



Home Office

# **Strengthening the Law on Domestic Abuse Consultation— Summary of Responses**

December 2014

# Contents

1. Introduction.....	3
2. Background.....	4
3. Summary of responses.....	5
4. Responses to specific questions.....	6
5. Conclusion and next steps.....	10
6. Consultation principles.....	12

# Introduction

This document is the summary of responses to the consultation paper *Strengthening the law on domestic abuse: a consultation*.

It will cover:

- the background to the report
- a summary of the responses to the report
- responses to the specific questions raised in the report
- the next steps following this consultation.

# Background

In March 2013 the Government extended the definition of domestic abuse to capture coercive and controlling behaviour, in recognition that non-violent abuse can be as damaging as physical violence. The consultation paper, *Strengthening the law on domestic abuse: a consultation* was published on 20 August 2014 to explore whether the law needs to be changed to keep pace with these developments. The consultation invited views on whether the law should be strengthened to provide the best possible protection to victims.

The consultation closed on 15 October 2014 and this report includes a summary of responses to individual questions in the consultation paper, and outlines the Government's next steps.

# Summary of responses

A total of 757 responses to the consultation paper were received. The responses came from a wide variety of respondents including academics, legal professionals, non-government organisations, healthcare professionals, local authorities, victims and members of the public, police, social workers and others.

Respondents to the online survey were deliberately not asked to identify themselves to allow anonymity to those who wanted it. However many respondents chose to record their identity, either through the online survey or by submitting their consultation response via email. A breakdown of respondents is set out in the table below. Where a respondent has not identified themselves, they have been recorded as a 'member of the public'.

Type of Organisation	Number of Respondents
Police Force	4
Academic	6
Professional Body	21
Charity	30
Service Provider	37
Victim	95
Member of the Public	564
Total	757

A significant majority of those who responded (85%) were in favour of strengthening the law on domestic abuse, and felt the current law does not capture the Government definition of domestic abuse (70%).

# Responses to specific questions

## 1. Does the current law adequately provide sufficient protection to victims of domestic abuse?

85% of respondents felt that the current law does not provide adequate protection for victims. Most identified a gap in the law around patterns of coercive and controlling behaviour, particularly where the behaviour occurs during an ongoing relationship, whether with a partner or family member.

*“Current legislation is not sufficient; it largely reinforces an approach based on single physical incidents, rather than capturing the patterns of power and coercive control within an ongoing relationship as detailed in the Home Office definition change of March 2013. These failings mean that the police do not have all the tools that they need and that Criminal Justice System cannot effectively intervene, nor translate and consequently penalise the crime before the abuse has escalated. For many this is too late...”* **Law Reform Campaign**

Other respondents (almost 20%) identified the need for tougher sentencing. Most thought that lenient sentencing stemmed from the absence of a specific offence, citing a pervasive culture of disbelief in frontline criminal justice services that leads to poor evidence gathering and prosecution decisions in domestic abuse cases where the abuse stops short of violence.

The remaining 15% felt the current law was adequate. Most cited a view that strengthening the law risks diverting resources away from improving the police response and securing prosecutions.

*“...the key to improving protection and safety to victims is in the rigorous and effective implementation of the law. This means effective policing, successful prosecution, adequate accountable sentencing and effective offender management.”* **Domestic Abuse Charity**

Many of those who felt the law should be strengthened shared a desire to see an improved criminal justice response to domestic abuse, in addition to any measures that are taken to strengthen the law. In the consultation paper the Home Office was clear that improving the police response remains our first priority.

Many of those who felt the current law was adequate also cited concerns that strengthening the law risks criminalising ordinary power dynamics within relationships.

*“The law cannot will the existence of good intimate relationships.”* **Legal Professional Body**

## 2. In what ways could the law be strengthened?

55% of respondents felt the law needs to be strengthened with a new offence that captures patterns of coercive and controlling behaviour in a relationship.

*“There needs to be factored into the current law some sort of penalty for emotional, financial and coercive abuse as physical scars take much less time to heal than psychological ones...”* **Victim of domestic abuse**

*“A new law should recognise the social and personal unacceptability of subjecting someone within an interpersonal relationship to the harmful and abusive behaviours contained within the national definition. On the one hand current practice requires police to attend these incidents, conduct risk assessments, make referrals, implement safety strategies and file reports but does not identify the conduct which led to the police being called to intervene as unlawful. The law should encompass these abusive and harmful behaviours as criminal offences.”* **Police Force**

Many respondents cited stalking and harassment legislation as a useful model for achieving this.

*“Our proposal is that instead of a specific new law, that existing stalking and harassment legislation could be adapted and expanded to include protection for victims who are in a legal or intimate relationship.”* **Local Service Provider**

Others highlighted the different dynamics of stalking and harassment compared with controlling behaviour within a relationship, and the need for a distinct legal framework to tackle a specific problem.

*“The major difference is that victims of coercive control also have to deal with the added horror that their torturer is their partner – someone they once trusted and welcomed into their life, and who has access to the victim’s most intimate details to utilize as ‘tools’ in their torture...”*

*With the law as it currently stands, some strategic perpetrators will specifically utilise small, ‘personalised’ acts so as to avoid the scrutiny of the law... The law fails to notice the crime within idiosyncratic behaviours that have been designed to achieve maximum harm to their recipient. Other perpetrators will use a regime of such acts to very effectively hide the recognised crimes such as rape and false imprisonment...*

*Coercive control is the most extreme and harmful form of domestic abuse and is more akin to torture than harassment.”* **Think-tank**

Several organisations who responded to the consultation highlight that many victims of domestic abuse do not wish to seek a criminal justice response against a perpetrator that they are in an ongoing relationship with. These organisations suggest that a civil remedy should be available in addition or instead of a new criminal offence.

*“Since only 17% victims who experience no physical abuse, but who suffer high levels of coercion and control, report to the police, it is essential to have a non-criminal justice route in order to address the situation of as many victims as possible...”* **Domestic Abuse Charity**

Suggested alternatives to a criminal offence include training for criminal justice professionals to ensure restraining orders are available in cases involving patterns of coercive and controlling behaviour.

### 3. How would any changes you suggest be practically implemented?

Almost a quarter of all consultation respondents identified training for criminal justice staff as a critical factor in the successful implementation of a new legal framework.

*“The frustration of the ignorance on the subject of coercive control makes you feel the desperation and why deaths are rising. The outside authorities do not take anything other than physical abuse seriously because they know they cannot prove it to the Courts. Education in the subject of coercive control is desperately needed and should be considered as important if not more as the affects [sic] are devastating. It is an ongoing living hell.”* **Victim of domestic abuse**

Similarly, support for victims through prosecutions and increasing the volume of evidence-led or ‘victimless’ prosecutions were also highlighted as important in supporting a new offence. Some respondents to consultation were particularly concerned about how a new offence of coercive control might be evidenced, given the lack of physical injury.

*“...there would be evidential problems in proving this type of conduct as controlling or coercive, for example that someone has been denied access to finances or friends...”* **Criminal Justice Agency**

A workshop that was held at the Home Office with police officers and prosecutors during consultation provided an important insight into the operational reality of tackling domestic abuse. Some attendees highlighted the common experience of a victim raising a complaint at a time when no evidence remained of physical injury, but the victim is able to show documentary evidence (bank statements, emails, text messages, social networking records) of non-violent control and coercion. Attendees felt that a new offence would provide a vehicle for prosecuting this type of behaviour.

Many respondents to consultation also highlighted the importance of multi-agency engagement, including the commissioning of local victims’ services to support victims both in accessing the criminal justice system, and in securing their safety without recourse to a new offence. Some respondents highlighted the importance of the specific needs of under-represented groups being considered in the context of local service provision.

*“The relevant multi-agency partnerships, including the Safeguarding Adult Boards would need to include this in their remit and monitoring of outcomes (to see if the introduction of the offence enabled and empowered victims to make changes in their lives).”* **Professional body**

*“The law – existing or new – is not enough on its own to provide sufficient protection to victims of domestic abuse. Law must be implemented alongside prevention programmes, public awareness raising and ring-fenced resources for age and gender appropriate support services to adequately protect all victims of domestic abuse.”* **Domestic Abuse Charity**



#### 4. Does the current law sufficiently capture the Government's non-statutory definition of domestic abuse?

The detail of responses to this question suggests that some respondents misunderstood what was being asked, and answered instead whether the current Government definition of domestic abuse is adequate. This may have impacted on the responses recorded. Nevertheless, the overwhelming majority (70%) felt that the Government's definition of domestic abuse, which captures patterns of coercive and controlling behaviour, is not adequately covered by the current law.

*"There are many laws which cover the complex behaviours which manifest as domestic abuse but there is a gap where harassment and stalking legislation does not explicitly cover behaviour within the context of a familial relationship."* **Policing expert**

Several respondents highlighted the disparity between the age range covered by the current Government definition of domestic abuse (16 years old and over), and the standard age of criminal liability (10 years old and over).

*"The proposals in the consultation and the non-statutory definition are based on a narrow understanding of domestic abuse – that it takes place between two people in an intimate relationship aged 16 +. There are, however, unique and complex features surrounding children and young people's involvement in domestic abuse."* **Criminal Justice Agency**

Some respondents also used this section to outline the importance of any new offence capturing inter-familial abuse as well as intimate partner abuse.

*"Domestic abuse approaches to date have tended to highlight partner violence, however there is a need to consider the impact of family and intergenerational forms of domestic abuse that particularly affect older people."* **Charity**

*"The law should be strengthened as suggested within intimate, but should include non-intimate relationships to capture the experiences of BME women above the age of 16 within the extended family."* **Domestic Abuse Charity**

By contrast, a small number of respondents felt that a new offence should be focussed exclusively on intimate partner abuse.

*"The conflation of family violence with violence in intimate relationships in the definition does not recognise that coercive control is an aspect of the latter and not the former."* **Domestic Abuse Charity**

# Conclusion and next steps

There can be no doubt that domestic abuse is a serious crime. It shatters the lives of its victims, and in some cases, leads to tragic and untimely deaths. That is why tackling domestic violence and abuse is one of this Government's top priorities. We would like to thank all those who responded to our consultation on this important issue.

Statistics from the Crime Survey for England and Wales suggest that 1.9 million people were victims of domestic abuse last year. Her Majesty's Inspectorate of Constabulary report that over one million calls were made to the police regarding domestic abuse incidents last year. Crown Prosecution Service figures indicate that only 78,000 prosecutions were brought. Though this is the highest ever volume of prosecutions for domestic abuse, this figure falls significantly short of the best estimates of the prevalence of domestic abuse, implying too many perpetrators are intimidating those closest to them with impunity.

In recent years, much has been done to improve the response to domestic abuse. Our 'This is Abuse' campaign helps young people recognise abusive behaviours. We have increased the tools available to the police through the national roll-out of the Domestic Violence Disclosure Scheme, also known as Clare's Law, and Domestic Violence Protection Orders.

In September 2013 the Home Secretary commissioned Her Majesty's Inspectorate of Constabulary (HMIC) to review the police response to domestic abuse because she was concerned that it was not as good as it should be. Sadly, when HMIC reported its findings in March, those concerns were realised. The Home Secretary is clear that there must be an immediate and lasting change in the police response to domestic abuse. This means a change in culture from the officers in charge to those on the frontline. The Home Secretary chairs a National Oversight Group to make sure this happens. This work remains a priority, and we hope this allays the concerns of respondents to the consultation who were concerned that new legislative proposals may become an alternative to this work. This is not and will not be the case.

Nevertheless we are keen to ensure that the police, and other frontline agencies, have the full range of tools they need to respond to the spectrum of domestic abuse. The majority of respondents to the consultation have been in favour of legislating to strengthen the law on domestic abuse. We received 757 responses with 85% reporting that the current legal framework does not provide adequate protection to victims. 55% of consultation respondents are in favour of closing this gap through a new specific offence of domestic abuse.

We understand the concerns of those who suggest that victims may be reluctant to report their abuse to criminal justice agencies, and civil remedies should be explored. However, we are focussed on improving the response of the criminal justice system to support victims in reporting this abuse and addressing the disparity between the prevalence of domestic abuse and the number of cases where the perpetrator is subject to the criminal justice system. We want more perpetrators to be prosecuted and convicted for their crimes, taking the pressure to seek safety away from victims.

On balance, we are persuaded that there is a gap in the current legal framework around patterns of coercive and controlling behaviour, particularly where that behaviour takes place in an ongoing intimate partner or inter-familial relationship. Non-violent coercive behaviour, which is a long-term campaign of abuse, falls outside common assault, which requires the victim to fear the *immediate* application of unlawful violence. Some patterns of domestic abuse could be captured by legislation that covers stalking and harassment. However, the law on stalking and harassment does not explicitly apply to coercive and controlling behaviour in intimate relationships. Indeed, as some respondents to our consultation pointed out, the law on stalking and harassment is not designed to capture the dynamic of sinister exploitation of an intimate relationship to control another, particularly where a relationship is ongoing. The element of control is not such a feature of stalking or harassment, which is generally intended to intimidate or cause fear. Domestic abuse adds an extra layer to such intimidation, with perpetrators operating under the guise of a close relation or partner to conceal their abuse, and safe in the presumption that the victim is likely to want to continue a relationship despite the abuse. For these reasons, domestic abuse may be said to be more subversive than stalking. Further, even where stalking and harassment legislation may be the appropriate tool to tackle domestic abuse, Court of Appeal case law is an unhelpful barrier (*R v Curtis* 1 Cr. App. R.31, and *R v Widdows* (2011) 175 J.P. 345).

Consequently the Home Secretary has announced today that she will include a new offence of domestic abuse as an amendment to the Serious Crime Bill, to be introduced at commons committee stage. The amendment to the Serious Crime Bill will explicitly criminalise patterns of coercive and controlling behaviour where they are perpetrated against an intimate partner or family member. Like stalking this behaviour may appear innocent, but the cumulative impact on the victim's every-day life will be significant, causing the victim to feel fear, alarm or distress. The emphasis will be on the control that those in abusive intimate relationships (both partners and family members) experience.

We recognise the importance of ensuring this new offence is clear, proportionate and does not impact on ordinary power dynamics in relationships. As such, the persistent nature of the behaviour, and the ability of a reasonable person to see that it is designed to control its victim will be key elements of a new offence. In line with stalking legislation, and in recognition of the damage coercive and controlling behaviour can do to its victims, the new domestic abuse offence will be triable either way and attract a maximum penalty of 5 years imprisonment, or a fine, or both.

We are confident that this new offence will become a key tool in our strategy to end domestic abuse. More victims will be protected and more perpetrators will face the criminal justice sanctions their behaviour justifies.

# Consultation principles

The principles that Government departments and other public bodies should adopt for engaging stakeholders when developing policy and legislation are set out in the consultation principles.

<https://www.gov.uk/government/publications/consultation-principles-guidance>