



**THE GOVERNMENT RESPONSE TO THE REPORT FROM THE  
JOINT COMMITTEE ON THE DRAFT DOMESTIC ABUSE BILL  
SESSION 2017-19 HL PAPER 378 / HC 2075:**

# **DOMESTIC ABUSE BILL**

Presented to Parliament  
by the Secretary of State for the Home Department  
by Command of Her Majesty

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Any enquiries regarding this publication should be sent to us at

Public Protection Unit

Home Office

5th floor, Fry building

2 Marsham Street, London, SW1P 4DF

PPUInterPersonalViolence@homeoffice.gov.uk

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## THE GOVERNMENT RESPONSE TO THE REPORT FROM THE JOINT COMMITTEE ON THE DRAFT DOMESTIC ABUSE BILL, SESSION 2017-19 HL PAPER 378 / HC 2075: DRAFT DOMESTIC ABUSE BILL

1. Domestic abuse is a horrendous crime which causes significant harm and distress to families and individuals across this country. The sheer scale of domestic abuse is shocking with the latest figures from the Crime Survey of England and Wales estimating that there were approximately two million victims of domestic abuse in the year ending March 2018 and tragically we also know that, in 2017/18, 63 women and 7 men were killed by a partner or ex-partner.<sup>1</sup>
2. Whilst anyone, regardless of age, gender, ethnicity sexuality and socio-economic background can suffer from domestic abuse, we know that the majority of victims are women and recognise domestic abuse is a disproportionately gendered crime. The impact of domestic abuse is far reaching, a study by SafeLives suggests that 52% of children who witness domestic abuse experienced behavioural problems and issues with social development and relationships, 39% had difficulties adjusting to school and 25% exhibited abusive behaviours when they were no longer exposed to abuse.<sup>2</sup> Evidence shows that adults who witness domestic abuse in childhood are more likely to experience abuse as an adult (34% compared to 11%).<sup>3</sup> In addition, research estimates that the cost of domestic abuse is approximately £66bn for victims of domestic abuse in England and Wales for the year ending March 2017.<sup>4</sup> The biggest component of which is the physical and emotional harms incurred by victims, however the cost to the economy and health services is also considerable, with an estimated £14 billion arising from lost output due to reduced productivity and time off work and £2.3 billion of costs to the health service.
3. This Government is committed to doing everything we can to end domestic abuse, to build a society that has zero tolerance towards domestic abuse and empowers communities to challenge and confront it. The Government is determined to give law enforcement agencies the tools to effectively tackle domestic abuse, while enhancing support for, and protection of, victims and their children. We are also determined to provide an effective response to perpetrators from early identification and initial agency response, both within and without the criminal justice system, through to conviction and management of offenders, including rehabilitation. It is our goal to drive consistency and better performance in the response to domestic abuse across all local areas, agencies and sectors. To achieve this, we have committed to bring forward a comprehensive programme of action to tackle domestic abuse, bringing together legislative and non-legislative commitments from across government.
4. A key part of this programme is the introduction of the Domestic Abuse Bill. The Government recognises the importance in making this landmark piece of legislation as effective as possible and therefore published the Bill in draft in January 2019 so that it could undergo pre-legislative scrutiny.
5. The Government is very grateful to the Joint Committee on the Draft Domestic Abuse Bill (“the Committee”) for taking forward the pre-legislative scrutiny of the Bill so

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<sup>1</sup><https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/articles/homicideinenglandandwales/yearendingmarch2018>

<sup>2</sup> Safelives Policy Report (2014). In Plain Sight: Effective help for children exposed to domestic abuse

<sup>3</sup><https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/articles/peoplewhowereabusedaschildrenaremorelikelytobeabusedasanadult/2017-09-27>

<sup>4</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/772180/horr107.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/772180/horr107.pdf)

comprehensively. The Committee took evidence from a wide cross-section of interested parties, receiving 539 written submissions in response to its call for evidence and taking oral evidence from 36 witnesses. The Home Secretary and Justice Secretary both pay tribute to the dedication of the Committee members, and their commitment to tackling domestic abuse and supporting victims and their children. The Government also wishes to thank the organisations and individuals who submitted written evidence, or gave oral evidence, to the Committee – in particular those victims and survivors of domestic abuse who bravely gave personal testimony.

6. We have considered all the Committee's recommendations carefully. We have accepted many of the recommendations, in part or in full and have committed to giving other recommendations full consideration over the next few months. We are committed to publishing a further response to the Committee's report later in the year once we have completed our consideration of these outstanding recommendations and, where appropriate, we will also bring forward amendments to the Bill. At this point we will also publish a revised Impact Assessment to reflect any amendments and any updated data which is available for example on the costs associated with Domestic Abuse Protection Orders.
7. We recognise the critical role of accommodation-based support services for survivors as part of the range of support they need. The consultation on the proposed statutory duty for support for victims and their children in safe accommodation is ongoing and, subject to views expressed in the public consultation, it is our firm intention that these proposals will form part of the Bill at a later stage. The consultation closes on 2 August and we will set out our response in due course.
8. The Committee's work has improved the Bill and we welcome further scrutiny of the Bill in Parliament. In addition to making changes to the draft Bill in response to the Committee's recommendations, we have also refined a number of the provisions relating to Domestic Abuse Protection Notices and Orders; the annex to this response to the Committee's report summarises all the changes made to the draft Bill.

Recommendations made by the Committee are in <b><i>bold italic font</i></b> , the paragraph number from the original report is listed in brackets after the recommendation
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## INTRODUCTION

### Multi-agency working

***The Government's strategy is clear about the need for a multi-agency approach to combating domestic abuse, but a number of our witnesses believed the scope of the draft Bill could have been broader. We are firmly of the view that the aims of this Bill can be achieved only if there are changes in both policy and legislation relating to other areas of government activity, especially the provision of services to survivors (housing, health, financial support), the role of healthcare professionals and teachers in prevention and early intervention and a greater public awareness of the many forms that abuse can take. Throughout our report, we urge more active participation from all relevant government departments and a far more vigorous multi-agency response from those providing frontline public services. (Paragraph 6)***

9. Domestic abuse affects almost two million victims every year and the devastating consequences that it has on victims is such that it necessitates a separate comprehensive programme of cross-government activity. We believe that having a specific programme of work focussed solely on domestic abuse gives us the best chance of achieving our aims of raising awareness and preventing abuse.
10. The Government's aim is to make domestic abuse everybody's business. Whilst the Bill is co-sponsored by the Home Office and Ministry of Justice, the domestic abuse programme is a collective cross-government effort. The Home Secretary chairs an Inter-Ministerial Group on Violence against Women and Girls (VAWG) with departments across government to ensure we have a holistic and comprehensive response to all forms of VAWG. The Group includes ministerial representatives from twelve other government departments, including the Ministry of Justice; the Department of Health and Social Care (DHSC); the Ministry of Housing, Communities and Local Government (MHCLG); the Department for Education (DfE); the Department for Work and Pensions (DWP); the Department for Digital, Culture, Media and Sport (DCMS); the Department for International Development (DfID); and the Foreign and Commonwealth Office (FCO).
11. Key actions we are taking across government to tackle domestic abuse include:
  - From September 2020 we are making Relationships Education compulsory for all primary pupils, Relationships and Sex Education (RSE) compulsory for secondary pupils, and Health Education compulsory for all pupils in primary and secondary schools;
  - DHSC has funded the Identification and Referral to Improve Safety (IRIS) project; a staff training and support programme to bridge the gap between primary care and voluntary sector organisations to harness the strengths of each, and to provide an improved response to domestic abuse;
  - DHSC has invested a further £2 million (in addition to £1 million provided through the Tampon Tax fund) to fund the expansion of the Health Pathfinder programme which is being delivered by a consortium of specialist organisations led by Standing Together Against Domestic Violence to develop a model health response for survivors of domestic abuse in acute, community and mental health settings;
  - Since 2015, £62 million of VAT collected from the sale of sanitary products has been allocated to projects supporting vulnerable women and girls through the

Tampon Tax Fund. Of this, over £17.5 million has been allocated to projects addressing VAWG.

12. We recognise the importance of a multi-agency approach to the provision of services for victims of domestic abuse. Multi-agency approaches for victims, children and some serious perpetrators are well-established and include multi-agency risk assessment conferences (MARAC), multi-agency safeguarding hubs (MASH) and multi-agency public protection arrangements (MAPPA) as well as the newly emerging multi-agency tasking and coordination (MATAC) process. These all play a vital role in bringing together local statutory and voluntary agencies to provide a coordinated response to victims, perpetrators and children. In addition, the MHCLG consultation on the future delivery of support to victims and their children in accommodation-based domestic abuse services<sup>5</sup> proposes having a statutory duty which requires a partnership approach to supporting victims and their children.

***We are encouraged that Jobcentre Plus has put in place training for its staff to identify victims of domestic abuse and to make advance payments in case of financial hardship. Ministers need to consider whether those payments should be converted into grants that are not repayable. (Paragraph 8)***

13. The Government thanks the Committee for acknowledging the investment that DWP has made in training. Training and awareness is now better than it ever has been, allowing Jobcentre staff to proactively identify, support and signpost victims of domestic abuse. We are proud of the positive cultural change we have been able to achieve in our Jobcentre sites, and are committed to working with our staff, stakeholders and claimants to continually strive for improvements.
14. From discussions with stakeholders, we know that access to money is one of the main barriers to ending an abusive relationship, and when a survivor comes into a Jobcentre under these circumstances, we can provide tailored support. We can support them by helping them to open a new claim in their own right, separate from their former partner, and can put in place a rapid advance where needed, which provides access to funds in two to three hours. Through such advances, claimants can access up to 100 per cent of their expected Universal Credit (UC) entitlement on day one of their claim. Work has also been done to increase awareness of the availability of advances, through publishing information online, a communications campaign in Jobcentres and providing guidance to staff.
15. We recognise, however, that some claimants may face difficulties in managing debt, and the repayment of advances in UC. We have taken steps to ensure that claimants with the highest rate of deductions will keep more of their monthly payment. From October 2019, the normal maximum level of deductions that can be taken from a claimant's UC award will be reduced from 40% to 30% of the claimant's standard allowance. From October 2021, we will also extend the maximum period over which advances can be recovered from 12 to 16 months.
16. We have taken a number of positive steps and will continue to strive for progress both in making more people aware of advances and ensuring the repayment of debt in UC is manageable. A policy of non-repayable advances would present significant risks and challenges that would need to be overcome if it were to be pursued.

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<sup>5</sup> <https://www.gov.uk/government/consultations/support-for-victims-of-domestic-abuse-in-safe-accommodation>

17. As well as helping victims of abuse with new claims and rapid advances, we utilise our links with partners to identify where further or specialised support is required. Every Jobcentre has local and national links and relationships with a network of charities and organisations which we can signpost vulnerable claimants to in order to ensure they get the expert help they need. An example of this is when a claimant is fleeing abuse and has no access to immediate accommodation, the Department of Work and Pensions will identify local or national partner organisations or local authority contacts to ensure the claimant is supported to access housing or refuge accommodation as quickly as possible – often the same day.

***We agree with the Work and Pensions Committee that Universal Credit should not exacerbate financial abuse. We are encouraged that DWP are considering alternative means of ensuring that the benefit system does not force people suffering from domestic abuse to continue to live with their abuser, but more has to be done to ensure this. We recommend that the Government reviews the impact of its welfare reform programme on victims of domestic abuse. Specifically, this review should examine how different approaches to splitting the Universal Credit single household payment might mitigate against the effects of domestic abuse. (Paragraph 9)***

18. The Government has carefully considered the Committee's recommendation, and absolutely shares the determination to support and protect victims and survivors of domestic abuse. We are committed to providing a compassionate welfare system, and the best possible support for all UC claimants, including the most vulnerable in society. We agree with the Committee that we must constantly review the impact of our welfare reforms, working closely with stakeholders; the flexible way in which UC is being delivered allows us to listen to the concerns of stakeholders, learn as we go, and adapt our policy and processes accordingly. In response to stakeholder concerns and Work and Pensions Select Committee recommendations, we are implementing improvements to our service for victims and survivors of domestic abuse and we are committed to reviewing the effectiveness of these changes.
19. We have listened to the concerns raised by Women's Aid, Refuge and others about the single payment structure of UC. These stakeholders have called for split payments to be made the default. The Government does not believe that introducing split payments by default is the appropriate policy solution but is instead taking forward a programme of wider initiatives, including those detailed below, to address the issue highlighted. We believe that most couples can and want to manage their finances jointly without state intervention and we provide a tailored service that recognises those with complex needs at any point throughout their journey and ensures appropriate support is quickly made available. Departmental training and awareness is now better than it has ever been, allowing Jobcentre staff to proactively identify, support, and signpost victims of domestic abuse. For those in receipt of UC who are experiencing domestic or economic abuse, we ensure that work coaches discuss the options available, including split payments and managed payments to landlords. We ensure split payments are provided whenever requested, as well as making easements in benefit conditionality, and referrals to local support. This approach ensures that victims are supported, whilst the simplicity of the overall system which is designed to simplify benefits and work is secure for others.
20. As part of our programme of wider initiatives to support victims and survivors of domestic abuse, we want to make sure the main carer more often receives the UC payment – currently around 60% of UC payments go to the main carer, usually a woman – and this summer we will begin to make changes to the claimant messaging

to support this. We commit to reviewing the effectiveness of the change to encourage payments to the main carer. We have been closely engaging with key domestic abuse stakeholders on a range of issues and we will continue to work closely with them on improving our services, policies and support for victims of abuse. In particular, we listened and responded to stakeholders when they raised concerns about the adequacy of the training provided to our frontline staff and we have worked together with them to refresh and improve the operational guidance. All of our UC work coaches (and our Child Maintenance staff) have received mandatory training – developed with input from domestic abuse organisations – to help them recognise the signs of abuse. DWP is also providing a dedicated, national level resource within the National Employer and Partnership Team that is accountable for building relationships with organisations that support victims of abuse.

21. We have also carefully considered the findings of the Work and Pensions Select Committee review into domestic abuse and, in line with their recommendation, we are implementing advocates for domestic abuse services in every Jobcentre. We have been working closely with stakeholders to design the training events and are co-delivering these events with Women's Aid over the summer. We are committed to reviewing the effectiveness of this measure.
22. The Scottish Government has set out its intention to implement split payments for joint claims in UC. In addition to reviewing the effectiveness of the intentions set out above, we will of course continue to work closely with the Scottish Government to establish the practicalities of delivering split payments in Scotland and to further understand the impacts, potential advantages and challenges of this policy.

### **The Violence Against Women and Girls Strategy**

***We believe that there should be greater integration of policies on domestic abuse and violence against women and girls to reflect the realities of the experience of victims. This has to be achieved without excluding men, boys and non-binary people from the protection of domestic abuse legislation and services for survivors. The legislation and practice in Wales provide useful lessons in this area. (Paragraph 11)***

23. We agree that it is vital to integrate policies on domestic abuse with wider VAWG issues, and our situation of domestic abuse policy within our VAWG Strategy<sup>6</sup> demonstrates our recognition of the gendered nature of domestic abuse. To that end, in March 2019 we published a refreshed VAWG Strategy<sup>7</sup> which incorporates commitments made within the Bill to transform our response to domestic abuse. In addition, in order to clarify and strengthen our response to male victims of these crimes, we published a Male Victims' Position Statement.<sup>8</sup>

### **Territorial extent**

***We received a large number of written submissions on the issue of the law on abortion in Northern Ireland, the majority of which argued that the Bill should not be***

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<sup>6</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/522166/VAWG\\_Strategy\\_FINAL\\_PUBLICATION\\_MASTER\\_vRB.PDF](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/522166/VAWG_Strategy_FINAL_PUBLICATION_MASTER_vRB.PDF)

<sup>7</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/783596/VAWG\\_Strategy\\_Refresh\\_Web\\_Accessible.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/783596/VAWG_Strategy_Refresh_Web_Accessible.pdf)

<sup>8</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/783996/Male\\_Victims\\_Position\\_Paper\\_Web\\_Accessible.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/783996/Male_Victims_Position_Paper_Web_Accessible.pdf)

***used as a means to change the law. The draft Bill makes no such provision, and we have not considered that it is part of our remit to consider this issue. (Paragraph 14)***

24. The Government agrees that the issue of the law of abortion in Northern Ireland (or, for that matter, in England and Wales or Scotland) is not a matter for this Bill, which is properly focused on tackling domestic abuse. The Government recognises that abortion is an extremely sensitive issue and there are strongly held views on all sides of the debate. Given this, any significant changes to the law require careful consideration and full consultation with the medical profession and others.

***We consider it unacceptable that the people of Northern Ireland are denied the same level of protection in relation to domestic abuse as those elsewhere in the United Kingdom because of the lack of a Northern Ireland Executive and Assembly. We understand and respect the devolution settlement, but in the absence of an executive we recommend that the provisions of the draft Bill be extended to Northern Ireland unless and until Northern Ireland enacts its own legislation in this area. The draft Bill should be amended to include a 'sunset clause' to this effect. (Paragraph 17)***

25. The UK Government agrees that victims of domestic abuse in all parts of the United Kingdom deserve effective protection and support.
26. However, as matters relating to domestic abuse are devolved in Northern Ireland, any question of reform to law or policy is rightly one for a devolved Executive and Assembly in Northern Ireland to consider. In the absence of the devolved institutions, the UK Government has been considering with the Department of Justice in Northern Ireland whether it would be appropriate, in the interests of public safety, to use the Domestic Abuse Bill to apply the measures in the Bill to Northern Ireland.
27. The UK Government accepts that, in the current circumstances, there is a case for doing so, but we do not agree that the measures in the Bill should 'en bloc' be extended to Northern Ireland, subject to a 'sunset clause' as recommended by the Committee. Rather, we believe that the application of analogous provisions in the Bill to Northern Ireland should be considered on a case-by-case basis, reflecting the different law in Northern Ireland and respecting the devolution settlement.
28. The UK Government must ratify the Istanbul Convention therefore following consultation with the Department of Justice, the Bill as introduced includes analogous provisions for Northern Ireland in respect of extraterritorial jurisdiction.
29. In 2016 the then Northern Ireland Minister of Justice launched a consultation on criminalising coercive and controlling behaviour. The Executive collapsed before this matter could be legislated. The Bill therefore includes a Northern Ireland measure (including to provide that complainants in relation to such an offence are eligible for special measures), to criminalise controlling or coercive behaviour (analogous offences already being on the statute books in England and Wales and Scotland).
30. The Department of Justice intends to consult on introducing a prohibition on the cross-examination of victims by perpetrators of domestic abuse in person in the family courts in Northern Ireland. Following the consultation, the Department of Justice will consider, together with the UK Government, whether it would be appropriate for such measures to be included in the Bill at a later stage. The Department of Justice is considering further, in consultation with their delivery partners, whether it would also be appropriate for some other provisions in the Bill to apply to Northern Ireland.

31. In coming to a view on the inclusion of each of these measures in the UK Government Bill, the Department of Justice has been properly guided by whether individual measures are consistent with the existing policy framework in Northern Ireland or, in the case of the new domestic abuse offence, decisions taken by previous Northern Ireland Ministers. In addition, the Department of Justice has taken into account its powers under the Northern Ireland (Executive Formation and Exercise of Functions) Act 2018.
32. The Bill contains a separate commencement measure for provisions extending to Northern Ireland which relate to devolved matters. This means that the Department of Justice will be responsible for bringing into force the provisions applying to Northern Ireland.

## CHAPTER ONE: DEFINITION OF DOMESTIC ABUSE

### *Definition of abusive behaviours*

***We have heard compelling evidence that certain forms of abusive behaviour are not being recognised by public bodies as domestic abuse. This is usually because they are disproportionately experienced by BME people, or relate to an individual’s immigration status, even though such abuse is almost invariably perpetrated by a member of the victim’s household or extended family. We recommend that the Bill is amended to provide that the following types of abuse are always treated as domestic abuse: Female Genital Mutilation; forced marriage; honour-based crimes; coercive control related to immigration status; and modern slavery and exploitation. This amendment must make it clear that specifying these types of abuse does not limit the definition of domestic abuse, it simply clarifies that they fall within the statutory definition, and the victims and perpetrators should be treated accordingly. (Paragraph 28)***

***We endorse the Government’s approach to defining domestic abuse by the inclusion of broad categories of behaviour in order to future-proof the statutory definition, subject to our recommendation in paragraph 28 on specific abusive behaviours that must be treated as falling within the definition of domestic abuse. (Paragraph 29)***

***We recommend that the statutory definition should be redrafted to make it clear that single occurrences may constitute domestic abuse, and it is not necessary to prove a “course of behaviour”. In making this recommendation we specifically have in mind abusive acts such as abandonment, where a wife or partner is deserted abroad without papers to prevent them from exercising their matrimonial or residence rights in England and Wales. It would not be in the spirit of the Government’s stated ambitions for the Bill if such behaviour could arguably be excluded from the definition because it can be characterised as a stand-alone event. (Paragraph 31)***

34. The primary aim of bringing forward a statutory definition of domestic abuse is to ensure that domestic abuse is properly understood by agencies and the public. We recognise that domestic abuse can take many different forms and can include many types of behaviour, including physical and sexual violence, threatening behaviour, coercion and control, and economic or psychological abuse. Listing specific acts of abuse on the face of the Bill risks limiting the understanding of domestic abuse. Instead we intend to provide further details, including types of abuse experienced by specific groups or communities, in the statutory guidance which will accompany the definition. In the statutory guidance we also intend to recognise the additional complex factors which may occur in domestic abuse situations – for example mental health or substance misuse issues and how they can interplay with abuse. The statutory guidance will be regularly updated to allow for emerging trends and behaviours to be recognised.
35. The Government does not consider female genital mutilation (FGM) to be domestic abuse, as it is generally inflicted upon children and therefore is a type of child abuse.<sup>9</sup>

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<sup>9</sup> The most recent annual FGM Enhanced Dataset, which records the number of occasions when a woman or girl was identified in an England or Wales healthcare setting as having undergone FGM at some point in her life and anywhere in the world, shows that, of those occasions when the age at which she underwent FGM was known, 86% involved FGM undertaken under the age of 15.

This is recognised in the Children Act 1989 (Amendment) (Female Genital Mutilation) Act, which became law this year. Proceedings under the Act would lead to a response under child abuse legislation. Nevertheless, the Government recognises the dynamics that may be present in such abusive situations and will ensure this is considered in the statutory guidance

36. Modern slavery takes many different forms – both within and outside personal relationships. Where there is evidence of this type of exploitation in an abusive relationship, the existing modern slavery legislation provides the appropriate means to prosecute offenders. In some cases the offence of coercive or controlling behaviour may also apply.
37. Additionally, honour-based abuse (HBA) can cover a range of circumstances, not all of which will necessarily represent domestic abuse. There may be instances where the perpetrator and victim are not personally connected, such as abuse carried out by another person in the community. In addition, the Home Office and CPS define HBA as a crime or incident which has or may have been committed to protect or defend the honour of the family and/or community. While most occurrences of HBA are likely to involve behaviours specified in the proposed definition of domestic abuse, it is possible that there could be others which do not. In all other circumstances, we would consider HBA to be domestic abuse and will provide further details in the statutory guidance.
38. We recognise the importance that the definition will have in aiding the commissioning of domestic abuse services. The VAWG National Statement of Expectations<sup>10</sup> has set out clear expectations on local areas for commissioning services to meet local needs, including sufficient services to support BME victims. The National Statement of Expectations will be referenced and signposted within the statutory guidance which underpins the domestic abuse definition.
39. Whilst the Government recognises that domestic abuse in interpersonal relationships is almost always part of an ongoing pattern of behaviour, we agree with the Committee that limiting the definition solely to patterns of abuse could risk preventing the police and public services from providing protection in seemingly one-off instances. Whilst the legal interpretation of the term 'behaviour' used in the draft Bill already covers both a single incident and a course of conduct, we have amended the Bill to make this clearer.

### **Age limit**

***We welcome that the Government has legislated to make relationship and sex education mandatory for all school age children and that it will tackle the issue of what healthy relationships look like with children from the age of five in an age appropriate way. We were disturbed to hear from young people themselves that they felt violent abuse in relationships between those under the age of 16 was not taken seriously. (Paragraph 40)***

***We have found it difficult to decide on the age limit that should apply to the definition of domestic abuse but, on balance, agree the age-limit of 16 in the proposed statutory definition of domestic abuse is the right one. We recognise the concerns of witnesses that abuse suffered, and perpetrated, by under 16s in intimate relationships is not***

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<sup>10</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/574665/VAWG\\_National\\_Statement\\_of\\_Expectations\\_-\\_FINAL.PDF](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/574665/VAWG_National_Statement_of_Expectations_-_FINAL.PDF)

***captured by the definition but believe the danger of lowering the age-limit would be the inevitable criminalisation of under 16-year-old perpetrators. This does not mean that it would always be inappropriate for perpetrators under 16 to face the criminal courts. The police need to review their guidance in this area. The priority must be to develop consequences that ensure young perpetrators stop their abusive behaviour, for their own sake as well as the children they abuse. It is equally vital that children who have suffered abuse in a peer to peer relationship receive specialist support. (Paragraph 41)***

***We recommend that the Government conduct a specific review on how to address domestic abuse in relationships between under-16 year olds, including age-appropriate consequences for perpetrators. We note the inadequacy of the criminal justice system in dealing with these cases and recommend the review consider how to remedy this, including for cases that are not destined to come before the court, therefore ensuring victims' need for justice is met. While the adult model is not the right one for children, the harm caused to all concerned is very high and this Bill will not be the landmark legislation it is intended to be if it does not tackle this difficult area. (Paragraph 42)***

***We also agree that abuse of children by adults must always be treated as child abuse and reducing the age limit for victims runs the risk of confusing the approach of public authorities and denying the young victims of such abuse access to specialist services. (Paragraph 43)***

40. We welcome the Committee's consideration of the age limit in the definition of domestic abuse and their agreement that an age limit of 16 is the right one. The Government is clear that the impact of domestic abuse on young people needs to be properly recognised and we need to ensure that agencies are aware of it and how to appropriately identify and respond. This includes: children living in abusive households; teenage relationship abuse; and abuse directed towards siblings and parents.
41. We also welcome the Committee's acknowledgement that from, September 2020 we are making Relationships Education compulsory for all primary pupils and Relationships and Sex Education (RSE) compulsory for all secondary pupils. From that point, Health Education will also be compulsory for all pupils in primary and secondary schools. We want to equip children for adult life and to make a positive contribution to society.
42. 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 in secondary schools will help children understand and recognise domestic abuse and will also cover the concepts of, and laws relating to, sexual consent, sexual exploitation, abuse, grooming, coercion, harassment, forced marriage, rape, and FGM and how these can affect current and future relationships. The focus on healthy relationships in both primary and secondary will help children who are experiencing or witnessing unhealthy relationships know where to seek help and report abuse as well as addressing inappropriate behaviour, harassment, abuse or exploitation.
43. Health Education will also address important aspects such as mental wellbeing. It is important that the subjects are seen holistically as that will ensure pupils are equipped

to develop positive relationships in all aspects of their lives. To support schools in delivering these subjects, we have budgeted £6 million in this financial year to develop a programme of support. We will focus on tools that improve schools' practice, such as an implementation guide to support the delivery of the content set out in the guidance and targeted support on materials and training.

44. In November 2018, we produced 'Respectful School Communities'<sup>11</sup>, a tool to support schools to develop a whole-school approach to promote respect and healthy relationships. This tool can help schools to take a preventative approach to combat bullying and abuse of any kind and create inclusive and tolerant school communities.
45. This Government has also provided £3 million for the Disrespect Nobody<sup>12</sup> teenage relationship abuse campaign designed to educate teenagers about different types of abusive behaviour. It aims to prevent the onset of domestic abuse in adults by challenging attitudes and behaviour amongst teenage boys and girls that abuse in relationships is acceptable.
46. We also agree that it is vital that children who have experienced abuse in a peer to peer relationship receive appropriate support and safeguarding. In December 2017, we published detailed advice<sup>13</sup> to support schools to 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 2018 we also revised Keeping Children Safe in Education<sup>14</sup> - 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.
47. In respect of the Committee's recommendation at paragraph 42, we wish to give proper consideration to the concerns the Committee has raised and therefore undertake to carry out further work on this issue.
48. Currently, where a domestic abuse-related offence (e.g. actual bodily harm (ABH)) is committed by a person under 16, the police would investigate in the normal way and the CPS would make a charging decision based on the standard evidential and public interest tests. Youth Sentencing Guidelines<sup>15</sup> also state that the court should consider relevant aggravating factors when considering sentence. Relevant examples in the guideline include: steps taken to prevent the victim reporting or obtaining assistance; prolonged nature of offence; and history of antagonising or bullying the victim.<sup>16</sup>
49. Where a child is convicted the court has a range of sentencing options available, including community sentences such as a Youth Rehabilitation Order which provides the courts with a wide range of requirements which can be included as part of the order to address protection issues (e.g. curfew, residence and exclusion requirements) and which allow local services to assess the child's offending behaviour and needs and put in place measures to address those issues.

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<sup>11</sup><https://educateagainsthate.com/resources/respectful-school-communities-self-review-signposting-tool/>

<sup>12</sup>[Disrespectnobody.co.uk](http://Disrespectnobody.co.uk)

<sup>13</sup><https://www.gov.uk/government/publications/sexual-violence-and-sexual-harassment-between-children-in-schools-and-colleges>

<sup>14</sup><https://www.gov.uk/government/publications/keeping-children-safe-in-education--2>

<sup>15</sup><https://www.sentencingcouncil.org.uk/wp-content/uploads/Sentencing-Children-and-Young-People-definitive-guideline-Web.pdf>

<sup>16</sup><https://www.sentencingcouncil.org.uk/wp-content/uploads/Sentencing-Children-and-Young-People-definitive-guideline-Web.pdf>

50. This sits alongside the ongoing work referenced above to support practitioners to identify abuse in under 16s, raise awareness of abuse amongst young people and the existing guidelines available to criminal justice agencies.
51. We will, however, carry out further work, including discussions with stakeholders over the summer to assess the need for a review in this area, including consideration of what the scope of a potential review might look like. We expect it will go further than the justice system, taking into account safeguarding, wider services available to victims and perpetrators under 16, and will include looking at the police response.

***We are concerned over the absence from the definition of children as victims of abuse perpetrated by adults upon adults and the evidence we have heard that this has a negative impact on services for children who have suffered such trauma. We recommend the Bill be amended so the status of children as victims of domestic abuse that occurs in their household is recognised and welcome the assurance from the Home Office Minister that the Government seeks to include the harm caused to children in abusive households in the definition. This would also ensure compliance with the Istanbul Convention which makes it clear that children may be the victims of domestic abuse by witnessing it rather than being the subjects of it. (Paragraph 46).***

***We recommend the Government consider amending the relevant Children Act definition of harm to explicitly include the trauma caused to children by witnessing coercive control between adults in the household. (Paragraph 47)***

52. We fully recognise the devastating impact that domestic abuse can have on children and young people, whether that is being exposed to it in their homes or through their own intimate partner relationships. A key aim of this legislation is to raise awareness of the impact that domestic abuse can have on children and to ensure they are considered victims in their own right.
53. The draft Bill already went some way to recognise the impact of domestic abuse on children. In particular, the statutory definition (clause 1(5)) recognised that a person may indirectly abuse another person through a third party, such as a child or another member of the same household. In addition, the remit of the Domestic Abuse Commissioner includes the identification of children affected by domestic abuse (clause 6(1)). However, we recognise that there is more that could be done and therefore we propose to build on these provisions by expressly providing that the statutory guidance issued under clause 79 of the Bill must recognise the effect of domestic abuse on children. The guidance will outline the range of impact domestic abuse can have on children, as well as appropriate support and referral mechanisms.
54. The Government agrees that it is important that children affected by witnessing coercive control receive the protection and support they need. We will therefore consider whether there is a need to amend the definition of harm in the Children Act 1989. As part of that consideration, we will need to fully understand the impact on public and private law children proceedings if the definition were to be amended in the way proposed, and then agree how to proceed - be that through amending the 1989 Act, statutory guidance, secondary legislative options or a commitment for a wider consultation on the definition of harm within that Act.
55. We are keen to ensure that there are sufficient services available to support children affected by domestic abuse. As part of their work on mapping and assessing the

provision of services across the country, the Domestic Abuse Commissioner will take into account services available for children. The Commissioner will also be required (through their terms of appointment) to have a thematic lead within their office to represent the interests of children.

56. The Government has already allocated up to £8 million of funding for new services designed to support children affected by domestic abuse. As part of this we are funding a number of innovative projects in England and Wales, including: a project spanning several local authorities in the Black Country to ensure there is a schools-based support service for children affected by domestic abuse; a project in Cambridgeshire to provide specialist support for children giving evidence in the criminal justice system and to support their participation in Domestic Homicide Reviews; and a Wales-based project run by Barnardo's to embed workers in children's social care to enable children and young people to recover from their experiences of domestic abuse, build resilience, strengthen parenting capacity and support system change. We will evaluate the effectiveness of the fund and use the findings to inform the design of future funding models.
57. We have also provided £163,000 to fund the national roll-out and evaluation of Operation Encompass<sup>17</sup>. This initiative ensures timely information sharing between police and schools when children have been exposed to domestic abuse. We have also funded a pilot of SafeLives' 'One Front Door'<sup>18</sup> model which supports early identification of children affected by domestic abuse through a whole family approach.
58. In addition, the new 'Working Together to Safeguard Children' guidance<sup>19</sup> sets out the new multi-agency arrangements for safeguarding children. The 'Safeguarding Early Adopters'<sup>20</sup> programme looked at testing and implementing innovative approaches to multi-agency safeguarding arrangements including protecting children from domestic abuse. We are also working on the Child Protection–Information Sharing (CP-IS) system which shares safeguarding information between health and children's social care when a young person who is considered vulnerable and at risk and has a protection plan turns up in an unscheduled NHS setting. It enables them to put in place actions to protect the child while their immediate health needs are addressed.

### ***Personally connected***

***We recommend the Government reconsider including the “same household” criterion in its definition of relationships within which domestic abuse can occur. This landmark Bill must ensure that no victim of domestic abuse will be denied protection simply because they lack the necessary relationship to a perpetrator with whom they live. (Paragraph 49)***

***We recognise that abuse of disabled people by their “carers” often mirrors that seen in the other relationships covered by the Bill. We conclude that abuse by any carer towards this particularly vulnerable group should be included in the statutory definition. We share the concerns of our witnesses, however, that, even with the “same household” criterion included in the definition of “personally connected”, paid carers, and some unpaid ones, will be excluded from the definition of domestic abuse.***

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<sup>17</sup> <https://www.operationencompass.org/>

<sup>18</sup> <http://safelives.org.uk/one-front-door>

<sup>19</sup> <https://www.gov.uk/government/publications/working-together-to-safeguard-children--2>

<sup>20</sup> <https://www.ncb.org.uk/resources-publications>

***We recommend the Government review the “personally connected” clause with the intention of amending it to include a clause which will cover all disabled people and their carers, paid or unpaid in recognition of the fact this type of abuse occurs in a domestic situation. (Paragraph 51)***

59. We believe that a personal relationship between the victim and perpetrator is key to understanding domestic abuse. By including a ‘same household’ criterion, our definition would inadvertently capture a range of people who live together but are not personally connected, such as tenants and landlords, or friends and therefore widen the definition of domestic abuse beyond how it is commonly understood. As such we do not propose to review the ‘personally connected’ clause at the current time.
60. Of course, all forms of abuse are to be abhorred, including abuse of disabled people by their carers. If they are personally connected to their carer, this will be covered by our definition of domestic abuse. Otherwise, abuse of disabled people by their carers is already covered by existing legislation. Section 42 of the Care Act 2014 places a duty on local authorities to carry out safeguarding enquiries if they have reason to suspect an adult in their area with care and support needs is at risk of abuse or neglect.
61. The statutory guidance<sup>21</sup> supporting the Care Act also places a duty on local authorities to ensure that the services they commission are safe, effective and of high quality and the Care Quality Commission plays a key monitoring role to ensure that care providers have effective systems to help keep adults safe from abuse and neglect. All professions are subject to employer checks and controls and employers in the health and care sector must satisfy themselves regarding the skills and competence of their staff. We introduced the new wilful neglect offence specifically to help eradicate the abuse of people dependent on care services and, in addition, have introduced tougher inspections of care services by the Care Quality Commission, and made sure that the police, councils and the NHS are working together to help protect vulnerable adults.

### ***Domestic abuse as a gendered crime***

***We recommend that the Secretary of State publish draft statutory guidance in time for the Second Reading of the Bill, and Clause 57 be amended to require the final guidance to be published within six months of the Bill’s enactment. (Paragraph 65)***

***The Government has described this Bill as a once-in-generation opportunity to transform the response to the terrible crime of domestic abuse. Given the landmark nature of the proposed legislation, we believe it is crucial that the gendered context of domestic abuse is recognised on the face of the Bill. Without this recognition the Bill cannot begin to fulfil the Government’s ambitions for it and achieve the transformative response required to combat the scourge of domestic abuse. (Paragraph 71)***

***We believe many of the objections to a gendered definition of domestic abuse come from concerns that it could exclude men from the protection of the Act. We recognise***

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<sup>21</sup> <https://www.gov.uk/government/publications/care-act-statutory-guidance/care-and-support-statutory-guidance>

***this concern but our evidence shows it is based on a misunderstanding of what a gendered definition means in practice. A gendered definition of abuse does not exclude men. Anyone can, sadly, suffer from domestic abuse just as anyone, regardless of gender, can perpetrate it. In recommending a gendered definition of domestic abuse we want to embed a nuanced approach to the most effective response to domestic abuse for all individuals who suffer such violence, and to ensure that public authorities understand the root causes of this complex crime. We also believe our recommendation on how a gendered definition should be drafted allows the courts to continue to judge the raft of cases they currently hear without any fear of perpetuating discrimination towards men and boys. Incorporating a gendered definition of domestic abuse ensures compliance with the requirements of the Istanbul Convention in demonstrating a gendered understanding of violence against women and domestic abuse as a basis for all measures to protect and support victims. (Paragraph 72)***

***We recommend the Government introduce a new clause into the draft Domestic Abuse Bill in the following, or very similar, terms: When applying Section 1 and 2 of this Act public authorities providing services must have regard to the gendered nature of abuse and the intersectionality of other protected characteristics of service users in the provision of services, as required under existing equalities legislation. (Paragraph 73)***

***We recommend that the statutory guidance the Government is committed to issuing on the operation of the statutory definition of domestic abuse should require public authorities to acknowledge the disproportionate impact of domestic abuse on women and girls when developing strategies and policies in this area. We believe this will make the Bill the landmark legislation the Government intends and transform the way we as a country respond to the scourge of domestic abuse. We recommend draft guidance on the Bill be published at Second Reading and that all final guidance be published within six months of the day the Act comes into force. (Paragraph 74)***

62. We fully recognise that domestic abuse is a gendered crime, which disproportionately affects women. This is also emphasised in the VAWG Strategy refresh and the National Statement of Expectations, which sets out how local areas should ensure victims of violence and abuse against women and girls get the help they need. However, we believe that it is critical that the statutory definition is gender-neutral so that all types of abuse are identified and that no victim is inadvertently excluded from support or protection.
63. We propose to recognise the gendered nature of abuse through statutory guidance and have amended clause 79 to expressly provide that such guidance must recognise the fact that the majority of victims of domestic abuse are female. We have already established a working group on the statutory guidance with representation from a wide range of stakeholders and will be continuing to engage with them as we develop the guidance.
64. We aim to publish the draft guidance in time for the House of Commons Committee stage and the final guidance will be published ahead of implementation of clauses 1 and 2 of the Bill which provide for the statutory definition. We will seek to bring the statutory definition into force as soon as practicable after Royal Assent.

## CHAPTER TWO: POLICING

### Domestic Violence Protection Notices and Orders

***Given the Crime and Security Act 2010 states that violence or the threat of violence is required before a notice can be issued or an order granted, we can understand why both the police and the courts have found it difficult to decide whether certain types of abusive behaviour qualified the perpetrator for a Domestic Violence Protection Order or Notice. We welcome the explicit inclusion of abuse other than violence or the threat of violence and believe this removes a key weakness of the previous scheme. (Paragraph 82)***

65. We are pleased that the Committee welcomes the provisions for Domestic Abuse Protection Notices (DAPNs) and Orders (DAPOs) to be used to protect victims from all forms of domestic abuse. We know that domestic abuse does not have to be physically violent to cause serious and long-term harm and it is therefore important that victims of all forms of domestic abuse, including psychological, emotional and economic abuse, can gain protection through these new notices and orders.

#### ***Applications for DAPOs***

***Domestic Abuse Protection Orders may be applied for without the victim's consent by the police, specialist agencies and third parties with the consent of the court. We believe it is a key strength of the proposed orders that they can be made by the police without the victim's consent: the nature of domestic abuse is such that pressure not to take action against the perpetrator will often be overwhelming and it would significantly weaken the protective effect of the orders if only victims were able to apply for them. We note the concerns about third parties being able to apply for orders and this potentially been subject to abuse by family members or others. We believe the fact that any such application is at the discretion of the court will prevent instances of abuse. (Paragraph 87)***

66. We welcome the Committee's support for the provisions for DAPOs to be applied for by the police and third parties without the victim's consent. We agree that such provision is important in order to protect victims who may be subject to coercion or retribution for taking action against the perpetrator. We recognise the concerns raised around the risk that third parties such as family members may abuse the application process but are pleased that the Committee agrees that the ability of the court to refuse applications will prevent such abuse.

#### ***Time limits***

***We are concerned that the potentially indefinite nature of Domestic Abuse Protection Orders will result in the courts' granting them less often than they grant time-limited Domestic Violence Protection Orders, meaning protection for victims will overall be reduced. (Paragraph 90)***

67. Domestic Abuse Protection Orders (DAPOs) are expressly designed to be flexible so that courts can tailor the length of the order and the different conditions attached to it to meet the specific needs of each individual case, including specifying the period such conditions will last, which may be shorter than the length of the order where appropriate. By comparison, the limited 14 to 28 day duration of the existing Domestic

Violence Protection Order (DVPO) has been criticised as a weakness because the time and resources required to put the order in place can outweigh the benefits provided by a relatively short period of protection.

68. The flexibility afforded by the Bill allows the DAPO to retain the short-term 'breathing space' function of the existing DVPO if the courts consider a short duration DAPO with, for example, non-occupation and non-contact requirements to be the most appropriate intervention in the individual circumstances, as well as to address the weaknesses of these existing orders by being able to provide victims with longer-term protection where this is necessary and proportionate.
69. Currently the primary protection orders used in domestic abuse cases, including restraining orders and non-molestation orders, have effect for a period of time specified by the court, until the occurrence of a specified event or until further order. We have drafted the DAPO provisions to align with this existing legislation, with the expectation that courts will continue to use their discretion to determine the appropriate length of an order.
70. We are committed to piloting the orders in a small number of police forces to monitor and evaluate the effectiveness of the model prior to any national roll-out. We will use the pilot of the orders, the statutory guidance and a programme of training and toolkits for professionals to embed understanding of how DAPOs can be effectively tailored, taking into account both the safety of the victim and their children and the impact on the perpetrator.

### **Positive requirements**

***We believe attaching positive requirements to Domestic Abuse Protection Orders has the potential to enhance the protection given to victims. The practicalities of the scheme, however, do not appear to have been thought through. Without funding for training or an infrastructure for monitoring compliance, use of positive requirements will be very limited or run the risk of making things worse as victims are forced to try and monitor their abusers' compliance with the order themselves. The simple question which the draft Bill does not address is which organisation or organisations are to be responsible for the monitoring of positive requirements. Without this clarity, the provisions relating to this proposal may fail. The use of positive requirements also has legal implications for the utility of the order which we consider below. (Paragraph 102)***

71. We recognise the critical importance of ensuring that positive requirements are used appropriately and that the safety of the victim is at the heart of any decision to impose such requirements, as well as the impact on the perpetrator.
72. We agree with the Committee that it is important that there is appropriate infrastructure in place to support positive requirements where these are included in the terms of a DAPO. The person or organisation specified in the order to monitor compliance with a positive requirement will vary depending on what the requirement is. For example, it could be the provider responsible for delivering a behaviour change programme or a drugs and alcohol treatment programme that the perpetrator is required to attend. We are clear that, whilst it will be important to engage with the victim to ensure that they are safe and supported alongside any perpetrator intervention, they must not be responsible for monitoring the perpetrator's compliance with the requirement.

73. As set out in our consultation response<sup>22</sup> published alongside the draft Bill, we are committed to improving the provision of safe, high quality perpetrator interventions. We have funded innovative, multi-agency approaches to tackling perpetrators, such as the Drive Project<sup>23</sup> and the Whole System Approach<sup>24</sup> to domestic abuse pioneered in Northumbria and rolled-out across the North East, Yorkshire and Humberside and are keen to build on their success. We want to ensure that when a court decides that a positive requirement is needed, there is appropriate provision of effective programmes in that local area. Under the terms of the Bill, a court must receive evidence about the suitability and enforceability of a positive requirement before it is ordered. As such, we will ensure that there are clear processes in place for assessing the suitability and enforceability of the intervention and for monitoring the perpetrator's compliance.
74. We are working closely with the agencies who will be involved in implementation of the orders to ensure that the orders will work effectively on the ground. We will use the pilot of the orders to test the systems, processes and training needed to support the use of positive requirements, to identify any gaps in existing provision and to refine our estimated costs of the orders.

### ***Ensuring consistency in the imposition of orders***

***We are concerned at the potential for inconsistent approaches between the civil and criminal courts to applications for Domestic Abuse Protection Orders. We recommend that detailed guidance for applicants, defendants and the judiciary be introduced on the circumstances in which such protective orders are granted, with particular consideration given to the evidence required and the assessment of risk posed by the respondent to the applicant for the order. (Paragraph 108)***

75. The policy intention behind the DAPO is to simplify the existing range of protective orders across the jurisdictions. We are aware that the existing landscape of protective orders is complex, so we have been carefully considering what guidance and additional documentation we need to produce alongside the proposals to ensure the DAPO can achieve these policy aims. We are engaging with specialist organisations and will work closely with service providers to ensure that guidance meets the needs of victims and survivors. We have also formed a working group with our operational partners, including the police, local authorities, probation services, and court staff to discuss our plans around the operation and implementation of these orders.
76. We intend to produce clear guidance for applicants, which will include information on how to apply for the order, examples of supporting evidence that could be used, and high-level examples of conditions that may be imposed. We also intend to produce detailed and accessible guidance for defendants and respondents, which will sit alongside the guidance for applicants. We will be liaising closely with the judiciary and the Judicial College around the development of appropriate guidance and training. The effectiveness and accessibility of the guidance and supporting materials will be monitored through the pilot of the orders.

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<sup>22</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/772202/CCS1218158068-Web\\_Accessible.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/772202/CCS1218158068-Web_Accessible.pdf)

<sup>23</sup><http://driveproject.org.uk/>

<sup>24</sup><http://dawsa.org.uk/>

***The Government's insistence that the police pay a court fee to make an application for a Domestic Abuse Prevention Order, while victims do not, will undermine the entire scheme and end any chance of the orders becoming the 'go-to' order to protect victims of domestic abuse. Police officers will be put in the invidious position of having to choose to use scarce resources to make an application or persuading the victim to make the application themselves. This effectively removes a key strength of the order, that an application may be made without the victim's involvement, or even consent. We strongly recommend that applications for Domestic Abuse Protection Orders be free to the police, with appropriate funding to HM Court and Tribunal Service. (Paragraph 113)***

77. We have made it clear that victims will not have to pay a fee to apply for a DAPO, to ensure that the new order is accessible to victims. This position is consistent with existing civil protection orders. However, we want to ensure that in practice the orders can be made without the victim's involvement where appropriate and that the police are not put in the position the Committee outlines, so we will continue to carefully consider the Committee's recommendation in this area.
78. With regard to fees payable by applicants for the DAPO other than the victim, we are carefully considering the right balance to strike. The level at which we set fees to fund courts and tribunals seeks to balance the charge to direct users and taxpayer subsidy, whilst maintaining access to justice. These fees are necessary to fund the wider costs of the courts system. As referred to previously, we have already established a working group to help inform our proposals around the operation and implementation of the orders. We will be using insights gathered from this working group to help inform our thinking around any fees which may be charged to applicants other than the victim.
79. We also recognise that there are significant demands on the police from the changing nature of crime, with more victims of high harm crimes such as domestic abuse coming forward. We will use the pilot of the orders to better understand the costs to the police and other agencies, which will help inform the national roll-out.

### ***Criminal sanctions***

***We welcome the Government's ambition to improve the protection available to victims of domestic abuse. Strengths of the proposed scheme include explicitly broadening qualifying abusive behaviour beyond physical violence; not requiring the victim's consent to the issuing of an application for an order but providing safeguards on who can make such applications; and, with significant caveats, the introduction of positive requirements. (Paragraph 114)***

***We accept the Government's assurance that the proposed new order is compliant with our human rights obligations. We are very concerned, however, that the introduction of indefinite time limits, positive requirements and criminal sanctions combine to create such a burden on the perpetrator that the courts will be reluctant to impose the orders in all but the most exceptional of circumstances, meaning the draft Bill runs the danger of reducing the protection available to victims rather than increasing it. We note the limited use of occupation orders by the courts as a lesson the Government needs to consider before going forward with these proposals. Without learning such lessons DAPOs will not be able to fulfil the Government's***

***intention that they will be the 'go to' order in cases of domestic abuse. (Paragraph 115)***

80. We agree with the Committee that it is crucial that the courts and other agencies have confidence in the new orders to ensure that they become the 'go to' order in cases of domestic abuse and are used consistently and effectively to provide improved protection to victims and their children. We also recognise the Committee has concerns around the burden the order may place upon the perpetrator, which is why throughout the development of the DAPO provisions we have carefully considered how best to strike the correct balance between providing protection for the victim whilst also ensuring the impact of the order on the perpetrator is proportionate. For example, clause 33(1) sets out that as far as practicable the conditions of the order should avoid conflict with the perpetrator's religious beliefs and times at which they would normally be in work or education.
81. In terms of the time limit for the order, as outlined above, the provisions in the Bill allow courts to use their discretion to impose the order, and the individual conditions attached to it, over whichever time period they consider most appropriate in a given case. This is the position with the current orders primarily used in domestic abuse cases, and we would not want to inadvertently limit the ability of the court to respond to the specific facts of the individual case in front of them when making arrangements for the protection of a victim.
82. Similarly, we want to give courts the flexibility to choose from a range of prohibitions and positive requirements to enable them to respond appropriately to the circumstances of each individual case, as is necessary to protect the victim from domestic abuse. We expect that some positive requirements which may be imposed by the orders, such as the requirement to attend a behaviour change programme, a drug and alcohol treatment programme, or a mental health assessment, may have rehabilitative effects for the perpetrator as they are intended to help them to address their harmful behaviours before these escalate in severity or become entrenched.
83. We also consider the potential for criminal sanctions on breach of a DAPO to be appropriate. This reflects the current position with the non-molestation order, which is currently the primary domestic abuse protection order available in the family court, and for which breach is a criminal offence. In order to achieve our aim of DAPOs becoming the 'go to' protective order in cases of domestic abuse, we would not want to introduce a new order in the family court which affords a lower level of protection for victims than what is currently available. In addition, responses to the consultation also showed strong support for a criminal sanction for breach of a DAPO. The responses noted that breaches of the current DVPO often result in low level fines and that the lack of a criminal sanction does not provide an effective deterrent for perpetrators. By making breach of DAPO a criminal offence we want to address concerns raised by victims and survivors about ineffective sanctions for domestic abuse and send a strong message to perpetrators that this crime will not be tolerated.
84. However, we do recognise the concerns raised in the Committee's report about the criminal sanction for breach potentially deterring victims who do not want the perpetrator to be criminalised, which was also raised in responses to our public consultation. This is why the Bill expressly includes the option for a breach to be dealt with as a civil contempt of court rather than as a criminal matter, and we would expect for the victim's views to be taken into account when deciding which sanction for breach will be pursued.

85. The pilot of the orders will allow us to assess the volumes of orders made by the courts, the different conditions imposed in different circumstances and their durations, the rates of breach and the proportion of breaches dealt with as criminal or civil matters. This information will allow us to update and refine both the statutory guidance and training for professionals and our estimated costs of the orders.

### ***Review of current protective measures***

***We recommend the Government carry out a thorough review of the protective measures currently available before going ahead with its proposals for the Domestic Abuse Protection Order. Following that review, we anticipate the Government will amend the current scheme both to tackle the flaws seen in the Domestic Violence Protection Order process and to ensure that the courts are not obliged to take a restrictive approach to imposing the new order. (Paragraph 116)***

***While that review is being undertaken, we recommend additional resources are allocated to the police specifically for training and application fees for Domestic Violence Protection Orders. (Paragraph 117)***

86. To inform the development of the proposals for the new Domestic Abuse Protection Notice and Domestic Abuse Protection Order, we have already reviewed and compared the full range of protection orders currently available in domestic abuse cases. This included public consultation on the key features of the proposed new orders as part of our wider consultation on domestic abuse which took place last year. The new model is designed to build on the strengths of the current orders and to address the weaknesses identified through our review, including the flaws in the Domestic Violence Protection Order highlighted by the committee.
87. We therefore do not think that a further review of currently available protective measures is necessary and consequently do not agree with the Committee's recommendation that we provide additional resources to the police for implementation of DVPOs, given that these orders will be repealed through the Bill. However, we recognise that while Domestic Abuse Protection Orders are still being piloted it will be important that the police continue to use Domestic Violence Protection Orders effectively in order to protect victims in the interim. We know that a number of police forces have developed good practice in using Domestic Violence Protection Orders and we will ensure that this learning is shared and, where appropriate, incorporated into the guidance and training on the new orders.

### **Bail in cases of domestic abuse and sexual violence**

***The changes to the bail regime in the Policing and Crime Act 2017 were well meaning. Unfortunately, the result has been that pre-charge bail is no longer an effective protective measure in domestic abuse cases. While there may be an issue with police training and guidance on the operation of the reforms, 28 days bail combined with a rigid test for any extension does not take into account the need to protect victims from perpetrators and allow the police time to do their job within the resources available. We recommend that the Government urgently bring forward legislation to increase the length of time suspects can be released on pre-charge bail in domestic abuse cases. We also recommend a rebalancing of the test for allowing extensions to pre-charge bail to give full weight to the protection of the victim from the risk of***

***adverse behaviour by the suspect, thereby balancing the rights of the victim with those of the suspect. (Paragraph 128)***

***We recommend the Government amend the Policing and Crime Act 2017 to create a presumption that suspects under investigation for domestic abuse, sexual assault or other significant safeguarding issues only be released from police custody on bail, unless it is clearly not necessary for the protection of the victim. We consider this vital not only to protect victims but to give them confidence that their complaint is been taken seriously and that the criminal justice system will have regard to their welfare throughout any proceedings arising from their complaint. (Paragraph 131)***

88. The reforms to pre-charge bail were introduced to reduce the number of individuals – and the length of time spent – on pre-charge bail. It was not right that some people were spending months or even years on pre-charge bail with no judicial oversight. Long periods under bail conditions could have serious negative impacts on suspects, including those who ended up not being charged.
89. Pre-charge bail, including conditions, continues to be available where it is necessary and proportionate, including to prevent further offences and protect victims (for example, conditions which tell suspects to stay away from specific individuals/places). However, the Government is aware of and listening to concerns from stakeholders around the use of bail – including the recommendations made by the Committee - and is considering, with criminal justice partners and stakeholders, what further mitigations can be put in place.
90. To date, the Home Office chaired Pre-Charge Bail Implementation Board, which was set up to oversee implementation of the reforms, has coordinated action and implementation of a number of mitigations to address the impacts of the reforms. For example, the National Police Chiefs' Council (NPCC) has issued operational guidance for officers to assist them in making clear and effective risk-based decisions in relation to suspects, victims and witnesses when using pre-charge bail or 'released under investigation' during their investigations. The guidance reinforces the message that pre-charge bail is still a legitimate investigative and safeguarding tool that officers should be using where it is necessary and proportionate.
91. The NPCC guidance also sets out best practice for those released under investigation. This includes a suggested review of the investigation every 30 days until the investigation has been completed and a disposal actioned. This is in response to concerns that some crimes are being investigated for longer post-reform when a suspect is released under investigation compared to when a suspect was released on bail prior to reforms.
92. Her Majesty's Inspectorates of Constabulary and Fire & Rescue Services (HMICFRS) and Her Majesty's Crown Prosecution Service Inspectorate (HMCPSI) are currently conducting a bespoke joint thematic inspection that is assessing the effectiveness of how police forces manage the changes to how bail is applied; the effectiveness of the police and CPS of cases dealing with suspects who are released under investigation; and how the changes have affected victims and suspects. HMICFRS and HMCPSI expect to report next year and the Government will consider their findings in detail
93. The Government is also actively discussing with partners at the Pre-Charge Bail Implementation Board and the Criminal Justice Board what further mitigations can be put in place – both legislative and non-legislative – taking into account changing demands placed on the police and the wider criminal justice system.

## Domestic Violence Disclosure Scheme

***We endorse the Government's decision to place the guidance to the police on the Domestic Violence Disclosure Scheme (DVDS), also known as Clare's law, on a statutory footing. We believe this will increase awareness of the DVDS among the general public and so those who could benefit from it. We acknowledge that the DVDS is only ever likely to be used by a small number of people, and there may be some risks involved for an individual making a 'right to ask' application, but we believe these can be reduced by a situation-sensitive approach by the police. Ultimately, the DVDS is only one small part of the wider state response to the challenge of tackling domestic violence. (Paragraph 142)***

***We note the criticisms of the police's limited use of the 'right to know' powers they possess under the Domestic Violence Disclosure Scheme (DVDS). We believe this will improve with the reforms to the guidance contained in the draft Bill. We also believe that it would increase with improved multi-agency working and we recommend further work is done in this area. We have taken evidence both in favour and against a register of offenders committing repeat domestic abuse offences, and propose this is an area which the Government should keep under review. (Paragraph 143)***

94. We are pleased that the Committee agrees that placing the guidance underpinning the scheme on a statutory footing will help drive increased and more consistent use of the DVDS across all police forces. The guidance sets out how effective multi-agency working forms a critical part of both the 'Right to Ask' and 'Right to Know' elements of the scheme, for example by incorporating inquiries under the scheme into local Multi-Agency Risk Assessment Conference (MARAC) processes, and we will use this opportunity to update the guidance to highlight local best practice in this area. We have also committed in the Government response to the domestic abuse consultation that we will work with the police to enable online applications under the scheme to make it more accessible and easier for members of the public to use.
95. We recognise the crucial importance of tackling repeat and serial perpetrators of domestic abuse and we are committed to improving how these perpetrators are identified, risk assessed and managed. Whilst we will keep under review the case for introducing a bespoke "register" of repeat and serial perpetrators of domestic abuse, our focus remains on improving the use of existing systems rather than creating new ones which may add limited value.
96. Our approach includes working closely with the NPCC lead on domestic abuse and the College of Policing to develop national guidance for the police on this high harm cohort. We are also introducing mandatory notification requirements as part of the new DAPOs. This will require perpetrators to notify the police of their name and home address and any changes to this information for the duration of the order, thereby assisting the police to monitor the perpetrator's whereabouts and the risk they pose to the victim.
97. Convicted domestic abuse offenders will already be captured on the Police National Computer. Where appropriate, they will also be captured on other police systems such as ViSOR, which stores information on offenders who pose a risk of serious violent harm. Convicted domestic abuse offenders may also be eligible for management under MAPPA, and in our government consultation response we have committed to raising awareness of changes made to the guidance on referrals into MAPPA to

ensure that repeat and serial perpetrators of domestic abuse are actively being considered for management under it.

98. Finally, increased and more consistent use of the DVDS across all police forces will help to increase public safety and will result in more people being warned of the dangers posed by their partners or ex-partners and help to keep victims and potential victims safer from repeat and serial perpetrators.

## CHAPTER THREE: THE JUSTICE SYSTEM

### Special measures

***We welcome the proposal that complainants in criminal proceedings for an offence involving behaviour that amounts to domestic abuse will be automatically eligible for special measures. (Paragraph 152)***

***We recommend that this provision be extended to victims of domestic abuse appearing in family and other civil courts. We note the Government's comment that this is already possible under family court rules but, given the persuasive evidence about poor implementation, we recommend that the provision for special measures in the family court's rules and practice directions is put on a statutory basis, and that a single consistent approach is taken across all criminal and civil jurisdictions. This is particularly important given the Government's plans for a reduced but improved court estate, which may provide an additional barrier to participation for vulnerable victims. (Paragraph 153)***

99. We are grateful to the Committee for raising the issue of special measures in the civil and family courts. We have seen the evidence submitted to the Committee and agree that there is more that can be done to protect vulnerable parties and witnesses, including victims of domestic abuse. That's why we are taking steps to consider the solutions, in both the civil and family courts.
100. On 21 May 2019, the Ministry of Justice announced that a new panel would be formed to look at how effectively the family courts respond to allegations of domestic abuse and other harms in private law proceedings. The panel will be comprised of academics, members of the judiciary, and representatives from the third sector who represent and advocate for victims and survivors of domestic abuse. It is central to the approach of the panel that the voices of victims are heard, so the panel will be asking those with direct experience of the family courts, including in cases relating to serious offences such as domestic abuse, to share their experiences. The work of the panel will enable us to make evidence-based decisions about whether current protections should be enhanced, and if so, to develop options for reform. The panel will shortly issue a public call for evidence before recommending appropriate next steps.
101. In the civil jurisdiction, the Civil Justice Council intends to report on vulnerable witnesses and parties within civil proceedings in the autumn. As part of that work they will conduct a wide consultation over the summer. We understand this will include recommendations for how the court should adapt their processes to accommodate vulnerable witnesses. As well as victims of domestic abuse, there may be a range of other factors that can contribute to vulnerability in the civil courts, and it is important that there are measures in place to enable all parties and witnesses to effectively participate in fair legal proceedings.
102. Whilst we agree that the protection of vulnerable parties and witnesses is crucial to fair legal process, we do not wish to pre-empt the findings of either the call for evidence from the panel, or the consultation by the Civil Justice Council by legislating before we have taken a thorough view of the problems and potential solutions. The framework for special measures in primary legislation in the criminal courts is different to that in the civil and family courts, where much more of the workings of the courts are prescribed by procedure rules and practice directions. We will carefully consider the recommendations of both the panel and the Civil Justice Council, including whether

any changes to improve the court processes for vulnerable witnesses could or should be made in rules or primary legislation.

### **Polygraph testing**

***Polygraph tests are considered to have assisted probation in monitoring the behaviour of sex offenders and the Government proposes to pilot their use with domestic abuse offenders. It must be absolutely clear that no statements or data from a polygraph test can be used in the criminal courts. This appears to be the effect of the draft Bill but care must be taken to ensure the results of testing are not used in court, and that testing does not become a substitute for careful risk analysis or for other evidence-based interventions with perpetrators. (Paragraph 159)***

103. We can confirm that the polygraph is not used as a substitute for any other current risk assessment tool or evidence-based interventions. Rather it is an additional source of information for the offender manager that would not otherwise be available. The polygraph is used with high risk sexual offenders in the National Probation Service, and there has been no evidence to suggest that it is used as a substitute. Indeed, the evaluation of the use of the polygraph with sexual offenders found that it provided an additional source of useful information that aided in the drafting of risk management plans, the sharing of information with other agencies such as the police, and the refocussing of supervision.
104. We will ensure that our communications in respect of this provision continue to make it absolutely clear that no statements or data from a polygraph test can be used against the released person in proceedings against them for an offence in the criminal courts.
105. The legislation that enables the imposition of mandatory polygraph examinations specifically prohibits the use of any information gained from any part of the test to be used in criminal proceedings where that person is the defendant. While there is nothing in the legislation that prevents information from the polygraph test to be used in other proceedings, such as family court proceedings, there is case law precedent that the family court will not accept the polygraph as admissible evidence. In 2016 Mr Justice Russel refused an application for the polygraph to be presented in family proceedings.<sup>25</sup> On that basis, given the judicial position, the admission of the polygraph in family courts is also currently inadmissible.

### **Cross-examination**

***The proposal to prevent the perpetrators of domestic abuse themselves from cross-examining victims in the family courts is a welcome measure and warmly supported across the board. We are pleased that it is accompanied by publicly-funded representation for perpetrators of abuse where necessary in the interests of justice. (Paragraph 172)***

***However, we are concerned at the potential for inconsistency in application because too many victims of domestic abuse will be protected only at the discretion of the court. We recommend that the mandatory ban is extended so that it applies where***

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<sup>25</sup> Neutral Citation Number: [2016] EWFC 40 Case No: BS15P00888 [https://www.bailii.org/cgi-bin/format.cgi?doc=/ew/cases/EWFC/HCJ/2016/40.html&query=\(\(2016\)EWFC\)+AND+\(40\)](https://www.bailii.org/cgi-bin/format.cgi?doc=/ew/cases/EWFC/HCJ/2016/40.html&query=((2016)EWFC)+AND+(40))

***there are other forms of evidence of domestic abuse, as in the legal aid regime threshold. (Paragraph 173)***

106. The policy intention behind these provisions is that the protection afforded by the cross-examination provisions in the Bill will be accessible to every victim or witness who needs it, as was set out by Minister Argar in his oral evidence to the Committee on the 21 May.<sup>26</sup> We want to ensure that every victim attending the family courts has confidence that this will be the case, and we will be liaising closely with the judiciary around the potential operational impacts of these provisions.
107. We recognise that many victims are not able to, or choose not to, pursue their abuser through the justice system, and that therefore these victims may not benefit from the automatic prohibition. We have provided for this in the Bill by giving the court the power to give a binding direction, in clearly-defined circumstances, prohibiting cross-examination in person where the threshold for the automatic prohibition is not met. The court may give a direction prohibiting such cross-examination where they consider that without it the victim would likely suffer significant distress, or the quality of their evidence would likely be diminished, and that it would not be contrary to the interests of justice to give the direction. Our expectation is that this discretion will be widely used, and that every victim of domestic abuse, however it is evidenced, should benefit from the provisions.
108. We acknowledge the Committee's recommendation to extend the range of evidence accepted for the automatic prohibition and will consider this very carefully over the course of the summer, including whether we need to make any amendments to the Bill as introduced.

**Hearing the voice of the child in court proceedings**

***Representing the voice of children and ensuring that decisions are made in their best interests is the primary responsibility of CAFCASS when providing reports to the Family Court under s.7 of the Children Act 1989. However, we are aware from evidence submitted to us together with wider research that there are ongoing and significant concerns that CAFCASS is not sufficiently representing the voices of children who do not wish to have contact with their parents where domestic abuse is a factor. We therefore consider that it is time for the Government to conduct a thorough review of how CAFCASS can improve its obligations in this regard. (Paragraph 174)***

***We have also heard that judges and magistrates are increasingly meeting children who are involved in cases face to face. We very much welcome this development and would like to encourage all those hearing cases about children's welfare to consider hearing from children directly. (Paragraph 175)***

109. The Children Act 1989 places a child's welfare as the paramount consideration in any proceedings in which a question arises with respect to the child's upbringing. There is no absolute presumption for parental involvement. The law requires the courts to consider the circumstances of each case, including the wishes and feelings of the

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<sup>26</sup> <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/draft-domestic-abuse-bill-committee/draft-domestic-abuse-bill/oral/102374.html>

child, any evidence of risk of harm, and to come to a decision on the facts of each case.

110. In these complicated cases social workers and the courts must be allowed to fully and sensitively consider the issues and the law should not prevent them from doing so. The judiciary and other professionals, including magistrates and Cafcass practitioners, are well trained in handling these types of cases and are committed to reaching the best possible outcomes for vulnerable children and their families.
111. In respect of the Committee's recommendation at paragraph 175, Cafcass' role is to represent the voice of the child who is the subject of family proceedings. Cafcass practitioners help children to express themselves under difficult circumstances, and subject to their age, sensitively discuss their situation. To do this, Cafcass practitioners identify locations and ways in which children can feel secure enough to communicate their wishes and feelings. They use tools such as apps and games pre-loaded onto every Cafcass laptop to enable the child to feel comfortable discussing their views.
112. Cafcass reports to court are focused on the safety and welfare of the child. Where appropriate Cafcass facilitates children writing letters to court, directly giving their wishes and feelings. In the Cafcass practitioner's direct work with children, the child can convey their views using tools that can be directly inserted into a court report, so the child's unique voice is reflected, together with advice from the practitioner.
113. Cafcass' Child Impact Assessment Framework (launched October 2018) emphasises that safeguarding principles and child impact are at the heart of Cafcass practitioners' assessment process with assessments starting and ending with the question 'What is happening for this child?'.<sup>27</sup> All practitioners are being trained in the application of this analytical tool. Assessing domestic abuse is a strand of the framework and is focused on the impact of domestic abuse on children, the level of risk, and analysing whether contact would be safe and in the best interests of the child. It includes Cafcass' domestic abuse practice pathway, introduced in November 2016 and reviewed as part of the release of the framework.<sup>28</sup>
114. In March 2018, Ofsted gave Cafcass an overall judgement of 'outstanding'.<sup>29</sup> Ofsted examined Cafcass' work on 'listening to children' in 830 cases and gave a rating of 'good'. The Ofsted report stated: "Listening to children, understanding their world and acting on their views are strongly embedded in practice in both public and private law".
115. However, it is only right that we regularly reassess how effective the law and associated practice is in protecting victims. That is why the Ministry of Justice announced that a panel would be reviewing existing legislative provisions designed to protect children and vulnerable parties and witnesses from the risk of harm (or further harm) in the family court, as mentioned in the special measures section above. We anticipate that this panel will also look at how the voice of the child is heard in such proceedings. For all of these reasons, we do not believe that a separate review is needed of Cafcass' obligations.
116. On face-to-face meetings, if a child asks to meet a judge or magistrate, or other factors of the case necessitate this, Cafcass does and will continue to facilitate a meeting with the judge wherever possible. However, Cafcass conducted a pilot in two local areas in

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<sup>27</sup> <https://www.cafcass.gov.uk/grown-ups/professionals/ciaf>

<sup>28</sup> <https://www.cafcass.gov.uk/download/2105/>

<sup>29</sup> <https://files.api.ofsted.gov.uk/v1/file/50000296>

2015 where all children over the age of seven were offered the opportunity to meet the judge and found that take-up of the opportunity to meet with a judge was low.<sup>30</sup>

117. Cafcass has a range of other methods to support children and young people to engage with the court process, including digital resources, direct work tools and the option to send letters or drawings to the judge or magistrates. In addition, Cafcass supports related developments such as judges recording short child-friendly judgments and writing letters to children about the outcome of the case, as well as children writing to judges.

### **Other justice issues**

***We received evidence from the Rt Hon Harriet Harman MP and Mark Garnier MP about defendants in domestic homicide cases claiming that the victim had consented to the violence that led to their death. In those circumstances, the charge would be manslaughter rather than murder. Such a case occurred in 2016 when Natalie Connolly was killed by her partner who said that her injuries were inflicted due to consensual “rough sex”. He received a prison sentence of three years eight months. There are concerns that, because of the difficulty in obtaining convictions in domestic abuse cases, especially when the victim has died, prosecutors may pursue the lesser charge in order to obtain a conviction. (Paragraph 177)***

***Given the weight of case law that people cannot consent to violence against them that causes Grievous Bodily Harm, let alone death, we are surprised that prosecutors opted for the lesser charge in the case cited. We consider that the case does not and should not provide a precedent, and we therefore do not recommend any changes to the Bill. (Paragraph 178)***

***We recommend that the Government considers the proposal that a new clause be added to the Bill to create a statutory defence for women whose offending is driven by their experience of domestic abuse. (Paragraph 180)***

118. We recognise the harm suffered by victims of domestic abuse, which is why a number of defences are potentially available in law to those who commit offences in circumstances connected with their involvement in an abusive relationship. These include the full defences of duress and self-defence as well as, in homicide cases, the partial defences of loss of control or diminished responsibility.
119. We need to balance recognition of the abuse that has been suffered, and the impact it has on the victim, with the need to ensure that people, wherever possible, do not revert to criminal behaviour. This is reflected in the law, which continues to evolve, with the aim of striking the right balance between these factors.
120. In addition, the Bill's definition of domestic abuse should clarify the wide-ranging nature of domestic abuse for all those involved in the criminal justice system. We agree with the Prison Reform Trust's view that legal representatives and the CPS should be aware of domestic abuse histories in making charging decisions and when considering guilty pleas, but we have not yet been persuaded that the creation of a new defence is a practical or proportionate proposal in all circumstances.

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<sup>30</sup> <https://www.judiciary.uk/publications/final-report-of-the-vulnerable-witnesses-and-children-working-group/>

121. Finally, we would draw attention to the fact that the Code for Crown Prosecutors<sup>31</sup> already requires consideration of both an evidential test and a public interest test before a decision is made about whether to prosecute. If a prosecution is pursued, then sentencing guidelines and practice mean that a court can consider the abuse suffered as a mitigating factor in circumstances where the potential defences do not apply.
122. For these reasons our position has been that a full defence would not be a proportionate response. However, it is only right that we regularly reassess how effective the law and associated practice is in protecting victims. Therefore, we agree to give this proposal further consideration; particularly in view of some recent developments on the case law in this area.
123. We agree with the Committee's conclusion at paragraph 178 on the established case law in respect of consent to harm. We cannot, however, comment on individual cases.

### **Perpetrator interventions**

***In recent years, the number of individuals given a court order to attend a perpetrator programme has been reducing and fewer perpetrators are successfully completing those programmes. There is also currently no incentive for the probation service to provide perpetrator programmes to offenders who do not receive a court order but might still benefit from the programme. HM Chief Inspector of Probation told us that this was because of systemic problems in the criminal justice system and in the delivery of probation services. (Paragraph 193)***

***Perpetrator interventions which succeed in bringing about significant changes in abusive behaviour must be tailored to the particular type of perpetrator if they are to achieve results, and can be expensive and time consuming. Increasing attendance on unsuitable programmes will not reduce the prevalence of domestic abuse. We heard that there is a need for a wider range of programmes, and for all programmes to be properly accredited and evaluated. (Paragraph 194)***

***The Government has responded to concerns about the probation service's performance, and its delivery model. It must now ensure that those reforms support its ambition to increase the number of offenders successfully completing good quality perpetrator intervention programmes. In her evidence to us, HM Chief Inspector of Probation identified several factors which were contributing to the reducing number of perpetrators attending and completing suitable programmes. We recommend that the Government sets out how it plans to address those specific concerns. (Paragraph 195)***

***The Government must also ensure that there is sufficient provision of quality assured specialist interventions for the full spectrum of perpetrators, across all risk levels. This will require an adequate level of funding and cooperation with expert providers.***

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<sup>31</sup> <https://www.cps.gov.uk/sites/default/files/documents/publications/Code-for-Crown-Prosecutors-October-2018.pdf>

***We did not identify a need for additional legislation to support perpetrator programme measures. (Paragraph 193)***

124. We recognise the concerns the committee have raised around the HMI probation recommendations contained in Domestic Abuse: The Response of CRCs, published in September 2018. As Minister Argar reiterated in his oral evidence to the Committee, the Ministry of Justice takes these recommendations extremely seriously. Her Majesty's Prison and Probation Service (HMPPS) issued a formal response to the report within six weeks which accepted in full all seven of the recommendations.<sup>32</sup> We have also published an accompanying action plan against each recommendation, which illustrates how we are working to deliver them. In June 2019, we submitted a progress report to HMI Probation detailing the progress we have made so far in actioning these recommendations.<sup>33</sup>
125. We recognise that an effective response to perpetrators at all points in the criminal justice system, from pre-conviction through to post-conviction in the community, is fundamental to tackling domestic abuse. We want to ensure that people are being actively identified and supported to fully participate in the range of domestic abuse interventions which are currently available. We agree with the committee that programmes must be suitable for the person undertaking them, and our aim is to ensure that people receive the right intervention at the right time. We know that this is about effective assessment, sentence planning, and the delivery of evidence-informed interventions alongside robust offender management for those in custody and subject to probation supervision. We have made a number of non-legislative commitments in the practical package of action that accompanies the Bill to ensure this happens.
126. We also recognise that effective perpetrator intervention requires a range of interventions available across all local areas, including provision for perpetrators serving shorter sentences, or who do not have a criminal conviction but need early support to prevent their behaviour escalating or becoming embedded. We have funded a number of innovative approaches to perpetrators, including the Drive Programme, which provides specialist interventions for high risk perpetrators; the multi-agency tasking and coordination (MATAC) model, which works with high harm, serial perpetrators to provide multi-agency interventions; and the early intervention response led by Women's Aid and Respect, which increases the skills of communities, professionals and experts to respond effectively to perpetrators. We have also committed to build on the success of Project CARA (cautioning and relationship abuse) to further develop the evidence base for using conditional cautions alongside rehabilitative interventions for first-time domestic abuse perpetrators.
127. As set out above, we are committed to improving the provision of perpetrator interventions to support the implementation of the DAPO and will work to embed and share learning from positive approaches to perpetrators as well as working with specialist organisations to develop a strategy for improving the availability of effective, evidence-based interventions. The Domestic Abuse Commissioner will also play a key role in monitoring and overseeing the delivery of services, including perpetrator interventions and ensuring that these are as effective, evidence-based and safe as they can be.
128. We recognise the Committee's concern that accreditation is important in ensuring effective programme delivery, and it is our intention that accredited programmes will be

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<sup>32</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/754994/Domestic\\_Abuse\\_thematic\\_Joint\\_Action\\_Plan.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/754994/Domestic_Abuse_thematic_Joint_Action_Plan.pdf)

<sup>33</sup><https://www.gov.uk/government/publications/domestic-abuse-thematic-report>

the intervention of choice for all eligible offenders. For programmes delivered in custody and by probation providers, we are promoting the use of evidence-based interventions for convicted perpetrators that meet the accreditation standards set by the Correctional Service Accreditation and Advice Panel (CSAAP), which is a panel of independent experts who assess a programme against a set of evidence-based principles. In relation to future probation providers, we will also provide further specification in relation to the non-accredited interventions we expect to see available. This will include interventions to address domestic abuse for those who are not eligible for accredited programmes.

129. Accredited programmes are designed to respond to the needs of the full spectrum of perpetrators. We are committed to staying ahead of, and responding to, changes in offending behaviour. Where new contexts for offending occur, if the available evidence suggests that the specific needs of the group cannot be met through the current programmes offer, we would seek advice from CSAAP and likely modify the programme offer. Where need cannot be met through an existing offer we would develop a new programme.
130. Accredited programmes are not provided for all risk levels. Indeed, there is some evidence that this type of work can be harmful for lower risk men. As such, accredited programmes are targeted at medium and higher risk individuals and the needs of those who are at lower risk of reoffending are met via other rehabilitative offers. We are currently piloting a non-accredited offer for individuals who are not eligible for an accredited programme.
131. All CRCs are mandated to provide the Building Better Relationships (BBR) programme. This is the main offer in the community for medium and higher risk individuals who have committed intimate partner violence. In line with accreditation standards, our programme offers for this group are based on the latest evidence and thinking about what works. We have published a summary of this evidence. We share the committee's concern that all behaviour change programmes should be of a high quality, so this also includes guidance on what can we do to improve effectiveness of programmes for domestic abuse perpetrators.<sup>34</sup>

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<sup>34</sup> <https://www.gov.uk/government/publications/domestic-abuse-thematic-report>

## CHAPTER FOUR: REFUGES AND SUPPORT SERVICES

***Currently there are too few places in refuges or supported housing and access to specialist services is limited. We welcome the Government's announcement that it plans to introduce a statutory requirement in the Bill for accommodation support services in England to be provided for survivors of domestic abuse, and its commitment to provide an adequate level of additional funding to local authorities to enable them to comply with the new duty. (Paragraph 213)***

***Further work is required to clarify the precise details of this duty, but this welcome step will make a significant difference to the support received by survivors of domestic abuse across the country. We encourage the Government to work closely with refuge providers, local authorities and other stakeholders to ensure that future service provision meets anticipated needs including the inter-relationships between local accommodation-based systems, so that they form a national network. This will assist in ensuring full compatibility with the requirements of the Istanbul Convention in this regard. (Paragraph 214)***

132. Since 2014, MHCLG have invested £55.5 million in services to support victims of domestic abuse including refuges. The Government is committed to ensuring funding for the proposed statutory duty is properly considered and will continue to engage with local authorities and departments across government through the consultation to collect further evidence.
133. Through the consultation we want to hear from victims and survivors, service providers, housing providers, local authorities, Police and Crime Commissioners (PCCs) and other public agencies, as well as other professionals who support victims and their children every day. The Government will continue to engage closely with stakeholders, including service providers, local authorities and sector organisations to ensure the proposed outcomes following the consultation meet the needs of all victims. The proposals will deliver more sustainable support services, improved national coverage and greater accountability for provision of support.

***The Government needs to provide clarity on how non-accommodation based support services such as community-based advocacy and IDVA services and open access advice, helpline and counselling support services will be provided and funded under the new statutory duty proposed by MHCLG and what arrangements will be made for the national provision of highly specialist services. We recommend that the Government works closely with refuge providers, local authorities and other stakeholders to ensure that these essential services are included in future service commissioning plans in order to ensure full compliance with the Istanbul Convention in this regard. (Paragraph 230)***

134. Funding for victims and witnesses' services is drawn from a wide and complex landscape. Funding comes from a variety of government departments and agencies. Services are then commissioned through PCCs, local authorities and the NHS.
135. We have committed in the Victims Strategy to work across government to better align central funding for victim support services and are currently working on a cross-government Victims Funding Strategy. We recognise that non-accommodation based support services are critical to complement accommodation based services. We will

work over the summer to further our evidence base on how all such support services are funded.

136. This work, and the conclusions of MHCLG's consultation on accommodation-based support services, will inform future plans for cross-government funding for all domestic abuse services with the aspiration of developing a consistent, coordinated and sustainable approach. We will also reflect this as part of our review of the National Statement of Expectations and Commissioning Toolkit.

***We also note the key role in supporting survivors that other parts of the public service, especially in the areas of health and education, need to play. The Government must ensure that survivors of domestic abuse and their children have full access to health and other essential public services and do not suffer any detriment when they are forced to move to new accommodation in a different area. Finding school places and ensuring that survivors of domestic abuse experience no disadvantage in quickly accessing physical and mental health services are vital. Those leaving their homes and communities to escape abuse are sorely in need of such support and should be treated on a par with other vulnerable groups, such as looked after children.***

***(Paragraph 231)***

137. The Government agree that victims of domestic abuse should be fully supported at all points in their journey; this includes whether or not they are able to stay in their own home or local community. We firmly believe that it is in the best interests of all vulnerable children to ensure the school admissions process works effectively and efficiently. We know that this group of children are more likely to seek a school place outside the normal admissions round. This is why in the conclusion of the Children in Need review<sup>35</sup>, published in June 2019, we committed to take forward changes to the School Admissions Code<sup>36</sup> to improve the clarity, timeliness and transparency of the in-year admissions process for all vulnerable children.
138. We think this change will have the biggest impact in ensuring vulnerable children are able to access a school place as quickly as possible, including those affected by domestic abuse. We will also strengthen and improve the Fair Access Protocols, and as a minimum, ensure these can be used to admit children in refuges.
139. It is a key principle that access to NHS care is based on clinical priority. It is the responsibility of the clinician to take decisions about the patient's treatment. When patients move home and between hospitals, the NHS should take previous waiting time into account and ensure, wherever possible, that these patients are not disadvantaged as a result.
140. NHS England is developing a four-year action plan to tackle domestic abuse and all NHS contracted services will have to have an action plan. This plan will include recommended training programme and awareness raising for all staff. One of the tenets of the action plan will be that any and all victims and survivors of domestic abuse and their children will not be unduly disadvantaged in accessing physical and

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<sup>35</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/809236/190614\\_CHILDREN\\_IN\\_NEED\\_PUBLICATION\\_FINAL.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/809236/190614_CHILDREN_IN_NEED_PUBLICATION_FINAL.pdf)

<sup>36</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/389388/School\\_Admissions\\_Code\\_2014\\_-\\_19\\_Dec.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/389388/School_Admissions_Code_2014_-_19_Dec.pdf)

mental health services when they are forced to move to new accommodation in a different area.

## CHAPTER FIVE: MIGRANT WOMEN

***The Bill includes no specific provisions concerning migrant women, but we have considered this issue because of concerns that in practice some migrant women would not be protected by the proposed measures in the Bill. (Paragraph 234)***

***Some women with insecure immigration status are faced with the choice of staying with a perpetrator of abuse or becoming homeless and destitute because they do not know how to get help or may not be entitled to support and may be at risk of detention and deportation. Because of this vulnerability, immigration status itself is used by perpetrators of domestic abuse as a means to coerce and control. (Paragraph 240).***

***Witnesses told us that some migrant women experiencing domestic abuse were effectively excluded from the few protective measures contained in the Bill and that this was not compliant with the requirements of Article 4, paragraph 3 of the Istanbul Convention which requires protection to be provided without discrimination on any ground, including migrant and refugee status. (Paragraph 241)***

141. The Government recognises that there may be circumstances in which some perpetrators may use their partner's insecure immigration status as a form of abuse and we are clear that such abuse is unacceptable. We have considered the statutory definition carefully and believe that it fully captures the behaviours associated with the abuse of an individual's immigration status identified by the Committee and by stakeholders more broadly.
142. We intend to provide further details regarding the different types of abuse, including those experienced by specific groups or communities, in the statutory guidance which will accompany the definition. We are consulting widely with stakeholders in drafting this guidance and, as stated above, are aiming to publish the draft guidance in time for the House of Commons Committee stage of the Bill.
143. The Government is clear that all victims of domestic abuse should be treated first and foremost as victims and all the measures in the Bill apply equally to all victims of domestic abuse in England and Wales irrespective of their immigration status. Given the importance of the issue the Domestic Abuse Commissioner will also be required, through their terms of appointment, to consider the particular needs of marginalised or minority groups. This will include a requirement for the Commissioner to identify a specific thematic lead within their office to have responsibility for migrant women.
144. The Government also recognises the importance of ensuring access for victims of domestic abuse to the EU Settlement Scheme, which enables resident EU citizens and their family members to obtain the UK immigration status they need in order to remain here after we leave the European Union. Supporting vulnerable groups to make applications is an essential element of the scheme, and we are working hard to ensure that it is capable of handling vulnerable applicants with flexibility and sensitivity. We are enlisting the help, through grant funding of up to £9 million, of a wide variety of voluntary and community organisations across the UK that have expertise and strong local links with vulnerable EU citizens, including organisations representing victims of domestic abuse.

***The police service has a critical role in providing a first line of response to victims of abuse, particularly when there is a crisis. We know from our informal meetings with***

**survivors of abuse that many of them do not know where else to turn in an emergency other than the police, especially when they live in rural areas, or when they need help at night. (Paragraph 248)**

**We are particularly concerned to hear evidence that some police forces share details of victims with the Home Office for the purposes of immigration control rather than helping the victim access appropriate support. We note that the NPCC updated its guidance in December 2018, to specify that when someone reports a crime, the police must always, first and foremost, treat them as a victim, and that police must never check a database only to establish a victim's immigration status. However, it is clear that this guidance is not sufficient to prevent immigration authorities from taking enforcement action at a time when there is a duty on statutory authorities to ensure that victims of domestic abuse are provided with protection and support. (Paragraph 249)**

**We note the concerns that a statutory bar on sharing information could in some cases prevent the police from helping victims of abuse who are uncertain of their immigration status. We welcome the new NPCC guidance but doubt whether it will be sufficient to change long-standing bad practice. (Paragraph 250)**

**We recommend that a more robust Home Office policy is developed to determine the actions which may be taken by the immigration authorities with respect to victims of crime who have approached public authorities for protection and support. We support the recommendation of the Step Up Migrant Women campaign to establish a firewall at the levels of policy and practice to separate reporting of crime and access to support services from immigration control. (Paragraph 251)**

145. We agree wholeheartedly with the Committee that vulnerable victims should always have somewhere to turn to, day or night, and that is why the Government funds the National Domestic Violence Helpline. The service offers immediate support to victims of domestic abuse, through multiple channels, and is accessible 24 hours a day, 365 days a year. We have recently committed £500,000 of grant funding per year for the delivery of the National Domestic Violence Helpline until 2021/22.
146. The Government shares the concerns of the Committee in relation to a statutory bar on information sharing and would not want to introduce measures that may prove detrimental to vulnerable victims. We believe the NPCC guidance, issued in late 2018, is a step to ensuring that the police treat all individuals who report incidents of domestic abuse as victims first. We are encouraged by the programme of work the NPCC and Immigration Enforcement have committed to undertake to effectively embed the policy. The NPCC's leads for domestic abuse and vulnerability are working with forces to raise awareness of the guidance. In addition, Immigration Enforcement is working with the NPCC lead on domestic abuse to ensure that police and immigration officers work collaboratively to quickly recognise victims and to ensure that immigration status is not used by perpetrators to coerce and control vulnerable migrants. We will continue to monitor the implementation of the guidance and consider what more the Government can do to support positive change in this area as part of our review of the overall response to migrant victims of domestic abuse (see below).

**The provisions barring individuals from having recourse to public funds can prevent some victims of domestic abuse with uncertain immigration status from accessing refuges and other support services. We recommend that Government explores ways**

***to extend the temporary concessions available under the DVR and DDVC to support migrant survivors of abuse, to ensure that all of these vulnerable victims of crime can access protection and support whilst their application for indefinite leave to remain is considered by the Government. We recommend that the Government consult on the most effective criteria to ensure such a measure reaches the victims it is designed to support and that it should extend the three-month time limit to six months for the DDVC in the light of the specific difficulties for victims highlighted by Southall Black Sisters. We note that the Home Office already publishes guidance on the evidence of domestic violence which is required to support applications under the DVR, and we would expect these protocols to continue to be applied. (Paragraph 258)***

147. The expectation is that those coming to the UK, either as individuals, or being sponsored, will be able to support themselves and any sponsored dependants without support from the public purse. This is a fundamental government policy – it does not specifically apply to victims of abuse.
148. The current concession – the Destitute Domestic Violence Concession (DDVC) - was developed to allow individuals who have come to the UK on certain spouse routes permission to remain in the UK, for an initial period of three months, in their own right, and independent from their sponsor. The prohibition on no recourse to public funds is lifted, allowing them to make a claim for support from DWP. The process for accessing the DDVC is light touch and self-declaring. There is no assessment made of the claim to be a victim of abuse – the priority is to get applicants crisis support at the time of need. Decisions are usually made within three to five days and stakeholders have confirmed that overall the process works well. Within the three months' timeframe, individuals on the spousal route towards settlement may make an application for permanent settlement as the victim of domestic abuse. It is only at this stage that the individual will be asked for details in support of their application. The majority of these applications are processed within the original period of three months issued under the provisions of the DDVC.
149. The Government agrees that all victims should be able to access to appropriate support at the appropriate time. That is why in 2017 we provided Southall Black Sisters with £250,000, via the Tampon Tax Fund, to pilot a project to offer accommodation and financial support to victims of domestic abuse who are destitute as a result of the no recourse provisions. The project evaluation is expected to be concluded shortly and we await the findings with interest. The geographical scope of this project and the support that it offered was limited to London and therefore we also provided Southall Black Sisters with a further £1.1 million from the 2019 Tampon Tax Fund to consolidate and expand services to those with no recourse to public funds, strengthen national service-delivery mechanisms through partnership-working and build capacity across other domestic abuse charities.
150. In relation to the DDVC, we have carefully considered the Committee's recommendation, and we agree that there are some migrant victims that currently have no access to immediate support through it. The Government will, therefore, review the overall response to migrant victims of domestic abuse, taking careful account of evidence provided by stakeholders on this issue. The review will specifically consider the Committee's recommendation to extend the period of time that support is offered for and how this relates to a victim's ability to access refuge accommodation. In considering our response to those who are eligible for the DDVC, we will take into account any obligations we may have under the Istanbul Convention to ensure we are compliant.

151. The Government already provides support and safe accommodation for asylum seekers who are victims of domestic abuse and who would otherwise be destitute, however up to now access to refuges has not been possible. The Home Office will use the asylum support budget to close a gap which until now has prevented asylum seekers and their dependants from accessing specialist domestic abuse refuge places because they are not entitled to housing benefit. We will publish an updated policy to ensure that such victims of domestic abuse receive the support they need and to make sure it is very clear that victims do not need to stay with an abusive partner for immigration purposes.

***We recommend the inclusion of an additional clause in the Bill, imposing on public authorities dealing with a victim or alleged victim of domestic abuse, or making decisions of a strategic nature about how to exercise functions, a duty to have due regard to the need to protect the rights of victims without discrimination on any of the grounds prohibited by Article 4, paragraph 3 of the Istanbul Convention. (Paragraph 259)***

152. The Government is committed to ratifying the Istanbul Convention and the provisions in the Bill providing for a domestic abuse offence in Northern Ireland and extending extraterritorial jurisdiction to further violent and sexual offences are directed to that end. The Government will continue to report on an annual basis, as required by the Preventing and Combating Violence Against Women and Domestic Violence (Ratification of Convention) Act 2017, on progress towards ratification, with the next report due to be published by the end of October.

153. It is not the case that implementation of all the provisions of the Istanbul Convention requires bespoke legislation. Sitting alongside the provisions in the Domestic Abuse Bill and other legislation specially directed towards combating violence against women and domestic abuse, is an existing body of rights legislation, notably the Human Rights Act 1998 and the Equality Act 2010. Given this, the Government is not persuaded that a non-discrimination clause, based on Article 4(3) of the Convention, is required. Indeed, such a clause in the Bill could have unintended consequences for other legislation where express provision has not been made.

154. The Government will, however, use the opportunity provided for in statutory guidance issued under clause 79 of the Bill to remind public authorities of the provisions of Article 4(3) of the Convention and the application of existing rights legislation.

## CHAPTER SIX: OTHER ISSUES

### Wales

***We note the existence of divergence in legislation between England and Wales, and also the different agencies that operate in the two countries. We urge greater close co-operation between the UK and Welsh governments. (Paragraph 263)***

155. One of the strengths of devolution is that it allows the elected representatives in each part of the UK to develop policies and pass legislation better tailored to meet the needs and circumstances of each of England, Wales, Scotland and Northern Ireland. The fact that there has been some divergence in legislation and structures between England and Wales in combating VAWG and domestic abuse is therefore a likely and appropriate consequence of the devolution settlement.
156. We recognise, however, the need for continued, close co-operation between the UK and Welsh Governments, to ensure that the victims and survivors of domestic abuse receive a holistic and effective response from all statutory agencies, whether they are reserved justice agencies, or devolved agencies in the sphere of health, education and local government. The Home Office worked closely with the Welsh Government in developing the refresh of the VAWG Strategy published in March 2019. The establishment of the Domestic Abuse Commissioner will also act as a catalyst for further co-operation as we expect the Commissioner to work closely, and co-ordinate their work in Wales, with the existing National Advisers appointed under the Violence against Women, Domestic Abuse and Sexual Violence (Wales) Act 2015.

***Wales has placed its response to domestic abuse firmly into the context of its violence against women strategy. Welsh legislation has also focused on promoting multiagency work and encouraging prevention. As yet there is little evidence about the effectiveness of this approach, but those engaged in it seemed optimistic, despite their caveats about funding difficulties. We are persuaded that developments such as the training programmes for public sector workers and the emphasis on the role of schools in prevention are valuable, and lessons learned should be incorporated into the approach to domestic abuse in England. This approach forms a key element of the approach of the Istanbul Convention contained in Chapter 3, particularly Article 13 which refers to the crucial role that education plays in this area. (Paragraph 268)***

157. We fully recognise the importance of close co-operation between the UK and Welsh Governments. Whilst many of the measures in the Bill relate to reserved matters, it is crucial that we work closely with Wales to ensure that these measures work effectively within the devolved landscape.
158. We recognise that the differences in approach to devolved matters provide an important opportunity to learn from each other and we are committed to working closely with Wales to share what works in tackling domestic abuse. We see the introduction of the Domestic Abuse Commissioner as an important way to improve join-up between the two countries and expect the Commissioner to work closely with the Welsh National Advisers for Violence against Women, Domestic Abuse and Sexual Violence.
159. We share the Committee's view of the importance of multi-agency working and a focus on prevention and see these as fundamental to an effective response to domestic abuse. This is why we have made a number of commitments in our consultation

response to improve how agencies work together to provide early interventions to protect victims and challenge perpetrators. These include funding the roll-out of Operation Encompass in schools across England and Wales to facilitate multi-agency support for children who have witnessed domestic abuse and funding for a project in Wales to embed workers in children's social care to support children and young people to recover from their experiences of domestic abuse.

### **Prevention and early intervention**

***We welcome the introduction by the Government of mandatory relationship education for all school-aged children in England, and we see breaking the 18-year impasse on delivering this important support for all children as of fundamental importance in delivering the domestic abuse strategy. It is an opportunity to break the intergenerational cycle of domestic abuse. It is vital that children of all ages be taught about domestic abuse in a sensitive and age-appropriate way, giving them the tools to recognise abuse, the confidence to report it and the ability to develop respectful relationships themselves. (Paragraph 274)***

***It is clear that there is still a great deal of work to be done in changing perceptions of what is normal and acceptable behaviour within relationships. We are aware of (often locally-funded) advertising campaigns to raise public awareness of the problem of domestic abuse. There have been similar, more widespread campaigns on issues such as modern-day slavery, as well as the promotion of health messages on issues such as smoking. The cost of domestic abuse to the health service is high. We believe that a campaign to raise awareness and challenge behaviour should be undertaken; this could also provide pointers to where help may be sought and suspected instances reported. Such a campaign could be targeted particularly on online pornography sites. (Paragraph 275)***

160. We are pleased that the Committee welcomes the introduction of mandatory Relationships Education. We are committed to ensuring that this teaching equips children to understand healthy relationships and recognise the signs of abuse.

161. Whilst educating children on healthy relationships will play a vital part in changing attitudes, we recognise that there is more to be done to raise wider public awareness of domestic abuse. We want to build on the success of our Disrespect NoBody teenage relationship abuse campaign and will consider options for public awareness campaigns.

***A key part of the Government's strategy is to prevent domestic abuse and intervene early to stop abuse escalating. This part of the strategy is addressed through policies and is not covered in the draft Bill. We note that in Wales the statutory guidance on prevention, training and strategies is intended to incentivise widespread work on prevention throughout the public sector and to facilitate better multi-agency working and collaborative working with other specialist organisations. We urge the Government to consider how there might be greater consistency in approach across the UK, particularly in terms of the provision of public service early interventions and training for front-line staff in publicly funded services. (Paragraph 281)***

162. As the Committee notes, the Government's approach to domestic abuse is strongly focused on early intervention and prevention and, like the Welsh Government, we want to encourage and support local agencies to work together to take effective early action. We have funded a number of early intervention projects including the Women's Aid 'Ask Me' project which supports community ambassadors to identify and signpost victims to support and SafeLives' One Front Door model. Women's Aid and Respect have also received government funding to develop an early intervention, community-focused approach for perpetrators of domestic abuse.
163. It is important to ensure that we support staff in identifying, intervening early, referring and providing the best support to victims of domestic abuse. We are working with NHS England to raise the awareness and understanding that healthcare professionals have of domestic violence and abuse and to know how and what the appropriate action is to take when it is necessary.
164. In the NHS, routine enquiry is already in place in maternity and mental health services, to improve earlier disclosure and support people to get the care that they need. All staff working in the NHS must undertake at least level 1 safeguarding training which includes domestic abuse.
165. In 2017, DHSC published an online domestic abuse resource for health professionals and have developed a number of e-learning and training modules with the Institute of Health Professionals and the Royal Colleges of Nursing and GPs. And, in 2016, NICE published its Quality Standard for Domestic Abuse.
166. DHSC has invested a further £2m (in addition to £1 million provided through the Tampon Tax fund) to fund the expansion of the Health Pathfinder programme which is being delivered by a consortium of specialist organisations led by Standing Together Against Domestic Violence to develop a model health response for survivors of domestic abuse in acute, community and mental health settings. This builds on the IRIS (Identification and Referral to Improve Safety) project that provides staff training and a support programme to bridge the gap between primary care and voluntary sector organisations to harness the strengths of each, and to provide an improved response to domestic abuse.
167. From April 2020, NHS England are planning for Independent Domestic Violence Advisors (IDVAs) to be integral to every NHS Trust Domestic Violence and Abuse Action Plan, as part of the NHS Standard Contract.
168. A key role for the Domestic Abuse Commissioner will be to promote greater consistency in the response of statutory and voluntary sector services across all areas of the country. This could include the provision of training and early interventions. We will, however, consider what more we can do to promote consistent use of multi-agency working and early intervention across agencies throughout England and Wales.

***We are very conscious of the need to involve a wide variety of government departments and other public sector organisations in promoting the prevention of and early intervention in domestic abuse. There will be a requirement for coordination with the devolved administrations. Delivery will require significant cultural change in a number of organisations, and this reinforces our conviction that the strategy should be led from the centre of government. We therefore recommend that a Cabinet Office Minister should lead on implementing the Government's strategy to combat domestic abuse and to ensure full compliance with the Istanbul Convention. (Paragraph 282)***

169. We agree with the Committee that tackling domestic abuse requires a cross-government approach. The Domestic Abuse Bill and the non-legislative programme have been developed through collaboration across government departments, coordinated by the Home Office and the Ministry of Justice. We do not, therefore, agree that a Cabinet Office ministerial lead is required to take this work forward. We are, however, considering whether we can use existing cross-government structures, with support from the Cabinet Office in the usual way at both official and ministerial levels.

## CHAPTER SEVEN: DOMESTIC ABUSE COMMISSIONER

### *Designate Domestic Abuse Commissioner*

*We understand that the Government wishes to make rapid progress in implementing its Domestic Abuse Strategy, but we were surprised to learn that the process of recruiting a designate Commissioner had almost been completed before Parliament had had any opportunity to consider—still less to recommend any changes to—the draft Bill setting out proposals for the Commissioner’s remit and powers and the governance arrangements for the Commissioner’s office. We understand from the Home Secretary that the process has been put on hold while we complete our scrutiny, but it appears that the designate Commissioner’s appointment will be made on the basis set out in December 2018. We consider this unsatisfactory. (Paragraph 287)*

170. We expect the Designate Commissioner to be in post from autumn 2019, and, as set out in the role description published in December 2018, will launch a new public appointments process if the role changes significantly during the passage of the Bill. This will ensure that the statutory Commissioner has the right skills and experience if their requirements should differ from the Designate Commissioner.

### *Remit and Resources*

*We have already stated our view that there needs to be greater integration of the legislation and policies relating to domestic abuse and violence against women and girls more generally. We recommend that this be reflected in the remit given to the Commissioner. (Paragraph 290)*

*Many of the issues raised in the course of our inquiry were considered by our witnesses to be matters for the Domestic Abuse Commissioner to address. They suggested widening the Commissioner’s remit and proposed comprehensive, detailed work in a number of specific areas. The Home Office clearly regards the role as one which issues guidance and reports compliance, and it has made provision for the Commissioner to be funded and for staff to be provided accordingly. However, those working in the field were firmly of the view that, if this role was to make a major contribution to combatting domestic abuse, the Commissioner would have to be more pro-active, would have to work across government and with multiple local partners, and would have to be able to hold public authorities to account for any failings. They therefore considered that the Commissioner’s role should be fulltime and the budget and staffing for the Commissioner’s office should be larger. (Paragraph 320)*

*While we do not necessarily endorse every suggestion made to us about the work the Domestic Abuse Commissioner should do, we think that in practice the Commissioner’s office would have a greater quantity and wider range of and more in-depth work than the current funding and staffing arrangements would permit. We recommend that the role of Commissioner should be full time, and that, within a year of the designate Commissioner starting their role, they or, if then in place, the statutory Commissioner should publish an assessment of the financial and personnel resources required to carry out the role. (Paragraph 321)*

171. We believe that given the complexity and prevalence of domestic abuse, with nearly two million victims every year, that there is merit in establishing a specific Domestic Abuse Commissioner with a clear focus on this issue alone. We do, however, agree with the Committee that integration of domestic abuse and broader VAWG policy and legislation is crucial. That's why we published a refreshed VAWG Strategy in March 2019 which ensured that proposals in the domestic abuse consultation response were clearly situated within the Government's wider response to VAWG. However, as a new role, we agree that the remit of the Commissioner will need to be kept under review and, to this end, we will review the functions of the Commissioner three years after the commencement of the provisions in Chapter 2 of Part 1 of the Bill.
172. The current time commitment and size of office will represent the best balance between affecting real change and delivering good value for money, and we expect them to have significant impact, both locally and nationally, with this budget. We expect that their mapping and monitoring work will deliver significant benefits and combined with the statutory powers that place duties on statutory agencies to cooperate and respond to recommendations, they will have sufficient funding to make a real difference. Again, however, we agree that this time commitment will need to be kept under review. Therefore, we will review the part-time nature of the Designate Domestic Abuse Commissioner six months after their taking up post. It would, of course, be open to the Designate Commissioner to make representations to the Home Office about the financial and personnel resources required to carry out their role and the Department will consider carefully any such representations.

### **Powers**

***As we have repeatedly emphasised, the Commissioner would need to work with multiple agencies, national and local, in areas such as healthcare, housing and education. While the draft Bill would require public authorities to reply to any recommendations addressed to them in a report by the Commissioner, it is silent about what would happen if the authorities failed to make the recommended changes to their practice. We were told that it was undesirable to confuse the role of commissioner with that of an inspector. We accept this, but we think it unacceptable that service providers might be able simply to ignore the Commissioner's recommendations. The role of enforcing best practice properly lies with Ministers, but currently there is no duty on government departments to co-operate with the Commissioner. We recommend that Clause 13 of the Bill be amended to place this duty on government departments. This would give Ministers a clear mandate to ensure that public sector commissioners and providers change their behaviour. (Paragraph 322)***

173. We agree that the Commissioner should be empowered to hold Ministers and government departments to account, and that Ministers are well placed to encourage best practice locally through their responsibilities overseeing statutory agencies. Therefore, we have amended the Bill to place a specific duty on Ministers in charge of a government department to respond to recommendations made to them, within 56 days. In addition, we make it clear in the new framework document (see below) that government departments would be expected to cooperate fully with the Commissioner.

### **Independence**

***As far as the linked issues of independence and accountability are concerned, we have grave concerns about the proposal for the Commissioner's role to be***

**responsible to the Home Office. There is a potential for the Home Office to experience serious conflicts between its work in relation to domestic abuse and its responsibility for immigration control. This has led a number of our witnesses to question whether the Commissioner could really be independent when considering the needs of migrant women if answerable to the Home Office. They suggested that a Cabinet lead would enable a cross-departmental approach. This argument was supported by the former Anti-Slavery Commissioner's assertion that his most effective cross government work was done when he reported to the Cabinet Office rather than the Home Office. (Paragraph 323)**

**We recommend that the Commissioner be responsible to the Cabinet Office, to provide the Commissioner with extra authority in relation to the wide range of Ministers and government departments with which their office will have to engage. We also recommend a clear, direct accountability to Parliament, as an assurance of the Commissioner's independence of government. Furthermore, the draft Bill should be amended to remove the requirement for the Commissioner to submit draft reports and advice to the Secretary of State and to obtain the approval of the Secretary of State for their annual strategic plan. The Commissioner should be given power to appoint staff independently, albeit on civil service terms and conditions. (Paragraph 324)**

**We recommend that the Commissioner be given the duty to consult with partners and agencies in Wales, and that the National Assembly of Wales be enabled to undertake appropriate scrutiny of how the Commissioner's Office discharge their responsibilities. (Paragraph 325)**

174. The Government shares the Committee's view that the independence of the Domestic Abuse Commissioner will be crucial. We have considered the Committee's recommendations carefully that seek to enhance the independence and accountability of the Commissioner and have made a number of amendments to the Bill to address these recommendations.
175. A key new provision will be the creation of a statutory framework document (clause 10 of the Bill). This framework document will set out in greater detail how the Home Secretary will work with the Commissioner and will address, in particular, issues in respect of governance, funding and staffing. The section of the framework document on governance will, amongst other things, cover the Commissioner's accountability to the UK Parliament (including the Home Affairs Select Committee) and to the National Assembly for Wales insofar as the activities of the Commissioner relate to devolved matters in Wales. This framework document will be developed in consultation with the Commissioner and Welsh Ministers and can only be published with the Commissioner's agreement.
176. To reinforce the Commissioner's direct link to Parliament, we have amended the Bill so that it will be for the Commissioner to arrange to lay their reports and strategic plans before Parliament, rather than for this to be done via the Home Secretary as the draft Bill provided. We have further amended the Bill to remove the requirement for the Commissioner to submit their strategic plans to the Home Secretary "for approval"; instead the Commissioner will be required to consult the Home Secretary (and others) prior to publishing the strategic plans. As regards the Commissioner's reports and advice, the Bill retains the narrowly focused power of the Home Secretary to require the Commissioner to exclude from such reports and advice any information which

could jeopardise a person's safety or a criminal investigation, but there is now a duty on the Home Secretary to consult the Commissioner before exercising this limited power and the statutory framework document will set out the process for this, including clear time limits so as not to delay publication.

177. In relation to the staffing of the Commissioner's office, the draft Bill already provided for the Commissioner to appoint staff of their own choosing, on civil service terms and conditions. Clause 5(2) expressly provides that all staff appointments may only be made following consultation with and approval from the Commissioner. As the office of Commissioner is not a corporation sole, it is not legally possible for the Commissioner to be the formal employer of their own staff.
178. In addition, to appropriate scrutiny by the National Assembly for Wales referred to above, we agree that there should be clear mechanisms for the Commissioner to consult with partners and agencies in Wales. The draft Bill already specifically enables the Commissioner to consult with public authorities, voluntary organisations and other persons, whether in Wales or, indeed, in England. We will reinforce the necessity for this in the framework document.
179. We believe that the mechanisms in place for protecting the Commissioner's independence are already sufficiently robust and do not agree with the Committee's assessment that Cabinet Office sponsorship would enhance this. We are confident that sponsorship by the relevant Department does not prevent Commissioners or other non-departmental public bodies from exercising their independence and that it is not in the interests of good accountability and transparency for one Department to have overall policy and legislative framework responsibility for a commissioner, and another being accountable for its spending and performance. There are many examples of this from across government. Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services is sponsored by the Home Office, the Children's Commissioner by DfE and the Information Commissioner by the Department for Digital, Culture Media and Sport, and each of these demonstrably and robustly maintain their independence of their sponsoring Department

***Overall, we consider that there should be a complete review of the approach taken to establishing Commissioners offices. The inconsistency between Commissioner powers, functions and independence is arbitrary and undesirable. We strongly recommend the Government to adopt a more uniform approach to establishing a Commissioner role with independence built into each by using the Cabinet Office as the sponsor department. (Paragraph 326)***

180. We recognise that there is a wide range of different commissioners in place with varying remits, powers, organisational structures and associated costs. We consider that the absence of a universally acknowledged definition of the terms 'commission' and 'commissioner' allows government departments the flexibility to build a model which meets the individual policy objective it is seeking to address. This may mean that an alternative to the arm's length body (ALB) model, such as an individual office-holder, is more appropriate or proportionate.
181. The absence of a definition of the terms 'commission' and 'commissioner' also means that we do not recognise all such entities as a homogenous grouping. Therefore, we do not consider that the approach to establishing further commissions or commissioners would benefit from such a review.

182. One of the Cabinet Office's objectives is to manage and simplify the landscape of ALBs. We consider there are benefits to flexibility but recognise the need for consistency where possible. The Cabinet Office works to achieve this, including through its approvals process for new ALBs. Any proposal for a new commission, commissioner or commissioners that would have the characteristics of an ALB would be subject to such an approvals process. Such ALBs should be constructed in compliance with the principles of good corporate governance and other government guidance, to introduce consistency where possible.
183. Another one of the Cabinet Office's objectives is to provide system leadership on establishment, and ongoing sponsorship by departments, of ALBs. We will consider whether we can attempt to introduce greater consistency, in the establishment of commissioners, through our ongoing work to share best practice with departments and to produce constructive and user-friendly guidance.
184. With respect to the recommendation that the Cabinet Office should be the sponsor department for each commissioner role, we consider that having one department with overall policy and legislative framework responsibility for a commissioner, as well as being accountable for its spending and performance, provides better transparency and good accountability than this responsibility being split between departments. Further, we consider that the independence of commissioners can be maintained whilst being sponsored by the relevant policy department. Independence of commissioners is supported by controls which are put in place, for example, framework documents, as will be the case with the Domestic Abuse Commissioner.

## COMPARISON BETWEEN THE DOMESTIC ABUSE BILL AS INTRODUCED AND THE DRAFT BILL PUBLISHED IN JANUARY 2019

The table below details the substantive changes made to the draft Bill disregarding minor technical and drafting changes.

Clause in draft Bill	Clause in Bill as introduced	Change	Reason for change
<b>Definition of “domestic abuse”</b>			
1(3)	1(3)	Makes clear that abusive behaviour can consist of a single incident or a pattern of behaviour.	Responds to the recommendation at paragraph 31 of the Committee’s report in relation to the statutory definition.
<b>The Domestic Abuse Commissioner</b>			
7(5)	7(5)-(6)	Requires the Secretary of State to consult the Domestic Abuse Commissioner before directing the Commissioner to omit material from a report which the Secretary of State thinks might jeopardise the safety of any person or the investigation or prosecution of an offence. Provides for the Commissioner to make arrangements to lay their reports, issued under clause 7, before Parliament, rather than the Secretary of State laying such reports (as provided for in the draft Bill).	Responds to the recommendations at paragraph 324 of the Committee’s report in relation to the independence of the Commissioner.
8	8(7)	Requires the Secretary of State to consult the Domestic Abuse Commissioner before directing the Commissioner to omit material from their advice which the Secretary of State thinks might jeopardise the safety of any person or the investigation or	Responds to the recommendations at paragraph 324 of the Committee’s report in relation to the independence of the Commissioner.

		prosecution of an offence.	
N/A	10	Provides for the Secretary of State to issue a framework document, agreed by the Domestic Abuse Commissioner, dealing with matters relating to the Commissioner, including in respect of governance, funding and staffing. In preparing the framework document, the Secretary of State must consult the Welsh Ministers.	Responds to the recommendations at paragraph 324 and 325 of the Committee's report in relation to the independence of the Commissioner and the scrutiny role of the National Assembly for Wales in relation to the Commissioner.
11	12(1), (4)-(7)	Provides for the Domestic Abuse Commissioner, rather than the Secretary of State (as in the draft Bill) to publish their strategic plans after consultation with, amongst others, the Secretary of State (removing the requirement for the Secretary of State to approve such plans).	Responds to the recommendations at paragraph 324 of the Committee's report in relation to the independence of the Commissioner.
12(3)-(4)	13(3)-(5)	Requires the Secretary of State to consult the Domestic Abuse Commissioner before directing the Commissioner to omit material from the Commissioner's annual report which the Secretary of State thinks might jeopardise the safety of any person or the investigation or prosecution of an offence. Provides for the Commissioner to make arrangements to lay their annual reports before Parliament, rather than the Secretary of State laying such reports (as provided for in the draft Bill).	Responds to the recommendations at paragraph 324 of the Committee's report in relation to the independence of the Commissioner.

14	15	Places a duty on a Minister in charge of a government department to respond to any recommendation made by the Domestic Abuse Commissioner (in a clause 7 report) which is directed at that ministerial department. In such a case, the Minister concerned is not required to copy their response to the Secretary of State.	Responds to the recommendations at paragraph 322 of the Committee's report in relation to the independence of the Commissioner.
15(4)(b)	16(4)(b)	Inserts the clarificatory words "although made in the exercise of a function under this Chapter".	Clarifies that any disclosure of personal data, although made in the exercise of functions of the Domestic Abuse Commissioners or others under Chapter 2 of Part 1, may not be made and is not required to be made under this clause if it would contravene the data protection legislation (as defined in the Data Protection Act 2018).
<b>Domestic abuse protection notices (DAPN) and orders (DAPO)</b>			
19	20	Enable a DAPN to prohibit the perpetrator from coming within a specified distance of premises in England and Wales where the person to be protected (the victim) is living, and not just (as in the draft Bill) premises shared by the perpetrator and the victim.	To ensure that a DAPN affords the necessary protection, for example, in a case where the victim has already fled the family home shared with the perpetrator and is staying at other premises.
20(1)(d)	21(1)(d)	Require a police officer, before giving a DAPN to a person in a case where the notice includes provision related to the premises lived in by the victim, to consider the views of any other person who lives in the premises and who is personally connected with the perpetrator or the victim.	Extends the requirement to consider the views of other persons living in the same premises where they are personally connected to the victim and not just, as provided in the draft Bill, the views of co-habitees personally connected with the perpetrator. The requirement will also apply where a notice includes provision relating to premises lived in by the victim, whether or not the premises are shared with the perpetrator.

21(2)(c)	22(2)(c)	Clarifies the information that must be provided in a DAPN. A notice is required to state, amongst other things, that an application for a DAPO will be heard by a magistrates' court within 48 hours – the change omits Sundays and bank holidays from the calculation of the 48-hour period.	Recognises that magistrates' courts do not sit on Sundays and bank holidays.
22(5)(a)	23(4)(a)	Removes Saturdays from the list of days that are to be disregarded when calculating the end of the 24-hour period by which time a person arrested for breach of a DAPN must appear before the court.	Brings the DAPO provisions into line with the approach taken in existing legislation which recognises that a magistrates' court may sit on a Saturday where necessary.
22	23(7)-(8)	Modifies the application of section 128(6) of the Magistrates' Courts Act 1980, which confers power on a magistrates' court to remand a person on bail for longer than eight days where the person and the "other party" consents, so that the senior police officer who gave the DAPN is the "other party" for these purposes. Enables a court, when remanding the perpetrator on bail following a breach of a DAPN, to attach bail conditions to prevent interference with witnesses or other obstruction of justice.	To ensure that magistrates' courts have the necessary powers when remanding a perpetrator following arrest for breach of a DAPN.
22	23(8)	To enable a person arrested for breach of a DAPN to appear before a magistrates' court by video link.	To facilitate the use of video link technology in appropriate cases, including to ensure that an arrested person is brought before a magistrates' courts within the required 24-hour period.

25(4)(b)(i)	25(4)(b)(i)	Save where a DAPN has been given, enable <u>any</u> chief officer of police for a force where the perpetrator resides to apply for a DAPO.	Allows for the fact that the perpetrator may reside in more than one police force area.
26(3)(a)	26(3)(a)	Removes Saturdays from the list of days that are to be disregarded when calculating the end of the 48-hour period by which time an application for a DAPO, following the giving of a DAPN, must be heard.	Brings the DAPO provisions into line with the approach taken in existing legislation which recognises that a magistrates' court may sit on a Saturday where necessary.
28(2)	29(2)	Expressly provide that in determining whether the first condition for making a DAPO has been met (namely that the court is satisfied that the perpetrator has carried out domestic abuse in relation to the person to be protected by the order) the court shall apply the civil standard of proof (that is, the court is satisfied on the balance of probabilities that the perpetrator has been abusive).	To provide greater clarity on the face of the Bill that the civil standard of proof applies (as noted by the Committee at paragraph 84 of their report). This aligns the Bill with, for example, with the provisions of section 14 of the Offensive Weapons Act 2019 in respect of knife crime prevention orders.
29(1)(c)	30(1)(c) and (2)	Requires a court, before making a DAPO in a case where the order includes provision related to the premises lived in by the victim, to consider the views of any other person who lives in the premises and who is personally connected with the perpetrator or the victim.	Extends the requirement to consider the views of other persons living in the same premises where they are personally connected to the victim and not just, as provided in the draft Bill, the views of co-habitees personally connected with the perpetrator. The requirement will also apply where an order includes provision relating to premises lived in by the victim, whether or not the premises are shared with the perpetrator.
31(4) and (5)	32(4) and (5)	Enable a DAPO to prohibit the perpetrator from coming within a specified distance of premises in England and Wales where the person to be protected is living,	To ensure that a DAPO affords the necessary protection in, for example, a case where the victim has already fled the family home shared with the perpetrator and is staying at other premises.

		and not just (as in the draft Bill) premises shared by the perpetrator and the victim.	
31(6)	32(6)	Limits electronic monitoring as a requirement of a DAPO to England and Wales.	Recognises that supervision of an electronic monitoring requirement is not practicable where the perpetrator lives outside of England and Wales.
32(6)	33(6)(c)	Extension of the definition of the “appropriate chief officer of police” for the purposes of clause 33(5)(c).	Recognises the fact that, exceptionally, the subject of a DAPO may not reside in England and Wales.
32(7)	33(7)(c)	Require a person subject to a DAPO who is subject to a positive requirement and who ceases to have any home address to notify the person responsible for supervising compliance of that fact.	Recognises that the subject of a DAPO may cease to have a home address as defined in clause 52, for example because they have moved abroad or have become homeless and there is not a location in the UK where they can be regularly found.
Paragraph 4(1)(b) of the Schedule	Paragraph 4(1)(b) of Schedule 1	Replace reference to “the other party” with “the person who applied for the warrant”.	Drafting change to make clear that the other person whose consent is required if bail is to exceed eight clear days will be whoever applied for the arrest warrant under clause 37
37	38(6)	Require a person subject to a DAPO who ceases to have any home address to notify the police of that fact.	Recognises that the subject of a DAPO may cease to have a home address as defined in clause 52, for example because they have moved abroad or have become homeless and there is not a location in the UK where they can be regularly found.
37	38(8)(a) and (9)	Disapplication of the notification requirements in a case where the subject of a DAPO is already subject to another DAPO.	To avoid a perpetrator subject to two or more DAPOs having to comply with concurrent notification requirements.
40(3)(d) and (5)(b)	41(3)(d) and (5)(b)	Enable <u>any</u> chief officer of police for a force where the perpetrator resides to apply for the variation or discharge of a DAPO or to make representations in proceedings in respect	Allows for the fact that the perpetrator may reside in more than one police force area.

		of the variation or discharge of a DAPO.	
42	43 and 44	Specifies the relevant appeal court in the case of DAPO decisions made by a magistrates' court or Crown Court, but otherwise signposts other legislation specifying the relevant appeal court for decisions made in the family or civil courts. Clarifies the basis on which a court is to determine an appeal under clause 43.	To align the provisions in the Bill with existing appeal routes for decisions in the criminal, county and family courts. To confirm that an appeal under clause 43 will be determined on the basis of a review of the lower court's decision (as with other civil appeals) rather than a rehearing.
42(8)(b)	44(2)(b)	Enable <u>any</u> chief officer of police for a force where the perpetrator resides to make representations in proceedings in respect of an appeal under clause 43.	Allows for the fact that the perpetrator may reside in more than one police force area.
46(1)	47(1)	Place a <u>duty</u> on the Secretary of State to issue guidance relating to the exercise of functions under Chapter 3 of Part 1, as opposed to the <u>power</u> to issue guidance in the draft Bill.	Responds to the recommendations at paragraph 65 of the Committee's report in relation to the publication of guidance.
47	49(2)	Consequential amendment to the definition of "family proceedings" in Part 4 of the Family Law Act 1996 to refer to proceedings under Chapter 3 of Part 1 of the Bill where they take place in the family court or the Family Division of the High Court.	To ensure that the family court or the Family Division of the High Court may, in any proceedings relating to a DAPO, also make other orders that may be appropriate, for example a forced marriage protection order.
N/A	50	Consequential amendment to section 58A of the Courts and Legal Services Act 1990 to proceedings under Chapter 3 of Part 1 of the Bill where they take place in the family court	To add DAPO proceedings in the family court or the Family Division of the High Court to the list of proceedings that cannot be the subject of an enforceable conditional fee agreement, consistent with the existing bar on the use of such agreements in family proceedings.

		or the Family Division of the High Court.	
49(1)	52(1)	Modification of the definition of “home address” for the purposes of the DAPO provisions.	To cater for the possibility that the subject of a DAPO who has no main or sole residence may be regularly found at more than one location. In such a case, they may select which of those locations to notify to the police for the purpose of complying with the notification requirements in clause 38.
N/A	52(3)	Require persons subject to a DAPO to notify the police when they acquire a home address in circumstances where they had not previously had such an address.	To ensure that the police have up to date details of the home address of the subject of a DAPO in circumstances where, for example, they return to the UK from abroad.
<b>Disclosure of information by police</b>			
53(1)	55(1)	Place a <u>duty</u> on the Secretary of State to issue guidance relating to the Domestic Violence Disclosure Scheme, as opposed to the <u>power</u> to issue guidance in the draft Bill.	Responds to the recommendations at paragraph 65 of the Committee’s report in relation to the publication of guidance.
<b>Domestic abuse: Northern Ireland</b>			
N/A	Part 2 (clauses 57 to 74)	Makes provision for a bespoke domestic abuse offence in Northern Ireland together with ancillary provisions.	Included at the request of the Northern Ireland Department of Justice and in the spirit of the Committee’s recommendation at paragraph 17 of their report in relation to the application of the Bill to Northern Ireland.
<b>Extra-territorial offences</b>			
55	76	Limiting extra-territorial jurisdiction (ETJ) to UK nationals and persons who are habitually resident in England and Wales (as opposed to UK nationals and persons habitually resident in the UK)	The Bill as introduced includes analogous ETJ provisions for Scotland and Northern Ireland (see clause 77 and Parts 2 and 3 of Schedule 2). To ensure that these provisions dovetail with each other, for each of the three jurisdictions (England and Wales, Scotland, and Northern Ireland) ETJ is taken in respect of UK nationals and persons habitually resident in that part of the UK.
N/A	77	Clause 77 makes provision in respect of ETJ for Northern Ireland equivalent to the England and Wales	These provisions have been added at the request of the Northern Ireland Department of Justice and responds to the recommendation at paragraph 17

		provisions in clause 55 of the draft Bill.	of the Committee's report in relation to the application of the Bill to Northern Ireland.
56	78 and Schedule 2	Clause 78 introduces Schedule 2 which further extends the circumstances in which certain sexual and violence offences committed abroad may be prosecuted in England and Wales (Part 1), Scotland (Part 2) and Northern Ireland (Part 3). The provisions in Part 1 of the Schedule mirror those in clause 56 of the draft Bill, subject to the change referred to above limiting ETJ to UK nationals and persons habitually resident in England and Wales.	The provisions in Part 2 of Schedule 2 have been included at the request of the Scottish Government. The provisions in Part 3 of Schedule 2 have been added at the request of the Northern Ireland Department of Justice and respond to the recommendation at paragraph 17 of the Committee's report in relation to the application of the Bill to Northern Ireland.
<b>Supplementary and final provisions</b>			
57	79	Extends the Secretary of State's power to issue guidance about the effect of the provisions in the Bill (applicable to England and Wales) to cover other matters relating to domestic abuse. Requires the Secretary of State to issue guidance relating to the statutory definition of domestic abuse, including guidance as to particular kinds of behaviour that amount to abuse (for example, forced marriage) and the effect of domestic abuse on children. Further requires that guidance must take into account the fact that the majority of victims of domestic abuse are female.	Responds to the recommendations at paragraphs 46, 65, 71 and 74 of the Committee's report in relation to the definition of domestic abuse and the publication of guidance.
N/A	80	Provides for a power on the Secretary of State to make consequential amendments.	Confers a standard power to make amendments to other enactments consequential upon the provisions of the Bill.

58	81	Confers power on the Department of Justice in Northern Ireland to make transitional or saving provision in regulations.	Reflects the insertion of a number of Northern Ireland provisions into the Bill at the request of the Northern Ireland Department of Justice.
N/A	83	Provision for any expenditure arising from the Bill to be paid out of money provided by Parliament.	This is a standard financial provision.
60	84	Provides that: (a) provisions in Chapters 2 or 3 of Part 1 amending or repealing existing enactments have the same extent as those enactments; (b) provides for certain new provisions to extend to Scotland or Northern Ireland only, as appropriate.	The changes to what is now clause 84 recognise, in particular, that a number of provisions have been added to the Bill at the request of the Scottish Government or Northern Ireland Department of Justice which relate to Scotland or Northern Ireland only.
61	85	Provides that: (a) the provisions in what are now clauses 1, 2, 47, 55 and 79 are to come into force by regulations made by the Secretary of State (rather than on Royal Assent); (b) provisions applying to Scotland and Northern Ireland to be commenced by the Scottish Ministers or Department of Justice, as the case may be.	(a) Reflects the fact that what were the <u>powers</u> to issue guidance under clauses 47, 55 and 79 of the draft Bill have now been converted, in whole or in part, to <u>duties</u> to issue guidance. As such, the relevant provisions can only come into force once the guidance is ready for publication. (b) Recognises that a number of provisions have been added to the Bill at the request of the Scottish Government or Northern Ireland Department of Justice and that, as these relate to devolved matters, properly fall to Scottish Ministers and the Department of Justice to bring into force.

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