



**FURTHER 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**

DOMESTIC ABUSE BILL

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

March 2020



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FURTHER 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. This Government is determined to continue the work set in train by the then Prime Minister, the Rt Hon Theresa May MP, to tackle the scourge of domestic abuse – one of the more prevalent and harmful crimes to afflict society. Indeed, in December 2019 it was elected with a manifesto commitment to “support all victims of domestic abuse and pass the Domestic Abuse Bill”.
2. In January 2019, the Government published an ambitious programme of action¹ to help build a society where domestic abuse is not tolerated, where victims are properly protected and supported, and where perpetrators are challenged and brought to justice. A vital part of this programme was a package of legislative measures set out in a landmark Domestic Abuse Bill. The Bill was published in draft so that it could be tested through the process of rigorous pre-legislative scrutiny by a Joint Committee comprising members of both Houses of Parliament, chaired by the Rt Hon Maria Miller MP. The Committee published its report on the draft Bill on 14 June 2019².
3. Recognising the importance of taking forward this vital legislation at pace, the Government sought to respond quickly to the Committee’s report and introduce the Bill into Parliament. The initial Government response was therefore published on 16 July 2019³ and the Bill was given its First Reading in the House of Commons on the same day.
4. Given the speed of the Government’s response to the Committee’s report, it was not possible to give full and careful consideration to all the Committee’s recommendations, the Government therefore undertook to publish a follow up response in due course. This further response addresses some dozen recommendations which the Government undertook to consider further in its July 2019 response.
5. The Domestic Abuse Bill received an unopposed Second Reading on 2 October 2019. It unavoidably fell on the dissolution of Parliament ahead of the general election, but has been re-introduced today (3 March 2020). In re-introducing the

¹ Transforming the Response to Domestic Abuse Consultation Response and Draft Bill January 2019, CP 15, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/772202/CCS1218158068-Web_Accessible.pdf

² Joint Committee on the Draft Domestic Abuse Bill, First Report of Session 2017-19, HL paper 378 / HC 2075, <https://publications.parliament.uk/pa/jt201719/jtselect/jtddab/2075/2075.pdf>

³ The Government response to the report from the Joint Committee on the Draft Domestic Abuse Bill, July 2019, CP 137, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/817556/CCS0619467038-001_Domestic_Abuse_Bill_Print_WEB_Accessible.pdf

Bill, the Government has taken the opportunity to strengthen the version introduced in the last Parliament, including in response to recommendations made by the Joint Committee. In particular, we have extended the automatic ban on cross-examination in person in the family courts in England and Wales and provided for appropriate scrutiny of the Domestic Abuse Commissioner by the National Assembly for Wales.

6. In addition, the Bill now includes the new duty on tier one local authorities in England (County Councils, Metropolitan and Unitary Authorities, the Greater London Authority) to provide support to domestic abuse victims and their children in refuges and other safe accommodation. This new duty, which was welcomed by the Committee, was out to consultation at the time the Bill was originally introduced. The Government's response to the consultation was published on 14 October 2019⁴ and Part 4 of the Bill as re-introduced gives effect to the proposals in that response.
7. The Joint Committee recommended that "in the absence of [the Northern Ireland] executive....the provisions of the draft Bill be extended to Northern Ireland unless and until Northern Ireland enacts its own legislation in this area". In its July 2019 response to the Committee's report, the Government accepted that in the then absence of a Northern Ireland Executive, there was a case for legislating at Westminster on what are devolved matters in Northern Ireland. Accordingly, following consultation with the Department of Justice, the Bill as introduced in the last Parliament included a number of Northern Ireland measures, specifically a new domestic abuse offence and provisions extending the extraterritorial jurisdiction (ETJ) of the Northern Ireland criminal courts to certain violent and sexual offences. With the welcome restoration of the devolved institutions in Northern Ireland, the option of legislating on these matters in the Assembly has now returned. Following consultation with the new Minister of Justice, Naomi Long MLA, the new Northern Ireland domestic abuse offence and associated measures have been removed from the Bill and will now be taken forward in parallel in an Assembly Bill. The Northern Ireland ETJ measure mirrors equivalent provisions in the Bill for England and Wales and Scotland and is required to ensure that the criminal law throughout the UK satisfies the requirements of Article 44 (jurisdiction) of the Council of Europe Convention on preventing and combating violence against women and domestic violence (the Istanbul Convention). As such, the Northern Ireland Minister of Justice has agreed that on this issue it is appropriate to continue to legislate at Westminster to provide for a cross-UK solution.

⁴ Future Delivery of Support to Victims and their Children in Accommodation-Based Domestic Abuse Services: Consultation Response, Ministry of Housing, Communities and Local Government, October 2019, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/839171/Domestic_Abuse_Duty_Gov_Response_to_Consultation.pdf.

8. The Bill as re-introduced includes a number of other changes; the annex to this further response to the Committee's report summarises all the substantive changes made to the Bill as introduced in July 2019.
9. Domestic abuse wrecks lives and inflicts long-lasting harms on victims and their children. This enhanced landmark Bill is a significant step in helping to deliver real change that will improve the response to this horrendous crime. The Government is determined to enact and implement the legislation as quickly as possible so that it can make a real difference to the lives of some 2.4 million victims each year.

Review the response to under 16s who perpetrate domestic abuse

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)

In its initial response to the Committee's report in July 2019, the Government committed to consider this recommendation and in the first instance scope out whether there was a need for a specific review.

We have now reviewed the evidence underpinning the recommendation and spoken with the key stakeholders in this area to better understand the issue. We have also drawn on available analytical data and conducted some new research with a sample of Youth Offending Teams. From this we understand that the Committee's driving motivation is to ensure that victims in these circumstances receive appropriate support and to ensure that perpetrators are subject to age-appropriate consequences, particularly with a view to preventing young perpetrators entering the justice system and going on to become adult perpetrators.

Having weighed all the evidence and the new data, we do not consider a full review to be necessary as we are satisfied that appropriate steps are already being taken through wider workstreams to address this particular issue – a summary of these is provided below. We are grateful however to the Committee for prompting us to forge better links between leading departments on this matter. We will continue to work closely.

Prevention in school

- From September 2020, Relationships Education for all primary school aged pupils, Relationships and Sex Education (RSE) for all secondary school aged pupils and Health Education for all pupils in state-funded schools will be compulsory.
- Relationships Education for primary pupils will cover the characteristics of healthy relationships, building the knowledge and understanding that will enable children to model these behaviours.
- RSE builds on teaching at primary level. The emphasis moves from the experience of the child in the context of their family to the young person as a potential partner and parent, for example the roles and responsibilities of parents with respect to raising children and the characteristics of healthy intimate relationships and successful parenting are explored. The subjects will help children identify multiple forms of abuse, including domestic abuse, and know who to turn to for help.

Early intervention

- In December 2017, the Department for Education published detailed advice to support schools understand what child on child sexual violence and sexual harassment looks like, how to prevent it and how to respond to reports of it.
- In September 2018, the Department for Education revised the statutory safeguarding guidance “Keeping Children Safe in Education”⁵ - this included for the first time a dedicated new section (at Part 5) to support schools manage reports of child on child sexual violence and sexual harassment.
- In November 2018, the Department for Education produced “*Respectful School Communities*”, a tool to support schools to develop a whole-school approach to promote respect and healthy relationships. This tool can help schools to take a preventative approach to combat bullying and abuse of any kind, and create inclusive and tolerant school communities.

Responding to abuse

- The Department for Education has provided £2 million funding between 2019-2022 for the Tackling Child Exploitation Support Programme to help safeguarding partners in local areas develop an effective multi-agency response to a range of harms to children from outside the family home. This will include supporting local areas to collate and analyse data in relation to extra-familial harms and exploitation.

Police

- The police have clear processes in place for dealing with abuse between those under the age of 16 and treat it in a similar way to cases of child abuse. As the victim would be under 16, the police have statutory obligations under legislation such as the Children Act and are therefore under a duty to make a referral to children’s social services, or refer the case to a multi-agency forum, such as a Multi-Agency Safeguarding Hub.
- As the police do not routinely flag cases where the victim or perpetrator of domestic abuse is under 16, we do not have a clear picture of the prevalence of abuse for this age category. Data shows that there has been one conviction under the coercive or controlling behaviour offence for someone under 16 in 2017 and no convictions for under 15s. However, we will be exploring if this is something we can work with the police on to obtain better data.

Young persons’ Independent Domestic Violence Advisors (IDVAs)

- The Home Office has funded young persons' IDVAs to work with individuals who have experienced teenage relationship abuse and have also funded Child

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https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/835733/Keeping_children_safe_in_education_2019.pdf

Independent Sexual Violence Advisers to provide support to young people who have been victims of sexual abuse.

The Youth Justice System

The youth justice system has a specific statutory aim (under section 37 of the Crime and Disorder Act 1998), to prevent offending by children and young persons, and the primary purpose of the youth justice system is to encourage children and young people to take responsibility for their own actions and promote re-integration into society rather than to punish.

There is only one specific domestic abuse offence – that of controlling or coercive behaviour in an intimate or familial relationship (section 76 of the Serious Crime Act 2015). Other instances of domestic abuse commonly fall under other offence types such as rape, assault or Grievous Bodily Harm. Where an offence is committed by a child under 16, the police would continue to investigate in the normal way and the Crown Prosecution Service (CPS) make charging decisions in accordance with the Code for Crown Prosecutors.

The CPS applies the current cross-government definition of domestic abuse to all victims and perpetrators of domestic abuse irrespective of age. This enables prosecutors to use the principles set out within the CPS Domestic Abuse Guidelines for Prosecutors⁶ and ensures that they adopt an evidence led approach and develop a robust case management strategy.

When deciding whether there is enough evidence to charge, Crown Prosecutors must be satisfied there is enough evidence to provide a "realistic prospect of conviction" against the defendant and that it is in the public interest for a prosecution to take place. In determining the public interest element of the Code, prosecutors must have specific regard to the age and maturity of the defendant. The best interests and welfare of the child or young person must be considered, including whether a prosecution is likely to have an adverse impact on their future prospects that is disproportionate to the seriousness of the offending.

When sentencing, the court will also take into account any aggravating factors which increase the seriousness of the offence. Relevant examples in the Youth Sentencing Guidelines include:

- Steps taken to prevent the victim reporting or obtaining assistance;
- Prolonged nature of offence;
- History of antagonising or bullying the victim.

By section 125 of the Coroners and Justice Act 2009, every court must, in sentencing an offender or exercising any other function relating to the sentencing of offenders, follow any sentencing guidelines which are relevant, unless the court is satisfied that it would be contrary to the interests of justice to do so. Youth sentencing guidelines would therefore be a prime consideration.

⁶ <https://www.cps.gov.uk/legal-guidance/domestic-abuse-guidelines-prosecutors>

Therefore, there is still consideration of the needs of the victim, the nature of the offence and the history with the victim which are all factors that also contribute to the context of domestic abuse.

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

Amend the Children Act 1989

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)

Nothing is more important than safeguarding children from harm, and we must do all we can to protect children who are victims of domestic abuse in all its forms. In light of this we have given careful consideration to whether it is necessary to amend the definition of harm in section 31(9) of the Children Act 1989 to include an explicit reference to witnessing coercive control. We have concluded that an amendment to the definition of harm is unnecessary and could, in fact, have unintended negative consequences.

The definition of harm was intended to include “forms of ill treatment that are not physical” and “impairment suffered from seeing or hearing the ill-treatment of another”. We are confident that the definition of harm in the Children Act 1989 includes witnessing and experiencing coercive control.

Additionally, we are concerned that the proposed amendment could call into question the generality of the current definition and single out one form of ill-treatment, which may suggest that coercive control is a more significant form of harm than others; this could undermine the broader definition established through case law.

It is essential that all relevant authorities understand that coercive control and other forms of domestic abuse are types of harm, which are covered by the Children Act 1989, and respond accordingly when assessing the risk of harm to a child. We have concluded that the most effective response to achieve the aims of the Committee's recommendation is to amend the statutory guidance, Working Together to Safeguard Children⁷. Local authorities and all safeguarding agencies are required by the Children Act 2004 and other enactments under which the guidance is issued to have regard to this guidance. Alongside this we will continue to consider how we can further improve social work practice in this area, by working alongside the Chief Social Worker and the new Domestic Abuse Commissioner. We will also ask the President of the Family

⁷ <https://www.gov.uk/government/publications/working-together-to-safeguard-children--2>

Division to consider whether, and if so how, similar clarificatory changes and/or updates should be made to relevant practice directions or guidance to the family courts.

Applications for DAPOs be free to the police

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)

As the Government indicated in its initial response to the Committee's report in July, victims will not have to pay a fee to apply for a domestic abuse protection order (DAPO). We accept that court application fees should not act as a disincentive to the police to apply for a DAPO where it is appropriate for them, rather than the victim or a third party, to do so. Accordingly, we will ensure, in line with the Committee's recommendation, that we will provide sufficient funding to cover the cost of court fees incurred by the police for any applications for DAPOs during the proposed two-year piloting of DAPOs. Again, as we indicated in our initial response to the Committee's report, we will use the pilot to better understand the cost to the police and we will then take a decision on whether to continue to provide funding thereafter when DAPOs are rolled out nationally.

Pre-charge bail regime

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 being taken seriously and that the criminal justice system will have regard to their welfare throughout any proceedings arising from their complaint. (Paragraph 131)

In 2017, reforms to pre-charge bail were introduced to ensure individuals weren't spending long durations under restrictive conditions with no oversight or redress.

Subsequently, the demands on the police service and the broader criminal justice system have increased, with more complex high harm cases, increasing reliance on forensic analysis and digital evidence, and due focus on meeting key evidential requirements. Taking into account these changes, the concerns of the Committee and other key stakeholders, the Government announced⁸ on 5 November 2019 that it will review the current legislative framework for pre-charge bail (in the Police and Criminal Evidence Act (PACE) 1984, as amended by the Policing and Crime Act 2017) to ensure proper protection for victims and witnesses, whilst protecting the rights of suspects, and ensuring more effective outcomes across the criminal justice system.

The review will look to address the specific concerns raised by the Committee, including around high harm offences and the impact of the current time limits in PACE on the duration of bail. As part of the review, the Home Office launched a consultation⁹ on 5 February inviting views on initial proposals for changes to the pre-charge bail regime; the consultation closes on 29 April 2020. The review has been welcomed by the National Police Chiefs' Council which has quite properly highlighted the risks associated with any piecemeal changes to PACE via the Domestic Abuse Bill - as the bail system in its entirety cannot be reformed via the Bill given scope constraints. We believe that any legislative changes should therefore await the outcome of the review and be applied on a whole system basis. As such, we intend to bring forward such changes via the Police Protection and Powers Bill later this session following a public consultation on proposed changes.

In the meantime, we will continue to work with the police and others to ensure the proper use of existing powers. This includes ongoing discussions with Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services into their inspection on the use of pre-charge bail and "release under investigation".

Extend special measures

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)

In our original response to the Committee we acknowledged the Committee's concerns in this area, and outlined the steps we are taking to improve the support offered to vulnerable parties and witnesses in family courts.

⁸ <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2019-11-05/HCWS94/>

⁹ <https://www.gov.uk/government/consultations/police-powers-pre-charge-bail>

One of these steps was the new panel formed by the Ministry of Justice to look at how effectively the family courts respond to allegations of domestic abuse and other harms in private family law proceedings. The panel has now conducted a three-month public call for evidence, which concluded in September 2019. The call for evidence received over 1,200 responses, with approximately 1,000 responses from individuals with personal experience of proceedings, and the remainder coming from legal practitioners, members of the judiciary, and those working in the third sector. The panel is now working at pace to thoroughly analyse the considerable evidence gathered from the written submissions, roundtable events, focus groups and literature review. This information will feed into a report of findings to be produced by the panel, which will provide us with a solid evidence base for improving the family justice system.

In our original response, we also highlighted the work of the Civil Justice Council (CJC), who have conducted a consultation on vulnerable witnesses and parties within civil proceedings. As part of their consultation, the CJC has recognised that there may be a range of other factors as well as domestic abuse that can contribute to vulnerability in the civil courts. The CJC published its report, "*Vulnerable Witnesses and Parties within Civil Proceedings: Current Position and Recommendations for Change*"¹⁰, on 20 February 2020. Amongst other things, the report includes recommendations for changes to the civil procedure rules to further ensure that all civil judges, parties and advocates consider vulnerability of people involved in civil proceedings.

As we stated previously to the Committee, we do not wish to pre-empt our consideration of the findings of either the call for evidence from the panel, or the report by the CJC by legislating before we have taken a thorough view of the problems and potential solutions. However, we recognise the importance of ensuring that all victims and vulnerable witnesses are able to participate fully in court proceedings. We will be considering the findings and recommendations of these reviews very carefully as we continue to work towards improving the response to victims and vulnerable people in the family and civil courts.

Extend the automatic ban on cross examination

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

As stated in our original response to the Committee, the policy intention behind these provisions is that every victim or witness who requires these protections will have access to them. This position was set out by the then Ministry of Justice Parliamentary under Secretary of State in his oral evidence to the Committee on 21 May 2019. This is why we included the discretionary prohibition in the provisions, to ensure that a judge can give a direction to prohibit cross-examination in person in every case where it is required.

¹⁰ <https://www.judiciary.uk/announcements/civil-justice-council-proposes-better-assistance-for-vulnerable-witnesses/>

However, we acknowledge the Committee's concerns in this area, and we agree it is important that victims should have confidence that this protection will be provided for them where necessary in family proceedings. We accept the Committee's recommendation in full, and the Bill as introduced in the House of Commons on 3 March gives effect to it. What is now clause 59 of the Bill includes a new power for the Lord Chancellor to specify evidence that will trigger the automatic ban on cross-examination in person (see new section 31T of the Matrimonial and Family Proceedings Act 1984). In line with the recommendation from the Committee, we intend that this further evidence will broadly replicate the evidence criteria set out in regulations under the legal aid regime. We will also retain the discretionary prohibition, to ensure that judges are still able to prohibit cross-examination in person in any other case where they feel it is necessary, including cases in which a victim may be unable to produce specified evidence but where not having the prohibition in place would cause significant distress or diminish the quality of their evidence.

Non-accommodation-based support services

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)

The Government recognises the vital role support services play in supporting victims of domestic abuse, both in safe accommodation such as refuges and also in the community. These services will depend on the individual needs of the victim but support in safe accommodation can include therapeutic support, practical advice and advocacy, safety planning and help with rehousing, as well as therapeutic support and advocacy for children. Support in the community can include similar services in addition to guidance when navigating the criminal, civil and family justice systems.

The Ministry of Housing, Communities and Local Government undertook extensive engagement with local authorities, the domestic abuse sector, and other organisations involved in supporting victims, to understand the current landscape for commissioning of refuges and other domestic abuse safe accommodation services. This engagement identified that the key issues were the lack of responsibility, accountability and sustainable funding for the provision of appropriate support in safe accommodation. The Government considered options such as guidance, but the domestic abuse sector and local authorities have been clear that without a statutory obligation, victims will be unable to access the right level of support in safe accommodation when they need it. The new statutory duty on local authorities in England (now provided for in Part 4 of the Bill) announced¹¹ by MHCLG on 14 October 2019 will ensure that support in vital, life-saving refuges and other safe accommodation services is provided in a consistent way across England, as called for by refuge providers. The new duty has also been

¹¹ <https://www.gov.uk/government/consultations/support-for-victims-of-domestic-abuse-in-safe-accommodation>

welcomed by local authorities. We will ensure that local authorities are fully funded to meet the proposed new duty, with the level of funding kept under review as the duty beds in. Current funding for community-based services will not be affected.

Cross-government work took place over summer 2019 to explore existing funding and provision for domestic abuse victims in the community. This has highlighted a complex funding landscape as, although responsibility for victim support services sits with Police and Crime Commissioners (PCCs), services are funded and commissioned through a combination of PCCs, local authorities, direct government grant and third sector organisations. In addition, such services are often provided as a part of broader community-based services, for example, within Violence Against Women and Girls (VAWG) or sexual violence services. In order to understand what action needs to be taken by government we must better understand the existing routes by which these services are commissioned and funded. We will also need to establish best practice within services in order to ensure quality provision. The Designate Domestic Abuse Commissioner, appointed on 18 September 2019, has agreed to lead an in-depth exploration of the current support landscape over the 2020/21 year.

Simultaneously, over the course of this year the Government will continue to develop the cross-government Victim Funding Strategy, due to be published in spring 2020, which will complement the 2018 Victims Strategy, putting in place new cross-government governance structures and aligning strategic aims for funding for all victim crime groups. The refresh of the National Statement of Expectations currently taking place will be published by summer 2020 and will set out best practice for commissioning all VAWG services locally, both accommodation- and community-based. It will be against this set of standards that the Domestic Abuse Commissioner will initially measure service provision.

The Government will then work with the Designate Domestic Abuse Commissioner to understand the needs identified and develop options on how best to address them. Whilst the review is conducted the Ministry of Justice and Home Office will continue to contribute funding to support services for victims, including those of domestic abuse. As we set out in the latest annual report under the Preventing and Combating Violence Against Women and Domestic Violence (Ratification of Convention) Act 2017, published¹² on 31 October 2019, the Government is of the view that the UK is compliant with the provisions of Chapter IV of the Istanbul Convention (Protection and support) in respect of support services to victims.

Statutory defence

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)

The Government agreed following the Committee's recommendation to consider a proposal made by the Prison Reform Trust that a new statutory defence be created for those whose offending is driven by domestic abuse.

¹²<https://www.gov.uk/government/publications/ratification-of-the-council-of-europe-convention-on-combating-violence-against-women-and-domestic-violence-progress-report-2019>

We further discussed the proposal with the Prison Reform Trust and with other stakeholders in the criminal justice system including the CPS and the judiciary.

Whilst we recognise the fact that many women offenders have themselves been subject to domestic abuse, we remain of the view that a statutory defence is unnecessary in light of the existing full and partial defences available under the current law. We also noted the improved understanding and awareness of the nature of domestic abuse throughout the criminal justice system – which will be further assisted by the new statutory definition of domestic abuse in the Bill – which we believe will mean the existing defences are more able to respond flexibly and proportionately than a narrowly defined statutory defence, to the circumstances of those compelled to commit crimes as a result of domestic abuse.

We will however continue to monitor the use of the existing defences and keep under review the need for any statutory changes.

Migrant victims

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)

On the issue of an information-sharing firewall, we indicated in our July 2019 response to the Committee that we had concerns that a statutory bar on the police sharing information about victims of domestic abuse with Immigration Enforcement could be detrimental to vulnerable victims. As the national policing lead on domestic abuse, Deputy Chief Constable Louisa Rolfe, explained in her evidence to the Committee, many police officers worked with Immigration Enforcement to help resolve a victim's uncertainty about their immigration status and so remove the perpetrator's ability to control and manipulate them because of their status. As we indicated at the time, we will continue to monitor the implementation of the relevant National Police Chiefs' Council guidance which was welcomed by the Committee.

As part of such monitoring, we will take into consideration the outcome of the police super-complaint lodged about the police sharing immigration data.¹³ In addition, the Government will also take into account the outcome of a Judicial Review against the Metropolitan Police's policy in respect of the passing of information to Immigration Enforcement about victims of crime with unsettled immigration status¹⁴; the Home Office has lodged an application to be an interested party in the proceedings. As the outcomes of this super-complaint and Judicial Review are germane to our further consideration of this recommendation by the Committee, the Government will return to this issue once HM Inspectorate of Constabulary has completed its investigation of

¹³ Details of the super-complaint are available at: <https://www.gov.uk/government/publications/police-data-sharing-for-immigration-purposes-a-super-complaint>

¹⁴ The Queen (on the application of (1) A & (2) Southall Black Sisters) v. The Commissioner of Police of the Metropolis and The National Police Chiefs' Council (Interested Party) (case reference CO/3882/2019)

the super-complaint and the legal proceedings in respect of the Judicial Review have concluded.

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)

As indicated in the Government's response to the Committee in July, we are conducting a review of the Government response to migrant victims of domestic abuse. As part of the review Home Office officials held a number of workshops and discussion sessions with stakeholders representing migrant victims of domestic abuse as well as examining 100 cases in which an applicant had applied for Indefinite Leave to Remain on grounds of domestic violence. The evidence gathering phase of the review has now been completed and the Government is now considering the way forward in the light of the findings. We will set out our conclusions ahead of Commons Report stage of the Bill. The Destitute Domestic Violence Concession operates outside the Immigration Rules and legislation is not required to make changes to the scheme.

Training and early interventions for front line staff in public sector

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)

We set out in both the response to the public consultation on 'Transforming the Response to Domestic Abuse' and the Government response to the Committee, the existing and ongoing work that we are doing on early interventions and training for front-line staff in publicly funded services. This included:

- In the NHS, routine enquiry should already be in place in maternity and mental health services, to improve earlier disclosure and support people to get the care that they need.
- All staff working in the NHS must undertake at least level 1 safeguarding training which includes domestic abuse.
- NHS England and NHS Improvement are developing an action plan specifically on Domestic Violence and Abuse. This will both raise awareness amongst NHS staff, ensure that staff have the skill to identify and refer, and address the issue of NHS staff who are themselves victims, or perpetrators.

- In March 2017, DHSC published an online domestic abuse resource¹⁵ for health professionals. A number of e-learning and training modules have been developed with the Institute of Health Professionals and the Royal Colleges of Nursing and GPs. NICE has also published¹⁶ its Quality Standard for Domestic Abuse.
- 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.
- Funding for a number of early intervention projects including:
 - Women’s Aid ‘Ask Me’ project which supports community ambassadors to identify and signpost victims to support;
 - SafeLives’ One Front Door model; and
 - a joint Women’s Aid and Respect project to develop an early intervention, community-focused approach for perpetrators of domestic abuse.
- MHCLG funding for a ‘whole housing’ pilot project in London Tri-borough, Cambridgeshire and Stockton that will develop the practice and knowledge of housing professionals in the private rented, privately owned and social rent sectors including training for landlord professional bodies and their members.
- Funding to develop and pilot a training programme for social workers on coercive control to make sure they can effectively identify and respond to all types of domestic abuse.
- DHSC is overseeing a further £2 million (in addition to £1 million provided through the Tampon Tax fund) of Government funding for 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. Pathfinder looks across the whole health system, linking local specialist services to health for a coordinated community response to domestic abuse. The programme aims to develop a model of best practice that can be easily adopted by any NHS health trust and will create a toolkit to support this.
- From April 2020, NHS England is planning for Independent Domestic Violence Advisors to be integral to every NHS Trust Domestic Violence and Abuse Action Plan, as part of the NHS Standard Contract.
- The introduction of mandatory training for Universal Credit work coaches and child maintenance staff and the introduction of domestic abuse advocates in every Jobcentre.

¹⁵ <https://www.gov.uk/government/publications/domestic-abuse-a-resource-for-health-professionals>

¹⁶ <https://www.nice.org.uk/guidance/qs116>

Whilst some of this work is embedded practice, much is in the early stages of being developed and, as such, we will ensure that we monitor and evaluate its effectiveness ahead of taking decisions about wider rollout as part of Spending Review 2020. As part of that we will work closely with colleagues in Wales to share what works in tackling domestic abuse in order to ensure a consistency of approach.

Now that the Designate Domestic Abuse Commissioner is in place she can start to play a key role in promoting greater consistency in the response of statutory services across all areas of the country including in the provision of training and early interventions.

COMPARISON BETWEEN THE DOMESTIC ABUSE BILL AS INTRODUCED IN MARCH 2020 AND THE BILL AS ORIGINALLY INTRODUCED IN JULY 2019

The table below details the substantive changes made to the Bill as introduced in the 2017-19 Parliament disregarding minor technical and drafting changes.

Clause in July 2019 Bill	Clause in March 2020 Bill	Change	Reason for change
Definition of domestic abuse			
2(1)(f) and (2)	2(1)(f) and (2)	Amendment to the definition of “personally connected” which operates for the purpose of the definition of domestic abuse. The effect of the amendment is that two people will be personally connected for the purposes of Part 1 of the Bill if they each have, or there has been a time when they each have had, a parental relationship in relation to the same child, as defined by clause 2(2).	<p>This change captures possible scenarios where one or both the persons concerned are no longer the parent(s) of a child, for example following the death of the child or the adoption of the child by another person or couple.</p> <p>The original Bill already provided that two people will be personally connected if they have, or have had, parental responsibility for a child so this change ensures that birth parents are similarly treated.</p>
Domestic Abuse Commissioner			
5(4)	N/A	Omission of what was clause 5(4) which expressly provided that a member of the Domestic Abuse Commissioner’s staff continued to be civil servants.	On reflection, such express provision is not considered to be necessary as any civil service staff seconded to work in the office of the Commissioner will, in any event, continue to be civil servants.
6(5) and 10(9)	6(5) and 10(9)	Replace references to the National Assembly for Wales and the National Assembly for Wales Commission with references to Senedd Cymru and Senedd Commission respectively.	Reflects provisions in the Senedd and Elections (Wales) Act 2020 changing the name of the National Assembly for Wales to the Senedd Cymru (the Welsh Parliament).
10 & 18	10(2)(c) & 18(3)	Provision for appropriate scrutiny of the work of the Domestic Abuse Commissioner by Senedd Cymru.	Responds to the recommendation at paragraph 325 of the report of the Joint Committee on the Draft Domestic Abuse Bill (“the Committee”) in relation to the powers of the Commissioner.

11(4)(c) and (d)	11(4)(c) and (d)	Provide that the membership of the Domestic Abuse Commissioner's Advisory Board must include at least one person representing the interests of persons who provide, or have functions relating to, health care services in England and at least one person representing the interests of persons who provide, or have functions relating to, social care services in England.	Recognises that there will be persons capable of representing the interests of health care services and social care services who will not themselves be providers of such services (for example, in relation to health care services, Clinical Commissioning Groups).
Domestic abuse protection orders (DAPOs)			
42(3)	N/A	Omission of what was clause 42(3) which requires a DAPO made in a youth court to be varied or discharged in a magistrates' court in the local justice area in which the youth courts acts.	This provision is not needed given that a DAPO may not be made against a person under 18 (clause 29(5)) and, as such, cannot be made in a youth court.
Local authority support			
N/A	53 to 57 (new clauses)	Introduces a new duty on tier one local authorities in England to provide support to domestic abuse victims and their children in refuges and other safe accommodation.	Follows from the MHCLG consultation on domestic abuse services May-August 2019. Responds to the recommendations at paragraph 213 of the Committee's report in relation to housing and support services.
Domestic abuse: Northern Ireland			
Part 2 (clauses 57 to 74)	N/A	These provisions, providing for a new domestic abuse offence in Northern Ireland, have been removed from the Bill.	Following the restoration of the devolved institutions in Northern Ireland, the Minister of Justice, Naomi Long MLA, now proposes to legislate for a domestic abuse offence in a Northern Ireland Assembly Bill.
Prohibition of cross-examination in person in family proceedings			
75	59	The Bill as originally introduced included an automatic ban on cross-examination in person in family proceedings in England and Wales where one party has been convicted of, given a caution for, or charged with certain offences (to be specified by the Lord Chancellor) against the witness (often the other party) or vice versa. The automatic ban would also apply where one party has an on-notice protective injunction (to be specified by the	Responds and accepts in full the recommendation at paragraph 173 of the Committee's report in relation to cross-examination in family courts. The effect of the change is that a wider cohort of victims should be protected by the automatic prohibition, rather than at the discretion of the court. The power to issue guidance is intended to provide greater

		<p>Lord Chancellor) in place against the witness (or vice versa). The provisions further give the court a power to prohibit cross-examination in person where it would be likely to either diminish the quality of the witness's evidence or cause significant distress to the party or the witness being cross-examined. The changes to clause 59 confer an additional delegated power to enable the Lord Chancellor to specify further evidence that will trigger the automatic prohibition. The intention is to specify in regulations a list of evidence of domestic abuse that broadly replicates the list of evidence specified in legal aid regulations.</p> <p>Separately, clause 59 has been revised to confer on the Lord Chancellor a power to issue statutory guidance about the role of the advocate appointed by the court to cross-examine the witness in place of the party and to confirm that regulations about the costs of a court-appointed advocate may specify a fixed fee.</p>	<p>clarity to the courts and practitioners around the scope and nature of the role of the court-appointed advocate.</p> <p>The amendment to the power to make provision about costs of court-appointed advocates makes it clear that the power would allow for regulations to specify fixed fees as an alternative to specifying how the fee is to be calculated (for example, by reference to an hourly rate).</p>
75	59	<p>New section 31V of the Matrimonial and Family Proceedings Act 1984 (as inserted by clause 75 of the July 2019 version of the Bill) made provision in relation to alternatives to cross-examination in person. Subsection (8)(a) of that section provided that a reference in that section to cross-examination included, in a case where a direction is given under (what was) new section 31T after the party has begun cross-examining the witness, a reference to continuing to conduct cross-examination. This gloss (which only applied where a direction under section 31T was given) has been omitted from what is now new section 31W(8)(a) of the 1984 Act.</p>	<p>The policy intention is that what is now new section 31W of the 1984 Act should apply wherever a person is prevented from cross-examining a witness in person by virtue of any of new sections 31R to 31U, even if that cross-examination has already started. On that basis, new section 31W(8)(a) should not be confined to cases where a direction is given under new section 31U.</p>

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