consistency and performance in the response to domestic abuse.
6. The intention is that, as a result of these improvements, support for victims improves and the prevalence of domestic abuse falls, leading to a reduction in both the emotional and social costs to victims and their families and the financial costs to the public and private sectors. To address these objectives, the following measures are included in the Act:
 - **Introduce a statutory definition of domestic abuse:** This would provide a clear definition of domestic abuse, which recognises that domestic abuse can extend beyond physical and sexual violence to other forms of abuse, to link to other measures in the Act. The definition largely reflects the current non-statutory cross-Government definition of domestic abuse of: any incident or pattern of incidents of controlling, coercive, threatening behaviour, violence or abuse involving intimate partners or family members regardless of gender or sexuality. The abuse can encompass, but is not limited to: psychological, physical, sexual and emotional abuse. However, the new statutory definition also includes 'economic' abuse as a form of abuse (rather than 'financial' abuse). The definition also recognises

that children can be impacted by domestic abuse through seeing, hearing, or experiencing the effect of it.

- **Establish in law the office of Domestic Abuse Commissioner:** The Act establishes a national statutory office holder to stand up for victims and survivors of domestic abuse, raise public awareness, monitor the response of statutory agencies and local authorities and hold the Government and public bodies to account in tackling domestic abuse.
- **Create a civil Domestic Abuse Protection Notice (DAPN) and Domestic Abuse Protection Order (DAPO):** This would provide the police with the power to issue a notice and the courts the power to make an order which will better protect victims from harm. The notice would allow the police to provide immediate, short term protection to the victim following an incident and give them “breathing space” from their perpetrator, pending a hearing within 48 hours at which the police’s application for the full order will be considered. A DAPO may be made following the issue of a notice by the police; on standalone application to the court by the victim, the police a specified third party, or anyone with the court’s permission; or by the court of its own volition during other proceedings. An order would offer longer term, flexible protection to the victim. On making a DAPO, the court will have the ability to impose appropriate conditions (which can include both prohibitions and positive requirements) and notification requirements on the perpetrator, tailored to the specific facts of each case. Breach of these conditions, without reasonable excuse, will be a criminal offence, carrying a maximum penalty of up to five years’ imprisonment.
- **Prohibiting cross-examination in person in family and civil proceedings in England and Wales:** This would make provision for the automatic prohibition of cross-examination in person in specified circumstances in family proceedings in England and Wales, and give courts the power to impose a prohibition in certain other cases. Provision is also made for courts to have the power to appoint advocates (‘qualified legal representatives’) funded from central funds to undertake cross-examination in certain circumstances where a prohibition is in place. In civil proceedings, the court has the discretion in specified circumstances to give a direction prohibiting a party to the proceedings from cross-examining a particular witness in person if certain conditions are met. This is where cross-examination in person by a party (that is, the perpetrator) is likely to diminish the quality of the witness’s (that, is the victim’s) evidence, or would cause significant distress to the witness, and it would not be contrary to the interests of justice to give the direction. Mirroring the family

proceedings provisions, the court will have the power to appoint advocates funded from central funds to undertake cross-examination on behalf of a party who is prohibited from cross-examining the witness in person.

- **Create a legislative assumption that adult domestic abuse victims are to be treated as eligible for special measures in the criminal, civil and family courts on the grounds of vulnerability (if the victim wants such assistance):** This would reduce the stress on the victims of domestic abuse (or, in the context of civil proceedings, rules of court must enable the court to make a special measures direction in relation to a witness or party who is a victim of a specified offence) associated with giving evidence by providing automatic eligibility to be considered for a range of special measures (for example, giving evidence from behind a screen or via a video link). Where a participant in family court proceedings is, or is at risk of becoming, a victim of domestic abuse the court will be required to assume them to be eligible for some form of special measure by virtue of their vulnerability.
- **Mandatory polygraph examinations of high-risk domestic abuse offenders on licence:** This aims to generate a higher quality and quantity of offender licence monitoring information, to provide additional risk-related information to agencies such as the police and social services, thereby improving risk management of on licence offenders. This will involve an initial pilot scheme.
- **Place the guidance underpinning the Domestic Violence Disclosure Scheme (DVDS, also known as “Clare’s Law”) on a statutory footing:** This would improve understanding and awareness of the DVDS amongst the police in order to increase usage and drive consistency across forces to ensure that potential victims are provided with appropriate information about the risk their partner or ex-partner may pose.
- **Protect security of tenure for domestic abuse victims:** This would ensure that where a local authority grants a new tenancy to a victim of domestic abuse who already has or had a lifetime tenancy, this must be a further lifetime tenancy if it is granted in connection with that abuse.
- **Extend extraterritorial jurisdiction over specified offences as required by the Istanbul Convention:** This measure will provide that, in appropriate cases, UK nationals and residents who commit certain violent or sexual offences abroad may be brought to trial in the UK bringing justice for victims. In addition, it will demonstrate the Government’s commitment to ratifying the Istanbul Convention.

- **Introduce a statutory duty on tier one local authorities in England to provide support to victims of domestic abuse and their children who reside in safe accommodation:** The duty will be placed on tier one local authorities who will be required to commission support services in accordance with local need. The duty will promote a consistent approach to delivering support in safe accommodation, and increase accountability for this provision, ensuring that victims and their children residing in relevant accommodation get the support they need.
- **Amend the Housing Act 1996 to give those who are homeless as a result of fleeing domestic abuse priority need for accommodation secured by the local authority:** This will help to ensure that all eligible homeless households who are fleeing domestic abuse will be owed homelessness duties by the local authority. This should allow more victims to access accommodation and help to prevent the fear of homelessness for victims seeking to flee abuse.
- **“Rough sex defence”:** This provision will make clear that, in legal terms, a victim is unable to consent to actual bodily harm or more serious harm and, by extension, cannot consent to their death either. It addresses the perceived issue that a defendant may avoid justice by alleging that their victim consented to rough sex. This clarity extends to all cases where consent to rough sex is claimed and not just those cases where rough sex might be raised within a domestic abuse context. It will therefore also apply to cases where individuals are not “personally connected” as defined in section 1 of the Domestic Abuse Act. This measure also recognises another aspect of established case law in relation to sexual activity, namely, the circumstances in which it can be established that a victim consented to harm in the form of the risk of acquiring a sexually transmitted infection, and thereby recognising the right to personal autonomy in this regard.
- **Clarify the circumstances in which a court may make a barring order under section 91(14) of the Children Act 1989:** This measure will clarify that barring orders are available to parents and children to protect them where further proceedings would risk causing them harm, in particular where proceedings could be a form of continuing domestic abuse. This clarification of the law also makes it clear that where a person who has been named in any barring order subsequently applies for leave, the court must consider whether there has been a material change of circumstances since the barring order was made. In addition to this, the clarification makes expressly clear that a section 91(14) order can be made by the court of its own

initiative.

- **Controlling or coercive behaviour:** Extends the controlling or coercive behaviour offence to cover post-separation abuse. The Act replaces the definition of personally connected in section 76 of the Serious Crime Act with the definition in Part 1 of the Domestic Abuse Act 2021. Removing the co-habitation requirement will ensure that post-separation abuse and familial domestic abuse is provided for when the victim and perpetrator do not live together.
- **Extend the offence at section 33 of the Criminal Justice and Courts Act 2015 of disclosing private sexual photographs or films** to those other than the individual who appears in them without the consent of that individual and with the intent to cause that individual distress to include those who threaten to post or disclose such images. These provisions will create a clear and consistent enforcement regime for both threats to disclose private sexual photographs or films and actual disclosures. The reform strengthens the criminal law in this area, provides clarity for police and prosecutors, and greater protection to those who might have had to endure such intrusive and distressing behaviour.
- **Strangulation and suffocation:** This provision creates a new criminal offence of non-fatal strangulation which applies where a person seeks to strangle or affect another person's ability to breathe, whether by application of force to the neck or through any other act, for example suffocation or constriction. The offence will have general application and will apply to all cases where strangulation or suffocation are a factor, including those which occur in a domestic abuse context. It will also apply to incidents of strangulation or suffocation that are committed abroad by a British national or a person habitually resident in England or Wales as if the offence had occurred in England or Wales. Although the offence will have the same maximum penalty and have the same level of seriousness to that for causing actual bodily harm (ABH) it will have a different evidential requirement more suited to the circumstances in which strangulation and suffocation can occur which have been cited as problematic and prevent prosecutions. The offence will also be an either way offence, which means it will not be time barred if a prosecution does not commence within six months of the offence taking place. This will enable more cases to be prosecuted where the evidence takes time to identify or collect, or the offence is reported late. The maximum penalty of five years' imprisonment will expose a defendant to a significantly more severe sentence than six months' imprisonment for battery and it gives the courts the sentencing powers to reflect the nature of the wider harm caused.

- **Place a duty on the Secretary of State to issue a perpetrator strategy within one year of Royal Assent:** This places a duty on the Secretary of State to bring forward a document that sets out a strategy for detection, investigation and prosecution of offences, assessment and management of risk (including risks associated with stalking), and reducing the risk of individuals committing further acts of abuse.
- **Prohibition of charges for the preparation and provision of domestic abuse legal aid letters by health professionals in general practice:** Charging will be prohibited in general practice for the provision or preparation of a letter supporting an application for legal aid in instances of domestic abuse where a relevant health professional has been requested to provide such a letter and who wholly or mainly provides services under an NHS contract, or has assessed the patient under an NHS contract.

2. Summary of the evidence considered in demonstrating due regard to the Public Sector Equality Duty.

Requirements

7. The aim of the Public Sector Equality Duty (PSED) is to embed equality considerations into the day to day work of public authorities, so that they tackle discrimination and inequality and contribute to making society fairer. The PSED addresses discrimination, inequality and fairness between people who have protected characteristics and those who do not. The protected characteristics are the following:

- age;
- disability;
- gender reassignment;
- pregnancy and maternity;
- race – this includes ethnic or national origins, colour or nationality;
- religion or belief – this includes lack of belief;
- sex;
- sexual orientation;
- It also applies to marriage and civil partnership, but only in respect of the requirement to have due regard to the need to eliminate discrimination.

Evidence Considered

8. Further evidence, taken from open source research, has been analysed to ensure the provisions included within the Act complies with PSED requirements.

3A. Consideration of limb 1 of the duty: Eliminate unlawful discrimination, harassment, victimisation, and any other conduct prohibited by the Equality Act.

9. Each protected characteristic has been assessed for 'direct' and 'indirect' discrimination as defined under the Equality Act 2010, when considering the impacts of the Act's provisions. In summary-

Age

10. The statutory definition of domestic abuse in section 1 of the Act will apply to those who are 16 years old or over. Following a public consultation in 2012, victims of domestic violence and abuse aged 16 and 17 were recognised under the cross-government definition¹ which previously applied to those aged 18 and above. Following the public consultation on transforming the response to domestic abuse², it was agreed to maintain the age limit at 16 years old and above in order to avoid blurring the lines between child abuse and domestic abuse between adults. A DAPN and DAPO can be used to protect a victim aged 16 or over.
11. It is estimated that between a quarter and a third of children have been exposed to domestic abuse at some point in their lives³ and we know that being exposed to domestic abuse can have devastating consequences for children.⁴ The statutory definition also recognises the impact of domestic abuse on children who see, hear or experience the effect of it. As the statutory definition will guide the responses of public authorities and frontline practitioners, including the impact on children will enable a child-focussed response.
12. The Crime Survey for England and Wales (CSEW) year ending March 2020⁵ showed that women aged 16 to 19 years were significantly more likely to be victims of any domestic abuse in the last year than women aged 25 years and over. For men, there were few significant differences by age, however those aged 55 to 74 years were less likely to be victims of domestic abuse in the last year than those in most other age groups. For female victims of violence against the person offences flagged as domestic abuse-related, as age increased, the proportion of offences that were domestic abuse-related tended to decline.
13. For women aged 25-29 years, 56.5% of all police recorded violence was domestic abuse-related, compared with 40% for women aged 75 years and over. Among men, the proportion of violent offences that were domestic abuse-related tended to increase with victim age. For example, it was 19.2% for 16-19-year olds in comparison to 30.3% for those aged 75 years and

¹ <https://www.gov.uk/government/news/new-definition-of-domestic-violence-and-abuse-to-include-16-and-17-year-olds>

² [file:///poise.homeoffice.local/Home/TMS4/Users/MakwanP1/My%20Documents/Crime%20Policing%20and%20Fire%20Group/](file:///poise.homeoffice.local/Home/TMS4/Users/MakwanP1/My%20Documents/Crime%20Policing%20and%20Fire%20Group/DOMESTIC%20ABUSE%20BILL/Background%20Papers/Transforming%20the%20response%20to%20domestic%20abuse-%20HO%20&%20MoJ%20consultation%20.pdf)
[https://consult.justice.gov.uk/homeoffice-moj/domestic-abuse-](https://consult.justice.gov.uk/homeoffice-moj/domestic-abuse-consultation/supporting_documents/Transforming%20the%20response%20to%20domestic%20abuse.pdf)
[file:///poise.homeoffice.local/Home/TMS4/Users/MakwanP1/My%20Documents/Crime%20Policing%20and%20Fire%20Group/](file:///poise.homeoffice.local/Home/TMS4/Users/MakwanP1/My%20Documents/Crime%20Policing%20and%20Fire%20Group/DOMESTIC%20ABUSE%20BILL/Background%20Papers/Transforming%20the%20response%20to%20domestic%20abuse-%20HO%20&%20MoJ%20consultation%20.pdf)
[DOMESTIC%20ABUSE%20BILL/Background%20Papers/Transforming%20the%20response%20to%20domestic%20abuse-](https://consult.justice.gov.uk/homeoffice-moj/domestic-abuse-consultation/supporting_documents/Transforming%20the%20response%20to%20domestic%20abuse.pdf)
[%20HO%20&%20MoJ%20consultation%20.pdf](https://consult.justice.gov.uk/homeoffice-moj/domestic-abuse-consultation/supporting_documents/Transforming%20the%20response%20to%20domestic%20abuse.pdf)

³ Oliver et al., [The Economic and Social Cost of Domestic Abuse](#), 2019

⁴ [NSPCC](#)

⁵ <https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/articles/domesticabusevictimcharacteristicsenglandandwales/yearendingmarch2020>

over. Overall, we do not anticipate that these measures are likely to disadvantage certain age groups, but the measures are likely to impact on younger people who are victims of domestic abuse in greater numbers.

14. Survey research into partner abuse in teenage relationships, conducted by the NSPCC (Barter et al., 2009)⁶ in a sample of eight schools across England, Wales and Scotland, found that young women experienced violence from an early age. Incidence rates for physical violence amongst young girls were evenly spread across the age range between 13-18 years old, from 21% for 13-year-olds to 26% of girls aged 16 and over⁷. Consequently, girls as young as 13 are slightly less likely as those aged 16 to have experienced physical violence from their partners.
15. The Crown Prosecution Service Violence Against Women and Girls Report 2018- 2019⁸ showed that from those domestic abuse complainants where age was recorded, the majority were aged 25–59 (78.8%) and 18–24 (16.9%). 19.0% of complainants (14,897) were 24 years old and under, with 1,533 (2.0%) of complainants being 14–17 years old and 72 (0.1%) aged 10–13. The data suggests that those under 16 years old also experience domestic abuse. As domestic abuse of those under 16 years old is recognised as child abuse, statutory agencies are expected to respond accordingly, including by providing appropriate protection and support to victims.
16. The Joint Committee on the Draft Domestic Abuse Bill considered the age limit in the definition of domestic abuse and agreed that 16 is the right one. The Committee recommended that the Government conduct a specific review on how to address domestic abuse in relationships between under-16-year olds stating that the current criminal justice system for dealing with these cases is inadequate. Having weighed all the evidence, the Government does not consider a full review to be necessary as it is satisfied that appropriate steps are already being taken through wider workstreams to address this particular issue – a summary of these are provided in the Government’s further response to the report of the Joint Committee.
17. If domestic abuse led to a victim with a lifetime tenancy giving up their tenancy, the Government wants to ensure that the individual and their family are protected in the same way as anyone else who has suffered domestic abuse. Where local authorities offer fixed term tenancies at their discretion, section 79 of the Act will protect victims of domestic abuse by offering them a further lifetime tenancy regardless of their age. Around 4 million

⁶ <https://www.nspcc.org.uk/globalassets/documents/research-reports/standing-own-two-feet-report.pdf>

⁷ http://www.womenssupportproject.co.uk/userfiles/file/partner_exploitation_and_violence_report_wdf70129.pdf

⁸ <https://www.cps.gov.uk/sites/default/files/documents/publications/cps-vawg-report-2019.pdf>

households, approximately 9.3 million people, live in the social rented sector in England, just under a fifth of all households⁹.

18. There were 306,000 new social housing lettings in 2019/20¹⁰ and 72% (220,000) of new social housing tenancies were lifetime tenancies. Approximately 66% of households left their last settled home due to domestic abuse – nearly 16,000 households – remaining roughly constant over the past 10 years. In 2019/20¹¹, nearly 6,000 (2.6%) of all new social housing lettings were to existing social tenants who gave 'Domestic Abuse' as the main reason they left their previous social home. 63% of these lettings were to lead tenants below the age of 35.

19. In 2019/20 there were 349 new social housing lettings to existing social households with a female lead tenant, moving due to domestic abuse, that were provided a fixed term tenancy, 64% of these were under the age of 35. The data from the CSEW taken together with social housing data could suggest that younger women who experience domestic violence are more likely to benefit from the new secure tenancies provision if younger women utilise services, they have access to.

Disability

20. The statutory definition of domestic abuse will recognise abuse of people with disabilities by their carer, if both the victim and perpetrator are personally connected. For the year ending March 2020, CSEW showed that adults aged 16-74 years with a disability were more likely to have experienced domestic abuse in the last year than those without. This was true for both men (7.5% compared with 3.2%, respectively) and women (14.7% compared with 6.0%, respectively).

21. A Public Health England¹² report published in 2015 found that people with disabilities who experience domestic abuse may face broader risk factors than other domestic abuse victims. Vulnerability resulting from a disability may make a disabled person less able to recognise, report or escape domestic abuse. Disabled people experience higher rates of domestic abuse and they also experience more barriers to accessing support, such as health and social care services and domestic abuse services.

⁹ English Housing Survey Headline Report, 2019-20, Annex Table 1.3 - https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/945013/2019-20_EHS_Headline_Report.pdf

¹⁰ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/945235/Social_Housing_Lettings_in_England_April_2019_to_March_2020.pdf <https://www.gov.uk/government/statistics/social-housing-lettings-in-england-april-2019-to-march-2020>

¹¹ CORE (The Continuous Recording of Lettings) 2019/20

¹² https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/480942/Disability_and_domestic_abuse_topic_overview_FINAL.pdf

22. The evidence suggests that more disabled people across all age groups are more likely to experience domestic abuse. Disabled victims of domestic abuse will face additional challenges and further consideration should be given to how they may benefit from the measures in the Act. The role description of the Domestic Abuse Commissioner states that they must adopt a specific focus on the needs of victims and survivors of domestic abuse from minority or marginalised groups with particular needs, such as victims who are disabled. A thematic lead within the Commissioner's office will be identified for this (and other) groups.

Gender Reassignment

23. There is limited research on how many transgender people experience domestic abuse in the UK. However, these figures suggest it is a significant issue. A report commissioned by the Scottish Trans Alliance and published in 2010¹³ indicates that 80% of trans people had experienced emotional, sexual, or physical abuse from a partner or ex-partner, although only 60% of them recognised the behaviour as domestic abuse.

24. The National LGBT survey¹⁴ was conducted in July 2017 found that trans respondents had much higher declared rates of most incident types involving people they lived with (48%) than cisgender respondents (26%). This was particularly true for verbal harassment (27%), coercive or controlling behaviour (19%), physical harassment or violence (5%), and sexual harassment or violence (2%). Trans men were notably more likely to have experienced an incident (58%) than trans women (40%) and non-binary respondents (47%).

25. 94% of respondents said that the most serious incident they had experienced had not been reported. Incidents involving people the respondent lived with were therefore slightly more likely to go unreported than incidents involving people they did not live with (91%). Notably, for all respondents, physical harassment and violence, sexual harassment and violence, and threats thereof, were generally more likely to have gone unreported than other incident types for reasons reflecting feelings of shame or embarrassment, being upset, not thinking that reporting would be taken seriously, or for fear of retaliation.

Marriage and Civil Partnership

26. Under section 1 of the Act, there are two criteria governing the relationship between the abuser and the abused. The first criterion states that both the

¹³ https://www.scottishtrans.org/wp-content/uploads/2013/03/trans_domestic_abuse.pdf

¹⁴ National LGBT Survey- <https://www.gov.uk/government/publications/national-lgbt-survey-summary-report>

person who is carrying out the abusive behaviour and the person to whom the behaviour is directed towards must be aged 16 or over. The second criterion states that both persons must be “personally connected” as defined in section 2. The definition of “personally connected” includes, but is not limited to, persons who are, or have been, married or in a civil partnership.

27. For the year ending March 2020, CSEW showed that adults aged 16 to 74 years who were separated or divorced were more likely to have experienced domestic abuse than those who were married or civil partnered, cohabiting, single or widowed. Both men and women who were married or civil partnered were less likely to be victims of domestic abuse in the last year than those who were single, cohabiting, separated or divorced. 3.8% of married or civil partnered women were victims of domestic abuse, compared with 2.3% of married or civil partnered men. In contrast 12.0% of single women were victims compared with 5.1% of men.

28. There were 107,599 divorces of opposite-sex couples and 822 divorces of same-sex couples in 2019¹⁵. Of the same sex couples, nearly three-quarters (72%) were among female couples. Unreasonable behaviour was the most common reason for divorce among same-sex couples. Most divorces of opposite-sex couples were petitioned by the wife (62%). Unreasonable behaviour has consistently been the most common reason for wives petitioning for divorce. Examples of unreasonable behaviour could include physical violence, verbal abuse, drunkenness or drug-taking or refusing to pay towards shared living expenses.

Pregnancy and Maternity

29. The Confidential Enquiry into Maternal and Child Health (CEMCH)¹⁶ identified domestic abuse as one of eight key risk factors for maternal death. The study, which looked at all maternal deaths in England and Wales in the period 2000-2002, found that 14% of all women who died (55 out of a total of 391) had self-declared that they were subject to violence in the home. The report also notes that none of these women had been routinely asked about violence as part of their social history, so states the actual figure is likely to be higher.

30. Other studies¹⁷ have also found evidence that there is a proven link between abuse during pregnancy and the mother’s chance of being killed by the perpetrator. As domestic abuse is an underreported crime, it is difficult to

¹⁵<https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/divorce/bulletins/divorcesinenglandandwales/2019>

¹⁶ https://elearning.rcog.org.uk/sites/default/files/Gynaecological%20emergencies/CEMACH_Why_Mothers_Die_00-02_2004.pdf

¹⁷ <https://www.ncbi.nlm.nih.gov/pubmed/12100800>

accurately assess prevalence, but one study¹⁸ has found that around 30% of domestic abuse starts during pregnancy. There were 640,370 live births in England and Wales in 2019¹⁹ a decrease of 2.5% compared with 657,076 in 2018.

31. Section 78 will add people who are homeless as a result of domestic abuse to the existing class categories of people who have priority need for local authority housing under section 189 of the Housing Act 1996. The existing classes categories of priority need includes pregnant women and people with whom dependent children reside. Section 78 will bring all victims of domestic abuse who are homeless as a result into the category of automatic priority need. This will benefit all eligible victims of domestic abuse who do not currently qualify for priority need under other categories.

Race

32. The provisions in the Act apply to all victims irrespective of race or migrant status. According to Walby and Allen 2004, there is little variation in the prevalence of domestic violence by ethnicity. Batsleer, et al 2002; and Rai and Thiara, 1997 found that Black and other minority ethnic communities are less likely to access statutory services. Similarly, a report from the British Medical Association 2014²⁰ into domestic abuse found evidence to suggest that black and minority ethnic (BME) women experience abuse for a longer period and are more reluctant to access services.
33. For example, the Southall Black Sisters estimate that it takes BME women an average of ten years before they leave a violent relationship. The Home Office report into advocacy services for BME communities outlined Shah-Kazemi, 2001; Rai and Thiara, 1997²¹ findings that Asian women may find it more difficult to seek help for domestic abuse. The research suggested when Asian women marry, they implicitly represent their family. Therefore, if a marriage fails it is often seen as being the woman's fault and she is also blamed for letting down the family's honour.
34. For the year ending March 2020, the CSEW showed that those in the Mixed ethnic group were significantly more likely than those in the Black or Asian ethnic groups to experience domestic abuse within the last year. In the White, Mixed and Black ethnic groups, women were more likely than men to have experienced domestic abuse in the last year. This difference was greatest for the White ethnic group (7.7% of women, compared with 3.6% of men).

¹⁸ https://elearning.rcog.org.uk/sites/default/files/Gynaecological%20emergencies/CEMACH_Why_Mothers_Die_00-02_2004.pdf

¹⁹ <https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/livebirths/bulletins/birthsummarytablesenglandandwales/2019#number-of-births-and-fertility-rates>

²⁰ <https://www.bma.org.uk/media/1793/bma-domestic-abuse-report-2014.pdf>

²¹ <http://library.college.police.uk/docs/hodpr/dpr35.pdf>

35. The evidence suggests that women from mixed ethnic groups are most likely to experience domestic abuse although women from other BME groups such as Asians are less likely to come forward to the statutory agencies. As they are less likely to come forward, services delivered as a result of the Act provisions may be of limited benefit to these women. The role description of the Domestic Abuse Commissioner states that they must adopt a specific focus on the needs of victims and survivors of domestic abuse from minority or marginalised groups with particular needs, such as (amongst others) victims who are BME and migrants. A thematic lead within the Commissioner's office will be identified for each of these groups.

Religion and Belief

36. In the 2011 Census²², Christianity was the largest religious group in England and Wales with 33.2 million people (59% of the population). The second largest religious group were Muslims with 2.7 million people (5 %). The proportion of people who reported that they did not have a religion was 14.1 million people (25%). In 2011, over nine out of ten Christians in England and Wales were White (93%) accounting for 30.8 million people.

37. Muslims were more ethnically diverse. Two-thirds of Muslims (68%) were from an Asian background, including Pakistani (38%) and Bangladeshi (15%). The proportion of Muslims reporting as Black/African/Caribbean/Black British was 10%. 93% of people (13.1 million) with no religion were from a white background. Most Hindus and Sikhs were from an Asian ethnic background (96% and 87% respectively).

38. There is limited research on the relationship between religious beliefs and domestic abuse victimisation in the UK. For example, a 2011 report on forced marriage in Luton²³ observed that forced marriage has historically been practised in many different communities. However, it concluded that, due to their relative size within the UK population, forced marriage was now most common in the UK amongst South Asian communities (South Asian, Pakistanis, Bangladeshis and Indians). Forced marriage is a violation of human rights and is seen in the UK as a form of domestic violence.

39. Pakistani and Bangladeshi Asians make up a larger group of Muslims which is the second largest religious group in the UK. This could suggest that the provisions in the Act could have a positive impact for Pakistani and Bangladeshi Muslims who experience domestic abuse as it could enable access to services. However, as mentioned at paragraph 32, this may be of limited benefit given the barriers faced by BME communities when accessing services.

²²<https://www.ons.gov.uk/peoplepopulationandcommunity/culturalidentity/religion/articles/fullstorywhatdoesthecensustellusaboutreligionin2011/2013-05-16>

²³https://www.reducingtherisk.org.uk/cms/sites/default/files/resources/hba/FM_family_cohesion_community_engagement.pdf

40. Section 36(1) provides that the requirements imposed on a person by a DAPO must, as far as practicable, avoid conflict with the perpetrator's religious beliefs.

Sex

41. In year ending March 2020, the CSEW estimated that 1.6 million women and 757,000 men aged 16-74 years experienced domestic abuse. Women were significantly more likely to be victims of each type of abuse than men, with the exception of sexual assault by a family member where, although higher, the difference was not significant. For example, 6.7% of females aged 16-74 years were victims of non-sexual domestic abuse in the last year, compared with 3.3% of males. Similarly, 1.3% of females aged 16-74 years were victims of domestic stalking in the last year, compared with 0.7% of males.

42. Refuge also found in 2014²⁴ that the ways in which women experience domestic abuse is also different: the intensity and severity of violence used by male perpetrators is more extreme and more likely to include physical violence, threats and harassment. The report found that female victims of domestic abuse experience more serious psychological consequences than male victims and are much more likely to feel afraid of their partners.

43. For the year ending March 2020, in 74.1% of all domestic abuse-related offences recorded by the police the victim was female. This proportion of female to male victims was similar for most of the offence categories²⁵ other than for sexual offences, for which 94.1% of the victims were female²⁶. Of the 362 domestic homicides recorded by the police between March 2018 and March 2020, 276 of the victims were female (victims aged 16 and over)²⁷.

44. The data suggests that men are more likely to be perpetrators of domestic abuse than women. Data for 2019/20 from the Crown Prosecution Service's (CPS) Case Management System showed that in domestic abuse prosecutions, where the defendant's gender was recorded, 92% were male and 8% female²⁸. Women are more likely to be complainants of domestic abuse than men. Where the gender of victim's in domestic abuse-related prosecutions was recorded, 82.3% were female and 17.7% were male.²⁹

²⁴ <http://www.refuge.org.uk/files/Statistics-domestic-violence-and-gender.pdf>

²⁵ Offence categories include: other offences, criminal damage and arson, public order offences, miscellaneous crimes against society, sexual offences and violence against the person.

²⁶ This is based on 28 of 44 forces in England and Wales.

²⁷ [Appendix tables: homicide in England and Wales](#) – Office of National Statistics.

²⁸ <https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/articles/domesticabuseandthecriminaljusticesystemenglandandwales/november2020>

²⁹ CPS (2019) Violence against Women and Girls report 2018-19
<https://www.cps.gov.uk/sites/default/files/documents/publications/cps-vawg-report-2019.pdf> Note: Complainant data is reported as it is the closest available as the CPS do not have data on victim's gender.

45. It should not be forgotten that men are also victims of domestic abuse. Stigma and fear of feeling emasculated can make men less likely to report domestic abuse than women. Statutory agency staff should be aware of this fact and ensure they take allegations as seriously as with women, offering appropriate advice and support. The Office for National Statistics data (2014/15), shows that male victims (39%) are over three times as likely as women (12%) to not tell anyone about the partner abuse they are suffering from. Only 10% of male victims will tell the police (26% for women), only 23% will tell a person in an official position (43% for women) and only 11% (23% for women) will tell a health professional.³⁰

46. Evidence shows that women were more likely to be victims of domestic abuse than men. As the evidence shows that more women are likely to be victims of domestic abuse, section 84 expressly provides that the statutory guidance recognises that most victims of abuse are female. It also states that anyone can be affected by domestic abuse, including men which makes clear that services should be accessible for all. The statutory definition of domestic abuse is also deliberately gender neutral as the legislation is intended to ensure all victims and all types of domestic abuse are sufficiently captured and no victim is inadvertently excluded from protection or access to services. Given the preponderance of female victims, we anticipate that a higher proportion of women than men will benefit from the measures outlined in the Act.

Sexual Orientation

47. People with certain sexual orientations are more likely to be victims of domestic abuse. The CSEW for the year ending March 2020 show the percentage of men and women aged 16-74 who had been victims of domestic abuse in the last year by sexual orientation³¹:

- 3.5% of men and 6.9% of women who identified as heterosexual or straight;
- 6.0% of men and 12.2% of women who identified as gay or lesbian;
- 7.3% of men and 19.6% of women who identified as bisexual.

48. Stonewall's research found that one in four lesbian and bisexual women have experienced domestic abuse in a relationship. Two thirds of those say the perpetrator was a woman, a third said the perpetrator was a man. Almost half (49%) of all gay and bisexual men reported having experienced at least one incident of domestic abuse from a family member or partner since the age of 16.³²

49. Evidence suggests that LGBT communities face complex barriers to seeking support for domestic abuse, with a reported 60-80% of LGBT+ victims have

³⁰ ONS BCS Focus on Violent Crime and Sexual Offences 2014/15 Appendix Table 4.28 (latest available)

³¹ Ibid.

³² Stonewall <http://www.stonewall.org.uk/help-advice/criminal-law/domestic-violence>

never reported incidents to the police or attempted to find protection from services³³. It is estimated that only 2.5% of all survivors accessing domestic abuse services in England and Wales are LGBT+.³⁴

3B. Consideration of limb 2: Advance equality of opportunity between people who share a protected characteristic and people who do not share it.

- The following has been considered to advance the equality of opportunity between people who share a protected characteristics and people who do not share it:
- whether there is any evidence that different groups have different needs which may be affected by the Act's provisions;
- measures to be put in place to address different needs;
- changes to the policy or Act provisions that would positively advance equality of opportunity;
- any mitigating measures possible.
- The analysis identified that younger people, victims with disabilities, transgendered people, pregnant women or mothers, victims from mixed/multiple and South Asian ethnic groups (female) and women generally are more likely to be victims of domestic abuse than those who do not share those protected characteristics, although the quality of evidence is mixed. These groups have different needs.

Measures to advance equal opportunities

- The following measures will be established through the Act to ensure these groups continue to benefit from the changes as a result of the Act's provisions.

Act provisions

- Domestic Abuse Commissioner: The Act establishes in law the Domestic Abuse Commissioner. As outlined in the Commissioners terms and conditions, the role is required to adopt a specific focus on the needs of victims and survivors of domestic abuse from minority or marginalised groups with needs, such as victims who are BME, LGBT+, disabled, migrant, or who have complex needs relating to, for example, mental health or substance misuse. A thematic lead within the Commissioner's office will be identified for each of these groups, as well as for any additional groups which the Commissioner feels warrants attention.

³³ <https://www.galop.org.uk/lgbt-priorities-for-the-domestic-violence-and-abuse-bill/>

³⁴ http://www.galop.org.uk/wp-content/uploads/Galop_domestic-abuse-03a-low-res-1.pdf

- Statutory duty on tier one local authorities in England to provide support to victims of domestic abuse and their children who reside in safe accommodation: The Act includes a new legal duty on local authorities to assess the need for, prepare and publish strategies and commission support for victims or their children who reside in safe accommodation. Local authorities must also keep under review any effect of the strategy on the provision of other local authority (domestic abuse) support in its area. To accompany the new duty Statutory Guidance will be introduced to make clear the Government's expectations regarding support for all victims, including children, those with relevant protected characteristics. The Ministerial led non statutory National Expert Steering Group will review the operation of local needs assessments and provision of domestic abuse support in safe accommodation across the country, considering specifically specialist provision for those who share relevant protected characteristics and services that serve a national rather than local need.
- Special measures: The Act provides automatic eligibility for special measures so that more victims will be supported by special measures to give evidence in the criminal courts. Victims of domestic abuse can already be eligible for special measures in criminal proceedings if the court is satisfied the quality of their evidence is likely to be diminished due to their fear or distress about testifying. In such cases, they are eligible for special measures as "intimidated" witnesses.
- Domestic abuse victims are also eligible as "vulnerable" witnesses if they are under 18 years old or the quality of their evidence is likely to be diminished by reason of their mental or physical incapacity. The court requires applications for special measures to set out why the measure(s) is being sought and how it will enable best evidence and the court may consider views expressed by the witness about which measure(s) they would prefer. The court will then consider whether or not to order special measures in relation to an eligible witness (as well as which measure(s) to order.) When making that decision the court must consider any view expressed by the witness.
- The Equal Treatment Bench Book provides that assessment by intermediary should be considered if the person seems unlikely to be able to recognise a problematic question. In those circumstances, the court may approve the appointment of an intermediary to facilitate communication between the police, prosecution and defence legal

teams and a witness to ensure that the communication process is as complete, coherent and accurate as possible.

- The Act also extends the presumption of eligibility for special measures for victims of a specified offence in civil proceedings. A special measures direction will only be made if the court is satisfied that the quality of the witness's evidence, or the witness's participation in the proceedings, is likely to be diminished by reason of the witness's vulnerability. Special measures in the civil courts may have beneficial impacts on those with certain types of disability, or those who are vulnerable as a result of one of the protected characteristics, as it may assist them to better participate in proceedings.
- In family proceedings the Act creates an assumption that participants who are, or are at risk of becoming, victims of domestic abuse are eligible for special measures. The practical effect of this measure will be that where a participant in family proceedings is, or is at risk of becoming, a victim of domestic abuse the court will assume them to be eligible for some form of special measure and will instead focus on considering whether it is necessary to make one or more direction for special measures in order to assist with their participation.
- Prohibiting cross-examination in person in family and civil proceedings in England and Wales. The Act allows a court in civil proceedings to give a direction prohibiting a party to the proceedings from cross-examining a witness in person, where either the quality of the witness's evidence would otherwise be diminished, or such cross-examination would be likely to cause significant distress to the witness or party. In such cases, the court will be able to appoint a legal representative to conduct the cross-examination. The prohibiting of cross-examination in civil and family courts may have beneficial impacts on a wider range of people which may go beyond those with protected characteristics, such as those who may be in fear or distress in giving evidence in court.
- The introduction of a new offence of strangulation and suffocation in England and Wales, that applies to all cases including those in a domestic abuse context, means that the law will protect all victims equally where strangulation or suffocation are used against them. In addition, given that the offence will be an either way offence, this will enable victims, where signs of injury may not appear for some time, for example psychological or other internal injury, to be prosecuted

where the evidence takes time to identify or collect, or the offence is reported late.

- It is expected that the prohibition on charging for the provision of medical evidence of domestic abuse will increase the equality of access to support by preventing victims of domestic abuse from being at a financial disadvantage or prevented from obtaining such a letter due to its cost, which may go beyond those with protected characteristics.

Wider Government initiatives

- In addition to the measures established through the Act provisions, this summer (2021) the Government intends to publish two ambitious new strategies.
- The Tackling Violence Against Women and Girls Strategy will ensure there is sufficient focus on new and emerging forms of these crimes. The Domestic Abuse Strategy will provide the scope to address the numerous and wide-ranging forms of domestic abuse. It will also contain a dedicated perpetrator strategy, as mandated by the Act. This dual-strategy approach will serve to double the Government's efforts to tackle violence against women and girls.
- In addition to these, the Government has committed to a review of the protections for people at risk of carer abuse and the support available to ensure people in need of care receive quality care and positive outcomes, which includes preventing and addressing any instances of abuse or exploitation.
- The Government has also launched a £1.5m 'Support for Migrant Victims Scheme' which will be run by Southall Black Sisters and their delivery partners. This scheme will provide safe accommodation and support for migrant victims of domestic abuse with no recourse to public funds, as well as providing the data required to inform subsequent policy decisions.
- There is also a broad range of existing measures which ensure these groups can benefit from the help available to support victims of domestic abuse.

Training

- To improve understanding of domestic abuse and the ability to proactively identify potential victims, training for responding agencies such as the police, social workers, healthcare professionals and

Universal Credit work coaches is being taken forward. Examples of this include:

- **Police:** The College of Policing worked with SafeLives, a national domestic abuse charity, to develop a new domestic abuse training programme, Domestic Abuse Matters, which is being rolled out across police forces. An evaluation by the College of Policing has shown the training is effective in increasing the rate of arrest for coercive control.
- 25 police forces have completed this training, but many other police forces have their own in-house training or use their own providers. The Home Office provided £47,000 of funding to update the Domestic Abuse Matters police training so that it covers economic abuse.
- **Health:** All staff working in the NHS must undertake at least level 1 safeguarding training which includes domestic abuse. In the NHS, routine enquiry should already be in place in maternity and mental health services, to improve earlier disclosure and support people to get the care that they need. In addition, NHS England and NHS Improvement are developing an action plan for the NHS specifically on domestic violence and abuse. This will both raise awareness amongst NHS staff to ensure that staff have the skill to identify and refer and address the issue of NHS staff who are themselves victims, or perpetrators.
- **Universal Credit (UC):** Work Coaches work with claimants on a one to one basis and offer employment advice, identify potential job matches, and ensure claimants uphold conditionality rules. They support claimants both in and out of work, and as far as possible, support the same claimants throughout their claim. The intention is for claimants to build a personal rapport with their Work Coach, who grows to understand their needs and changing circumstances.
- All UC Full-Service Work Coaches and Case Managers are required to complete mandatory training on complex needs as part of their learning route into UC Full Service. This is a stand-alone module that includes a classroom discussion around a (fictional) claimant who is a victim of domestic abuse and the conversation is steered to focus on the support available, easements and disclosure. DWP produced a multimedia product which has been reviewed by Domestic Abuse partners. The product is designed to raise awareness for Work Coaches and case managers.
- The product launched in April 2018 covers types of abuse, signs of abuse, impacts and support. It also refers to wider organisations to signpost for specialist support. All UC Full-Service sites have a Complex Needs Toolkit in place to enable colleagues to signpost claimants with complex needs to guidance, local provision/support

and named advocates for specific complex needs groups. The toolkit enhances effective partnership working at a local level.

- Work Coaches can offer claimants in their caseload support or allowances if they experience domestic abuse. This includes:
- Exemption from work-related requirements (such as looking for work) for up to 13 weeks. This can extend to 26 weeks if the survivor is the main carer of a child under 16.
- Alternative Payment Arrangements. Claimants can request their single household payment be split into two bank accounts.
- And additional housing benefit for temporary accommodation. If claimants have left their home due to domestic abuse—and intend to return—they can request housing benefit for both their former permanent home and temporary accommodation.

Specialist services

- The Government also provides funding for the provision of services or has developed strategies for marginalised groups who also experience domestic abuse. Examples of this include:
- **Black Minority Ethnic (BME) victims:** The Government has invested £300k funding in 2018/19 to Imkaan to build capacity in the specialist BME women's sector to reduce the impact of violence on the lives of BME women and girls. The funding will support dedicated, specialist BME organisations which provide essential crisis interventions, safety, and ongoing 'recovery', resilience and empowerment support. This is also to build the capacity and improve the sustainability of essential, specialist, independent BME/ VAWG organisations and small community organisations working to address VAWG.
- For victims seeking homelessness assistance, the Homelessness Code of Guidance sets out that local authorities must ensure that translation support is available to homeless households seeking to make an application whose first language is not English. This should help to support victims who feel isolated due to any language barrier.
- **LGBT+ victims:** The Government provided Galop with approximately £648,000 since 2018 to build capacity and deliver support to LGBT victims of domestic abuse. The project will facilitate better knowledge and understanding on LGBT domestic violence through the development and use of technology. Galop will deliver a campaign to raise awareness within LGBT communities with the aim of increasing the number of LGBT people actually reporting domestic violence and seeking out the help that they need. The project will also provide training and consultancy to deliver the knowledge and understanding

of the needs and experiences of LGBT victims of domestic violence and abuse in statutory, voluntary and LGBT organisations that work with victims of domestic abuse.

- **Disabled victims:** The Government have provided over £330,000 since 2018 for Victim Support and Stay Safe East. The joint project aims to link the skills and knowledge of Stay Safe East, a specialist disability and domestic violence agency, with that of Victim Support, the largest national employers of Independent Domestic Violence Advocates (IDVAs). This partnership aims to encourage disabled survivors of domestic abuse to come forward and ensure that their needs are recognised and effectively supported.
- The project is governed by an Advisory Group to ensure that the voices of disabled survivors are heard. The group provides advice on the project, allows members to share examples of good practise and provide an input into briefings and policy-based work. Stay Safe East have delivered specialist training to upskill 45 Victim Support IDVAs and are increasing the women's sector's awareness and knowledge of how violence against women and girls impacts on disabled women through conferences and workshops.
- In regard to the new duty on local authorities to give victims of domestic abuse who are homeless priority need for accommodation, the Homelessness Code of Guidance is clear that accommodation must be obtained which is suitable for the household including any specialist requirements resulting from any protected characteristics such as having a disability.
- **Male victims:** while the statutory guidance on the definition of domestic abuse makes clear that this is a crime that disproportionately affects women, it will also provide details on how men can be affected, or those in same-sex relationships. This will mitigate the risk of indirect discriminating by enabling service providers to understand the impact on men and factor in the needs of this group in the delivery of services.
- In March 2019, the government also published its Male Victims Position Statement³⁵ setting out 12 specific commitments to better enable male victims and survivors of domestic abuse to come forward and receive the support they need and bring perpetrators to justice. These included:
 - providing £500,000 to specialist organisations that support male victims and survivors of domestic abuse;
 - awarding a specialist LGBT domestic abuse organisation that supports LGBT victims and survivors with £500,000;

³⁵ <https://www.gov.uk/government/news/government-unveils-commitments-to-tackle-abuse-against-men>

- providing £24 million over the next three years for services providing advice and counselling to all victims of sexual violence, including men and boys.
- **Further funding:** In 20/21 MoJ also provided two rounds of emergency funding for services impacted by Covid-19, totalling £32 million. This funding benefited more than 540 charities supporting victims and vulnerable people, 20% of which were organisations providing tailored services for victims with protected characteristics.
- In 2021-22, the MoJ will provide just under £151m for victim and witness support services. This includes an extra £51m to increase support for rape and domestic abuse victims, building on the emergency funding to help domestic abuse and sexual violence services meet Covid-driven demand.
- This funding has been distributed through different routes but includes the Police and Crime Commissioners and the National Rape Support Fund. £2 million of this funding is specifically being provided to tailored services supporting BAME, LGBTQ+ or disabled victims. The funding is also providing additional IDVAs and ISVAs, including tailored support for victims with protected characteristics, as well as support for children and young people.

Under 16-year olds domestic abuse

- **Prevention in school:** From September 2020, Relationships Education for all primary school aged pupils, Relationships and Sex Education (RSE) for all secondary school aged pupils and Health Education for all pupils in state-funded schools will be compulsory. Relationships Education for primary pupils will cover the characteristics of healthy relationships, building the knowledge and understanding that will enable children to model these behaviours. RSE builds on teaching at primary level.
- The emphasis moves from the experience of the child in the context of their family to the young person as a potential partner and parent, for example the roles and responsibilities of parents with respect to raising children and the characteristics of healthy intimate relationships and successful parenting are explored. The subjects will help children identify multiple forms of abuse, including domestic abuse, and know who to turn to for help.
- **Early intervention:** In December 2017, the Department for Education published detailed advice to support schools understand what child on child sexual violence and sexual harassment looks like, how to prevent it and how to respond to reports of it. In September 2019, the Department for Education revised the statutory safeguarding guidance “Keeping Children Safe in Education” - this included for the first time a dedicated new section (at Part 5) to

support schools manage reports of child on child sexual violence and sexual harassment.

- In November 2018, the Department for Education produced “Respectful School Communities”, a tool to support schools to develop a whole-school approach to promote respect and healthy relationships. This tool can help schools build to take a preventative approach to combat bullying and abuse of any kind and create inclusive and tolerant school communities.
- **Responding to abuse:** The Department for Education have provided £2 million funding between 2019-2022 for the Tackling Child Exploitation Support Programme to help safeguarding partners in local areas develop an effective multi-agency response to a range of harms to children from outside the family home. This will include supporting local areas to collate and analyse data in relation to extra-familial harms and exploitation.
- **Police:** The police have clear processes in place for dealing with abuse between those under the age of 16 and treat it in a similar way to cases of child abuse. As the victim would be under 16, the police have statutory obligations under legislation such as the Children Act and are therefore under a duty to make a referral to children’s social services, or refer the case to a multi-agency forum, such as a Multi-Agency Safeguarding Hub.
- As the police do not routinely flag cases where the victim or perpetrator of domestic abuse is under 16, we do not have a clear picture of the prevalence of abuse for this age category. Data shows that there has been one conviction under the coercive or controlling behaviour offence for someone under 16 in 2017 and no convictions for under 15s. We will be exploring if this is something, we can work with the police on to obtain better data.
- **Young person’s Independent Domestic Violence Advisors (IDVAs):** The Home Office has funded Young People’s IDVAs to work with individuals who have experienced teenage relationship abuse and have also funded Child Independent Sexual Violence Advisers to provide support to young people who have been victims of sexual abuse.
- **The Youth Justice System:** The youth justice system emphasises restoration and rehabilitation and has a specific statutory aim (under section 37 of the Crime and Disorder Act 1998), to prevent offending by children. The approach to youth sentencing is therefore distinct

from that for adults and focuses on this statutory aim as well as on the welfare of the child.

- There is only one specific domestic abuse offence – that of controlling or coercive behaviour in an intimate or familial relationship (section 76 of the Serious Crime Act 2015). Other instances of domestic abuse commonly fall under other offence types such as rape, assault or Grievous Bodily Harm. Where an offence is committed by a child under 16, the police would continue to investigate in the normal way and the Crown Prosecution Service (CPS) make charging decisions in accordance with the Code for Crown Prosecutors.
- The CPS applies the current cross-government definition of domestic abuse to all victims and perpetrators of domestic abuse irrespective of age. This enables prosecutors to use the principles set out within the CPS Domestic Abuse Guidelines for Prosecutors and ensures that they adopt an evidence led approach and develop a robust case management strategy.
- When deciding whether there is enough evidence to charge, Crown Prosecutors must be satisfied there is enough evidence to provide a "realistic prospect of conviction" against the defendant and that it is in the public interest for a prosecution to take place. In determining the public interest element of the Code, prosecutors must have specific regard to the age and maturity of the defendant. The best interests and welfare of the child or young person must be considered, including whether a prosecution is likely to have an adverse impact on their future prospects that is disproportionate to the seriousness of the offending.
- When sentencing, the court will also take into account any aggravating factors which increase the seriousness of the offence. Relevant examples in the Youth Sentencing Guidelines include:
 - Steps taken to prevent the victim reporting or obtaining assistance;
 - Prolonged nature of offence;
 - History of antagonising or bullying the victim.
- By section 125 of the Coroners and Justice Act 2009, every court must, in sentencing an offender or exercising any other function relating to the sentencing of offenders, follow any sentencing guidelines which are relevant, unless the court is satisfied that it would be contrary to the interests of justice to do so. Youth sentencing guidelines would therefore be a prime consideration. Therefore, there is still consideration of the needs of the victim, the

nature of the offence and the history with the victim which are all factors that also contribute to the context of domestic abuse.

- In determining the appropriate sentence, the court has a wide range of requirements which it can include as part of a community sentence which can address protection issues of the victim and support the child to desist from further offending (e.g. curfew, residence and exclusion requirements, including requiring a child to live elsewhere from the family home).
- Delivery of the sentence is the responsibility for the local youth offending teams and its partner local agencies (such as health and wider children services within the local authority) which will assess the child's offending behaviour and needs and put in place measures to address those issues. This could include specific work to address behaviours associated with domestic abuse.

3C. Consideration of limb 3: Foster good relations between people who share a protected characteristic.

50. Section 149(1)(c) of the Equality Act 2010 imposes a duty to “have due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it”. It is not anticipated that the measures in the Act will have a significant impact on community relations between people who share a protected characteristic and those who do not. Mitigating actions are already in place to ensure groups who are more likely to experience domestic abuse can access specialist services.

4. Foreseeable impacts of policy proposal on people who share protected characteristics

51. We are not aware of any evidence which indicates that the measures in the Act will have a foreseeable negative impact on the protected characteristics. As the provisions in the Act are implemented, any emerging impacts will be observed, recorded and analysed when the PES is reviewed.

5. In light of the overall policy objective, are there any ways to avoid or mitigate any of the negative impacts that you have identified above?

52. The overall policy objective is to build a society that has zero tolerance towards domestic abuse and actively empowers victims, communities and

professionals to confront and challenge it and to provide victims and their children with the support they deserve. The provisions in the Act, alongside a programme of non-legislative measures, intended to transform the response to this crime and is intended to apply to all victims equally.

53. Overall, the Government considers that the measures being introduced should represent a positive change for all those affected by domestic abuse. In relation to protected characteristics the evidence indicates that younger people, victims with disabilities, transgendered people, pregnant women or mothers, victims from mixed/multiple ethnic groups (female) and women generally are more likely to be victims than those who do not share those protected characteristics. The policy proposals will help ensure the prevention of abuse, support for victims and their children, and pursuit of perpetrators for all these groups of victims with protected characteristics and represents a proportionate means of achieving these policy aims.

54. To advance opportunities to access support for certain protected groups who may find it difficult to benefit from the provisions in the Act, the Government already has in place measures to support these groups. For example, training is in place to improve the understanding of domestic abuse within these groups and ability to proactively identify potential victims by the responding agencies. This will help support groups who experience domestic abuse and may find it difficult to disclose the abuse such as BME women and men.

55. To support marginalised groups who are likely to be impacted by domestic abuse, the Government also provides funding for the provision of services or has developed targeted strategies.

6 Review date

56. The measures in the Domestic Abuse Act will be subject to post-legislative review 5 years after Royal Assent.

I have read the available evidence and I am satisfied that this demonstrates compliance, where relevant, with Section 149 of the Equality Act and that due regard has been made to the need to: eliminate unlawful discrimination; advance equality of opportunity; and foster good relations.

SCS sign offs



Lynne Abrams, Head of Interpersonal Abuse Unit, Home Office

Plenty *Beaumont*

Abigail Plenty and Laura Beaumont, Deputy Director of Vulnerability Unit, Ministry of Justice

Lead contact: DABill.ImpactAssessment@homeoffice.gov.uk

Date

14 May 2021

All completed PES's **must** be sent to the Public Sector Equality Duty (PSED) Team at [PSED inbox](#).