



Domestic Abuse Bill



**Ministry
of Justice**

Policy Equality Statement

Demonstrating Compliance with the Public Sector Equality Duty (PSED)

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

Background

1. Domestic abuse is a cruel and complex crime that can affect anyone, leaving physical and emotional scars that can last a lifetime. While there has been a welcome gradual fall in the incidence of domestic abuse in recent years, there are still some 2.4 million victims a year (aged 16 to 74), the majority of whom are women. Far too many individuals have their lives destroyed by abuse. We need to build a society that has zero tolerance towards domestic abuse and actively empowers victims, communities and professionals to confront and challenge it and to provide victims with the support they deserve.
2. That is why the Government is committed to transforming the response to this terrible crime, including by introducing the landmark Domestic Abuse Bill. The prevention of abuse and the protection of victims lies at the heart of the Bill and the wider programme of work. The measures in the Bill seek to:
 - promote awareness - to put abuse at the top of everyone's agenda, including by legislating for a statutory definition of domestic abuse.
 - protect and support victims, including by introducing a new Domestic Abuse Protection Notice and Domestic Abuse Protection Order and placing a new duty on tier one local authorities to provide support to victims of domestic abuse and their children in refuges and other safe accommodation.
 - transform the justice response, including by helping victims to give their best evidence in the criminal courts through the use of video evidence, screens and other special measures, and ensuring that victims of abuse do not suffer further trauma in family court proceedings by being cross-examined by their abuser.
 - improve performance – the new Domestic Abuse Commissioner will help drive consistency and better performance in the response to domestic

abuse across all local areas and agencies

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

Bill provisions

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

- **Create a civil Domestic Abuse Protection Notice (DAPN) and Domestic Abuse Protection Order (DAPO):** This would provide the police with the power to issue a notice and the courts the power to make an order which will better protect victims from harm. The notice would allow the police to provide immediate, short term protection to the victim following an incident and give them “breathing space” from their perpetrator, pending a hearing within 48 hours at which the police’s application for the full order will be considered.

A DAPO may be made following the issue of a notice by the police; on standalone application to the court by the victim, the police a specified third party, or anyone with the court’s permission; or by the court of its own volition during other proceedings. An order would offer longer term, flexible protection to the victim. On making a DAPO, the court will have the ability to impose appropriate conditions (which can include both prohibitions and positive requirements) and notification requirements on the perpetrator, tailored to the specific facts of each case. Breach of these conditions, without reasonable excuse, will be a criminal offence, carrying a maximum penalty of up to five years’ imprisonment.

- **Prohibiting cross-examination in person in family proceedings in England and Wales:** This would make provision for the automatic prohibition of cross-examination in person in specified circumstances in family proceedings, confer discretion on the courts to prohibit cross-examination in certain other cases, and give courts the power to appoint a legal representative, funded from central funds, to undertake cross-examination in specified circumstances.
- **Create a legislative assumption that adult domestic abuse victims are to be treated as eligible for special measures in the criminal court on the grounds of fear and distress (if the victim wants such assistance):** This would reduce the stress on the victims of domestic abuse associated with giving evidence by providing automatic eligibility to be considered for a range of special measures (for example, giving evidence from behind a screen or via a video link).
- **Mandatory polygraph examinations of high-risk domestic abuse offenders on licence:** This aims to generate a higher quality and quantity of offender licence monitoring information, to provide additional risk-related information to agencies such as the police and social services, thereby improving risk management of on licence offenders. This will involve an initial pilot scheme.
- **Place the guidance underpinning the Domestic Violence Disclosure Scheme (DVDS, also known as “Clare’s Law”) on a statutory footing:** This would improve understanding and awareness of the DVDS amongst the police in order to increase usage and drive consistency across forces to ensure that potential victims are provided with appropriate information about the risk their partner or ex-partner may pose.

- **Protect security of tenure for domestic abuse victims:** This would ensure that where a local authority grants a new tenancy to a victim of domestic abuse who already has or had a lifetime tenancy, this must be a further lifetime tenancy if it is granted in connection with that abuse.
- **Extend extraterritorial jurisdiction over specified offences as required by the Istanbul Convention:** This measure will provide that, in appropriate cases, UK nationals and residents who commit certain violent or sexual offences abroad may be brought to trial in the UK bringing justice for victims. In addition, it will demonstrate the Government's commitment to ratifying the Istanbul Convention.
- **Introduce a statutory duty on tier one local authorities in England to provide support to victims of domestic abuse and their children in safe accommodation:** The duty will be placed on tier one local authorities who will be required to commission support services in accordance with local need. The duty will promote a consistent approach to delivering support in safe accommodation, and increase accountability for this provision, ensuring that victims and their children get the support they need in safe accommodation.

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

Requirements

6. The aim of the Public Sector Equality Duty (PSED) is to embed equality considerations into the day to day work of public authorities, so that they tackle discrimination and inequality and contribute to making society fairer. The PSED addresses discrimination, inequality and fairness between people who have protected characteristics and those who do not. The protected characteristics are the following:
- age;
 - disability;
 - gender reassignment;
 - pregnancy and maternity;
 - race – this includes ethnic or national origins, colour or nationality;
 - religion or belief – this includes lack of belief;
 - sex;
 - sexual orientation;
 - It also applies to marriage and civil partnership, but only in respect of the

requirement to have due regard to the need to eliminate discrimination.

Evidence Considered

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

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

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

Age

9. The statutory definition of domestic abuse in clause 1 of the Bill will apply to those who are 16 years old or over. Following a public consultation in 2012, victims of domestic violence and abuse aged 16 and 17 were recognised under the cross-government definition¹ which previously applied to those aged 18 and above. Following the public consultation on transforming the response to domestic abuse², it was agreed to maintain the age limit at 16 years old and above in order to avoid blurring the lines between child abuse and domestic abuse between adults. A DAPN and DAPO can be used to protect a victim aged 16 or over.
10. The Crime Survey for England and Wales (CSEW) year ending March 2019³ showed that women aged 20 to 24 years were significantly more likely to be victims of any domestic abuse in the last year than women aged 25 years and over. For men, there were few significant differences by age, however those aged 60 to 74 years were less likely to be victims of domestic abuse in the last year than those in most other age groups. For female victims of violence against the person offences flagged as domestic abuse-related, as age increased, the proportion of offences that were domestic abuse-related tended to decline.
11. For women aged 25-29 years, 59% of all police recorded violence was domestic abuse-related, compared with 40% for women aged 75 years and over. Among men, the proportion of violent offences that were domestic abuse-related tended to increase with victim age. For example, it was 18% for 16-19-year olds in comparison to 31% for those aged 75 years and over. Overall, we do not anticipate that these measures are likely to disadvantage certain age groups, but the measures are likely to impact on younger people who are victims of domestic abuse in greater numbers.
12. Survey research into partner abuse in teenage relationships, conducted by the NSPCC (Barter et al., 2009)⁴ in a sample of eight schools across England, Wales

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

² <file:///poise.homeoffice.local/Home/TMS4/Users/MakwanP1/My%20Documents/Crime%20Policing%20and%20Fire%20Group/DOMESTIC%20ABUSE%20BILL/Background%20Papers/Transforming%20the%20response%20to%20domestic%20abuse-%20HO%20&%20MoJ%20consultation%20.pdf>

³ <https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/articles/domesticabusevictimcharacteristicsenglandandwales/yearendingmarch2019>

⁴ <https://www.nspcc.org.uk/globalassets/documents/research-reports/standing-own-two-feet-report.pdf>

and Scotland, found that young women experienced violence from an early age. Incidence rates for physical violence amongst young girls were evenly spread across the age range between 13-18 years old, from 21% for 13-year-olds to 26% of girls aged 16 and over⁵. Consequently, girls as young as 13 are slightly less likely as those aged 16 to have experienced physical violence from their partners.

13. The Crown Prosecution Service Violence Against Women and Girls Report 2018-2019⁶ showed that from those domestic abuse complainants where age was recorded, the majority were aged 25–59 (78.8%) and 18–24 (16.9%). 19.0% of complainants (14,897) were 24 years old and under, with 1,533 (2.0%) of complainants being 14–17 years old and 72 (0.1%) aged 10–13. The data suggests that those under 16 years old also experience domestic abuse. As domestic abuse of those under 16 years old is recognised as child abuse, statutory agencies are expected to respond accordingly, including by providing appropriate protection and support to victims.
14. The Joint Committee on the Draft Domestic Abuse Bill considered the age limit in the definition of domestic abuse and agreed that 16 is the right one. The Committee recommended that the Government conduct a specific review on how to address domestic abuse in relationships between under-16-year olds stating that the current criminal justice system for dealing with these cases is inadequate. Having weighed all the evidence, the Government does not consider a full review to be necessary as it is satisfied that appropriate steps are already being taken through wider workstreams to address this particular issue – a summary of these are provided in the Government’s further response to the report of the Joint Committee.
15. If domestic abuse led to a victim with a lifetime tenancy giving up their tenancy, the Government wants to ensure that the individual and their family are protected in the same way as anyone else who has suffered domestic abuse. Where local authorities offer fixed term tenancies at their discretion, clause 65 of the Bill will protect victims of domestic abuse by offering them a further lifetime tenancy regardless of their age. Around 3.9 million households, approximately 9 million people, live in the social rented sector in England, just under a fifth of all households⁷.
16. There were 313,000 new social housing lettings in 2017/18⁸ and 68% (212,600) of new social housing tenancies were lifetime tenancies. Approximately 5% of households left their last settled home due to domestic abuse – 15,000 households – remaining constant over the past 10 years. In 2017/18⁹, over 5,000 (1.68%) of all new social housing lettings were to existing social tenants who gave 'Domestic Abuse' as the main reason they left their previous social home. 68% of these lettings were to lead tenants below the age of 35.
17. In 2017/18 there were 655 new social housing lettings to a female lead tenant, moving due to domestic abuse, that were provided a fixed term tenancy, 71% of

⁵ http://www.womenssupportproject.co.uk/userfiles/file/partner_exploitation_and_violence_report_wdf70129.pdf

⁶ <https://www.cps.gov.uk/sites/default/files/documents/publications/cps-vawg-report-2019.pdf>

⁷ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/733635/A_new_deal_for_social_housing_print_ready_version.pdf

⁸ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/759738/Social_Housing_Lettings_April2017_to_March2018_England.pdf

⁹ CORE (The Continuous Recording of Lettings) 2017/18

these were under the age of 35. The data from the CSEW taken together with social housing data could suggest that younger women who experience domestic violence are more likely to benefit from the new secure tenancies provision if younger women utilise services, they have access to.

Disability

18. The statutory definition of domestic abuse will recognise abuse of people with disabilities by their carer, if both the victim and perpetrator are personally connected. For the year ending March 2019, CSEW showed that adults aged 16-74 years with a disability were more likely to have experienced domestic abuse in the last year than those without. This was true for both men (7.1% compared with 3.3%, respectively) and women (13.8% compared with 6.4%, respectively).
19. A Public Health England¹⁰ report published in 2015 found that people with disabilities who experience domestic abuse may face broader risk factors than other domestic abuse victims. Vulnerability resulting from a disability may make a disabled person less able to recognise, report or escape domestic abuse. Disabled people experience higher rates of domestic abuse and they also experience more barriers to accessing support, such as health and social care services and domestic abuse services.
20. The evidence suggests that more disabled across all age groups are more likely to experience domestic abuse. Disabled victims of domestic abuse will face additional challenges and further consideration should be given to how they may benefit from the measures in the Bill. The role description of the Domestic Abuse Commissioner states that they must adopt a specific focus on the needs of victims and survivors of domestic abuse from minority or marginalised groups with particular needs, such as victims who are disabled. A thematic lead within the Commissioner's office will be identified for this (and other) groups.

Gender Reassignment

21. There is limited research on how many transgender people experience domestic abuse in the UK. However, these figures suggest it is a significant issue. A report commissioned by the Scottish Trans Alliance and published in 2010¹¹ indicates that 80% of trans people had experienced emotional, sexual, or physical abuse from a partner or ex-partner, although only 60% of them recognised the behaviour as domestic abuse.
22. The National LGBT survey¹² was conducted in July 2017 found that trans respondents had much higher declared rates of most incident types involving people they lived with (48%) than cisgender respondents (26%). This was particularly true for verbal harassment (27%), coercive or controlling behaviour (19%), physical harassment or violence (5%), and sexual harassment or violence (2%). Trans men were notably more likely to have experienced an incident (58%) than trans women (40%) and non-binary respondents (47%).
23. 94% of respondents said that the most serious incident they had experienced had

¹⁰https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/480942/Disability_and_domestic_abuse_topic_overview_FINAL.pdf

¹¹ https://www.scottishtrans.org/wp-content/uploads/2013/03/trans_domestic_abuse.pdf

¹² National LGBT Survey- <https://www.gov.uk/government/publications/national-lgbt-survey-summary-report>

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

Marriage and Civil Partnership

24. Under clause 1 of the Bill, there are two criteria governing the relationship between the abuser and the abused. The first criterion states that both the person who is carrying out the abusive behaviour and the person to whom the behaviour is directed towards must be aged 16 or over. The second criterion states that both persons must be “personally connected” as defined in clause 2. The definition of “personally connected” includes, but is not limited to, persons who are, or have been, married or in a civil partnership.
25. For the year ending March 2019, CSEW showed that adults aged 16 to 74 years who were separated or divorced were more likely to have experienced domestic abuse than those who were married or civil partnered, cohabiting, single or widowed. Both men and women who were married or civil partnered were less likely to be victims of domestic abuse in the last year than those who were single, cohabiting, separated or divorced. Over 3% of married or civil partnered women were victims of domestic abuse, compared with 2.1% of married or civil partnered men. In contrast 11.6% of single women were victims compared with 5.3% of men.
26. There were 90,871 divorces of opposite-sex couples and 428 divorces of same-sex couples in 2018¹³. Of the same sex couples, three-quarters (75%) were among female couples. Unreasonable behaviour was the most common reason for divorce among same-sex couples. Most divorces of opposite-sex couples were petitioned by the wife (62%). Unreasonable behaviour has consistently been the most common reason for wives petitioning for divorce. Examples of unreasonable behaviour could include physical violence, verbal abuse, drunkenness or drug-taking or refusing to pay towards shared living expenses.

Pregnancy and Maternity

27. The Confidential Enquiry into Maternal and Child Health (CEMCH)¹⁴ identified domestic abuse as one of eight key risk factors for maternal death. The study, which looked at all maternal deaths in England and Wales in the period 2000-2002, found that 14% of all women who died (55 out of a total of 391) had self-declared that they were subject to violence in the home. The report also notes that none of these women had been routinely asked about violence as part of their social history, so states the actual figure is likely to be higher.
28. Other studies¹⁵ have also found evidence that there is a proven link between abuse during pregnancy and the mother’s chance of being killed by the perpetrator. As

¹³<https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/divorce/bulletins/divorcesinenglandandwales/2018>

¹⁴ https://elearning.rcog.org.uk/sites/default/files/Gynaecological%20emergencies/CEMACH_Why_Mothers_Die_00-02_2004.pdf

¹⁵ <https://www.ncbi.nlm.nih.gov/pubmed/12100800>

domestic abuse is an underreported crime, it is difficult to accurately assess prevalence, but one study¹⁶ has found that around 30% of domestic abuse starts during pregnancy. There were 657,076 live births in England and Wales in 2018¹⁷ a decrease of 3.2% compared with 679,106 in 2017.

Race

29. The provisions in the Bill apply to all victims irrespective of race or migrant status. According to Walby and Allen 2004, there is little variation in the prevalence of domestic violence by ethnicity. Batsleer, et al 2002; and Rai and Thiara, 1997 found that Black and other minority ethnic communities are less likely to access statutory services. Similarly, a report from the British Medical Association 2014¹⁸ into domestic abuse found evidence to suggest that black and minority ethnic (BME) women put up with abuse for a longer period and are more reluctant to access services.
30. For example, the Southall Black Sisters estimate that it takes BME women an average of ten years before they leave a violent relationship. The Home Office report into advocacy services for BME communities outlined Shah-Kazemi, 2001; Rai and Thiara, 1997¹⁹ findings that Asian women may find it more difficult to seek help for domestic abuse. The research suggested when Asian women marry, they implicitly represent their family. Therefore, if a marriage fails it is often seen as being the woman's fault and she is also blamed for letting down the family's honour.
31. For the year ending March 2019, the CSEW showed that those in the Mixed ethnic group were more likely than those in the White or Asian ethnic groups to experience domestic abuse within the last year. In the White, Mixed and Black ethnic groups, women were significantly more likely than men to have experienced domestic abuse in the last year. This difference was greatest for the Mixed ethnic group (20.0% of women, compared with 3.5% of men).
32. The evidence suggests that women from Mixed ethnic group are most likely to experience domestic abuse although women from other BME groups such as Asians are less likely to come forward to the statutory agencies. As they are less likely to come forward, services delivered as a result of the bill provisions may be of limited benefit to these women. The role description of the Domestic Abuse Commissioner states that they must adopt a specific focus on the needs of victims and survivors of domestic abuse from minority or marginalised groups with particular needs, such as (amongst others) victims who are BME and migrants. A thematic lead within the Commissioner's office will be identified for each of these groups.

¹⁶[file:///C:/Users/MakwanP1/AppData/Local/Packages/Microsoft.MicrosoftEdge_8wekyb3d8bbwe/TempState/Downloads/3515.Read%20Domestic%20Abuse%20report%20\(1\).pdf](file:///C:/Users/MakwanP1/AppData/Local/Packages/Microsoft.MicrosoftEdge_8wekyb3d8bbwe/TempState/Downloads/3515.Read%20Domestic%20Abuse%20report%20(1).pdf)

¹⁷<https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/livebirths/bulletins/birthsummarytablesenglandandwales/2017>

¹⁸[file:///C:/Users/MakwanP1/AppData/Local/Packages/Microsoft.MicrosoftEdge_8wekyb3d8bbwe/TempState/Downloads/3515.Read%20Domestic%20Abuse%20report%20\(1\).pdf](file:///C:/Users/MakwanP1/AppData/Local/Packages/Microsoft.MicrosoftEdge_8wekyb3d8bbwe/TempState/Downloads/3515.Read%20Domestic%20Abuse%20report%20(1).pdf)

¹⁹ <http://library.college.police.uk/docs/hodpr/dpr35.pdf>

Religion and Belief

33. In the 2011 Census²⁰, Christianity was the largest religious group in England and Wales with 33.2 million people (59 %of the population). The second largest religious group were Muslims with 2.7 million people (5 %). The proportion of people who reported that they did not have a religion was 14.1 million people (25%). In 2011, over nine out of ten Christians in England and Wales were White (93%) accounting for 30.8 million people.
34. Muslims were more ethnically diverse. Two-thirds of Muslims (68%) were from an Asian background, including Pakistani (38%) and Bangladeshi (15%). The proportion of Muslims reporting as Black/African/Caribbean/Black British was 10%. 93% of people (13.1 million) with no religion were from a white background. Most Hindus and Sikhs were from an Asian ethnic background (96% and 87% respectively).
35. There is limited research on the relationship between religious beliefs and domestic abuse victimisation in the UK. For example, a 2011 report on forced marriage in Luton²¹ observed that forced marriage has historically been practised in many different communities. However, it concluded that, due to their relative size within the UK population, forced marriage was now most common in the UK amongst South Asian communities (South Asian, Pakistanis, Bangladeshis and Indians). Forced marriage is a violation of human rights and is seen in the UK as a form of domestic violence.
36. Pakistani and Bangladeshi Asians make up a larger group of Muslims which is the second largest religious group in the UK. This could suggest that the provisions in the Bill could have a positive impact for Pakistani and Bangladeshi Muslims who experience domestic abuse as it could enable access to services. However, as mentioned at paragraph 32, this may be of limited benefit given the barriers faced by BME communities when accessing services.
37. Clause 33(1) provides that the requirements imposed on a person by a DAPO must, as far as practicable, avoid conflict with the perpetrator's religious beliefs.

Sex

38. In year ending March 2019, the CSEW estimated that 1.6 million women and 786,000 men aged 16-74 years experienced domestic abuse. Women were more likely to be victims of each type of abuse (except sexual assault by a family member) than men. For example, 6.8% of females aged 16-74 years were victims of non-sexual domestic abuse in the last year, compared with 3.5% of males. Similarly, 1.7% of females aged 16-74 years were victims of domestic stalking in the last year, compared with 0.6% of males.
39. Refuge also found in 2014²² that the ways in which women experience domestic abuse is also different: the intensity and severity of violence used by male perpetrators is more extreme and more likely to include physical violence, threats and harassment. The report found that female victims of domestic abuse

²⁰<https://www.ons.gov.uk/peoplepopulationandcommunity/culturalidentity/religion/articles/fullstorywhatdoesthecensustellusaboutreligionin2011/2013-05-16>

²¹https://www.reducingtherisk.org.uk/cms/sites/default/files/resources/hba/FM_family_cohesion_community_engagement.pdf

²²<http://www.refuge.org.uk/files/Statistics-domestic-violence-and-gender.pdf>

experience more serious psychological consequences than male victims and are much more likely to feel afraid of their partners.

40. For the year ending March 2018, in 75% of all domestic abuse-related offences recorded by the police the victim was female. This proportion of female to male victims was similar for most of the offence categories²³ other than for sexual offences, for which 96% of the victims were female^{24,25}. Data from the Home Office Homicide Index for the year ending March 2016 to the year ending March 2018 show that of 366 domestic homicides, most victims were female (74%)²⁶.
41. Domestic abuse-related crimes by sex of victims have been analysed using data from the Home Office Data Hub²⁷. There were 29 forces that supplied data for sex in the year ending March 2019. In three-quarters of domestic abuse-related crimes the victim was female (75%). This proportion was similar for most offence categories, but for domestic abuse-related sexual offences the proportion of victims that were female was even higher, at 96%. The offence of coercive or controlling behavior in an intimate or family relationship was introduced in December 2015.
42. The data suggests that men are more likely to be perpetrators of domestic abuse than women. Data for 2018/19 from the Crown Prosecution Service's (CPS) Case Management System showed that in domestic abuse prosecutions, where the defendant's gender was recorded, 92% were male and 8% female²⁸. Women are more likely to be complainants of domestic abuse than men. Where the complainant's gender was recorded, 82.5% were female and 17.5% were male.²⁹
43. It should not be forgotten that men are also victims of domestic abuse. Stigma and fear of feeling emasculated can make men less likely to report domestic abuse than women. Statutory agency staff should be aware of this fact and ensure they take allegations as seriously as with women, offering appropriate advice and support. The Office for National Statistics data (2014/15), shows that male victims (39%) are over three times as likely as women (12%) to not tell anyone about the partner abuse they are suffering from. Only 10% of male victims will tell the police (26% for women), only 23% will tell a person in an official position (43% for women) and only 11% (23% for women) will tell a health professional.³⁰
44. Evidence shows that women were more likely to be victims of domestic abuse than men. As the evidence shows that more women are likely to be victims of domestic abuse, clause 66 expressly provides that the statutory guidance recognises that most victims of abuse are female. However, the statutory definition of domestic abuse is deliberately gender neutral as the legislation is intended to ensure all

²³ Offence categories include: other offences, criminal damage and arson, public order offences, miscellaneous crimes against society, sexual offences and violence against the person.

²⁴ This is based on 28 of 44 forces in England and Wales.

²⁵ Ibid.

²⁶ <https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/articles/domesticabusevictimcharacteristicsenglandandwales/yearendingmarch2019#domestic-homicide>

²⁷ <https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/articles/domesticabusevictimcharacteristicsenglandandwales/yearendingmarch2019#sex>

²⁸ <https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/bulletins/domesticabuseinenglandandwales/yearendingmarch2018/>

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

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

victims and all types of domestic abuse are sufficiently captured and no victim is inadvertently excluded from protection or access to services. Given the preponderance of female victims, we anticipate that a higher proportion of women than men will benefit from the measures outlined in the Bill.

Sexual Orientation

45. People with certain sexual orientations are more likely to be victims of domestic abuse. The CSEW for the year ending March 2018 show the percentage of men and women aged 16-59 who had been victims of domestic abuse in the last year by sexual orientation³¹:

- 4.0% of men and 7.2% of women who identified as heterosexual or straight;
- 8.2% of men and 10.0% of women who identified as gay or lesbian;
- 5.7% of men and 25.3% of women who identified as bisexual.

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

47. Evidence suggests that LGBT communities face complex barriers to seeking support for domestic abuse, with a reported 60-80% of LGBT+ victims have never reported incidents to the police or attempted to find protection from services³³. It is estimated that only 2.5% of all survivors accessing domestic abuse services in England and Wales are LGBT+.³⁴

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

48. The following has been considered to advance the equality of opportunity between people who share a protected characteristics and people who do not share it:

- whether there is any evidence that different groups have different needs which may be affected by the Bill's provisions;
- measures to be put in place to address different needs;
- changes to the policy or Bill provisions that would positively advance equality of opportunity;
- any mitigating measures possible.

49. The analysis identified that younger people, victims with disabilities, transgendered people, pregnant women or mothers, victims from mixed/multiple and South Asian ethnic groups (female) and women generally are more likely to be victims of

³¹ Ibid.

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

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

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

domestic abuse than those who do not share those protected characteristics, although the quality of evidence is mixed. These groups have different needs.

Measures to advance equal opportunities

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

Bill provisions

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

52. **Statutory duty on tier one local authorities in England to provide support to victims of domestic abuse and their children in safe accommodation:** The Bill will include a new legal duty on local authorities to assess the need for and commission support for victims, including children in safe accommodation. To accompany the new duty Statutory Guidance will be introduced to make clear the Government's expectations regarding support for all victims, including children, those with protected characteristics and those that serve a national need. The Ministerial led National Steering Group will review the operation of local needs assessments and provision of domestic abuse support in safe accommodation across the country, considering specifically specialist provision for those who share relevant protected characteristics and services that serve a national rather than local need.

53. **Special measures:** The Bill will provide automatic eligibility for special measures to so that more victims will be supported by special measures to give evidence in the criminal courts. Victims of domestic abuse can already be eligible for special measures in criminal proceedings if the court is satisfied the quality of their evidence is likely to be diminished due to their fear or distress about testifying. In such cases, they are eligible for special measures as "intimidated" witnesses.

54. Domestic abuse victims are also eligible as "vulnerable" witnesses if they are under 18 years old or the quality of their evidence is likely to be diminished by reason of their mental or physical incapacity. The court requires applications for special measures to set out why the measure(s) is being sought and how it will enable best evidence and the court may consider views expressed by the witness about which measure(s) they would prefer. The court will then consider whether or not to order special measures in relation to an eligible witness (as well as which measure(s) to order.) When making that decision the court must consider any view expressed by the witness.

55. The Equal Treatment Bench Book provides that assessment by intermediary

should be considered if the person seems unlikely to be able to recognise a problematic question. In those circumstances, the court may approve the appointment of an intermediary to facilitate communication between the police, prosecution and defence legal teams and a witness to ensure that the communication process is as complete, coherent and accurate as possible.

Wider Government initiatives

56. In addition to the measures established through the Bill provisions there is also a broad range of existing measures which ensures these groups can benefit from the help available to support victims of domestic abuse.

Training

57. To improve understanding the of domestic abuse and ability to proactively identify potential victims, training for responding agencies such as the police, social workers, healthcare professionals and Universal Credit work coaches is being taken forward. Examples of this include:
58. **Police:** The College of Policing worked with SafeLives, a national domestic abuse charity, to develop a new domestic abuse training programme, Domestic Abuse Matters, which is being rolled out across police forces. An evaluation by the College of Policing has found it has a positive impact on police officers' knowledge of coercive control and attitudes to domestic abuse.
59. 15 police forces have completed this training, but many other police forces have their own in-house training or use their own providers. We are providing match funding to Gwent Police to support the further rollout of Domestic Abuse Matters training in 2019/20. We are also providing £47,000 of funding until 2020 to update the Domestic Abuse Matters police training so that it covers economic abuse.
60. **Health:** All staff working in the NHS must undertake at least level 1 safeguarding training which includes domestic abuse. In the NHS, routine enquiry should already be in place in maternity and mental health services, to improve earlier disclosure and support people to get the care that they need. In addition, NHS England and NHS Improvement are developing an action plan for the NHS specifically on domestic violence and abuse. This will both raise awareness amongst NHS staff to ensure that staff have the skill to identify and refer and address the issue of NHS staff who are themselves victims, or perpetrators.
61. **Universal Credit (UC):** Work Coaches work with claimants on a one to one basis and offer employment advice, identify potential job matches, and ensure claimants uphold conditionality rules. They support claimants both in and out of work, and as far as possible, support the same claimants throughout their claim. The intention is for claimants to build a personal rapport with their Work Coach, who grows to understand their needs and changing circumstances.
62. All UC Full-Service Work Coaches and Case Managers are required to complete mandatory training on complex needs as part of their learning route into UC Full Service. This is a stand-alone module that includes a classroom discussion around

a (fictional) claimant who is a victim of domestic abuse and the conversation is steered to focus on the support available, easements and disclosure. DWP produced a multimedia product which has been reviewed by Domestic Abuse partners. The product is designed to raise awareness for Work Coaches and case managers.

63. The product launched in April 2018 covers types of abuse, signs of abuse, impacts and support. It also refers to wider organisations to signpost for specialist support. All UC Full-Service sites have a Complex Needs Toolkit in place to enable colleagues to signpost claimants with complex needs to guidance, local provision/support and named advocates for specific complex needs groups. The toolkit enhances effective partnership working at a local level.
64. Work Coaches can offer claimants in their caseload support or allowances if they experience domestic abuse. This includes:
- exemption from work-related requirements (such as looking for work) for up to 13 weeks. This can extend to 26 weeks if the survivor is the main carer of a child under 16;
 - Alternative Payment Arrangements. Claimants can request their single household payment be split into two bank accounts;
 - additional housing benefit for temporary accommodation. If claimants have left their home due to domestic abuse—and intend to return—they can request housing benefit for both their former permanent home and temporary accommodation.

Specialist services

65. The Government also provides funding for the provision of services or has developed strategies for marginalised groups who also experience domestic abuse. Examples of this include:
66. **Black Minority Ethnic (BME) victims:** The Government has invested £300k funding in 2018/19 to Imkaan to build capacity in the specialist BME women's sector to reduce the impact of violence on the lives of BME women and girls. The funding will support dedicated, specialist BME organisations which provide essential crisis interventions, safety, and ongoing 'recovery', resilience and empowerment support. This is also to build the capacity and improve the sustainability of essential, specialist, independent BME/ VAWG organisations and small community organisations working to address VAWG.
67. **LGBT+ victims:** The Government provided Galop with £500,000 to build capacity and deliver support to LGBT victims of domestic abuse. The project will facilitate better knowledge and understanding on LGBT domestic violence through the development and use of technology. Galop will deliver a campaign to raise awareness within LGBT communities with the aim of increasing the number of LGBT people actually reporting domestic violence and seeking out the help that they need. The project will also provide training and consultancy to deliver the

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

68. **Disabled victims:** The government have provided over £200,000 for Victim Support and Stay Safe East. The joint project aims to link the skills and knowledge of Stay Safe East, a specialist disability and domestic violence agency, with that of Victim Support, the largest national employers of Independent Domestic Violence Advocates (IDVAs). This partnership aims to encourage disabled survivors of domestic abuse to come forward and ensure that their needs are recognised and effectively supported.
69. The project is governed by an Advisory Group to ensure that the voices of disabled survivors are heard. The group provides advice on the project, allows members to share examples of good practise and provide an input into briefings and policy-based work. Stay Safe East have delivered specialist training to upskill 45 Victim Support IDVAs and are increasing the women's sector's awareness and knowledge of how violence against women and girls impacts on disabled women through conferences and workshops.
70. **Male victims:** while the statutory guidance on the definition of domestic abuse makes clear that this is a crime that disproportionately affects women, it will also provide details on how men can be affected, or those in same-sex relationships. This will mitigate the risk of indirect discriminating by enabling service providers to understand the impact on men and factor in the needs of this group in the delivery of services.
71. In March 2019, the government also published its Male Victims Position Statement³⁵ setting out 12 specific commitments to better enable male victims and survivors of domestic abuse to come forward and receive the support they need and bring perpetrators to justice. These included:
- providing £500,000 to specialist organisations that support male victims and survivors of domestic abuse;
 - awarding a specialist LGBT domestic abuse organisation that supports LGBT victims and survivors with £500,000;
 - providing £24 million over the next three years for services providing advice and counselling to all victims of sexual violence, including men and boy.

Under 16-year olds domestic abuse

72. **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

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

understanding that will enable children to model these behaviours. RSE builds on teaching at primary level.

73. 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.
74. **Early intervention:** In December 2017, the Department for Education published detailed advice to support schools understand what child on child sexual violence and sexual harassment looks like, how to prevent it and how to respond to reports of it. In September 2019, the Department for Education revised the statutory safeguarding guidance “Keeping Children Safe in Education” - this included for the first time a dedicated new section (at Part 5) to support schools manage reports of child on child sexual violence and sexual harassment.
75. In November 2018, the Department for Education produced “Respectful School Communities”, a tool to support schools to develop a whole-school approach to promote respect and healthy relationships. This tool can help schools build to take a preventative approach to combat bullying and abuse of any kind and create inclusive and tolerant school communities.
76. **Responding to abuse:** The Department for Education have provided £2 million funding between 2019-2022 for the Tackling Child Exploitation Support Programme to help safeguarding partners in local areas develop an effective multi-agency response to a range of harms to children from outside the family home. This will include supporting local areas to collate and analyse data in relation to extra-familial harms and exploitation.
77. **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.
78. As the police do not routinely flag cases where the victim or perpetrator of domestic abuse is under 16, we do not have a clear picture of the prevalence of abuse for this age category. Data shows that there has been one conviction under the coercive or controlling behaviour offence for someone under 16 in 2017 and no convictions for under 15s. We will be exploring if this is something, we can work with the police on to obtain better data.
79. **Young person’s Independent Domestic Violence Advisors (IDVAs):** The Home Office has funded Young People’s IDVAs to work with individuals who have experienced teenage relationship abuse and have also funded Child Independent Sexual Violence Advisers to provide support to young people who have been victims of sexual abuse.

80. **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.
81. 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.
82. The CPS applies the current cross-government definition of domestic abuse to all victims and perpetrators of domestic abuse irrespective of age. This enables prosecutors to use the principles set out within the CPS Domestic Abuse Guidelines for Prosecutors and ensures that they adopt an evidence led approach and develop a robust case management strategy.
83. 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.
84. 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.
85. By section 125 of the Coroners and Justice Act 2009, every court must, in sentencing an offender or exercising any other function relating to the sentencing of offenders, follow any sentencing guidelines which are relevant, unless the court is satisfied that it would be contrary to the interests of justice to do so. Youth sentencing guidelines would therefore be a prime consideration. Therefore, there is still consideration of the needs of the victim, the nature of the offence and the history with the victim which are all factors that also contribute to the context of domestic abuse.
86. In determining the appropriate sentence, the court has a wide range of requirements which it can include as part of a community sentence which can address protection issues of the victim and support the child to desist from further

offending (e.g. curfew, residence and exclusion requirements, including requiring a child to live elsewhere from the family home).

87. Delivery of the sentence is the responsibility for the local youth offending teams and its partner local agencies (such as health and wider children services within the local authority) which will assess the child's offending behaviour and needs and put in place measures to address those issues. This could include specific work to address behaviours associated with domestic abuse.

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

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

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

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

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

85. The overall policy objective is to build a society that has zero tolerance towards domestic abuse and actively empowers victims, communities and professionals to confront and challenge it and to provide victims and their children with the support they deserve. The provisions in the Bill, alongside a programme of non-legislative measures, intended to transform the response to this crime and is intended to apply to all victims equally.

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

and represents a proportionate means of achieving these policy aims.

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

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

6 Review date

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

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

SCS sign offs



Kristina Katona, Head of Public Protection Unit, Home Office



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

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Date

February 2020

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

