

WRITTEN MINISTERIAL STATEMENT

Domestic Homicide Sentencing Review: Government Response to the Independent Review by Clare Wade KC

I am pleased to publish today the Government's full response to the recommendations made by Clare Wade KC in the independent Domestic Homicide Sentencing Review. This builds on the interim response which was made alongside publication of the Review in March this year and involves important legislative changes to the sentencing framework in England and Wales.

Murder is the most serious crime a person can commit, and we must ensure that in every case the sentence is commensurate with the severity of the crime. Everyone should feel safe in their own home and our sentencing framework must reflect the seriousness of violence and abuse which is committed by those closest to them.

Around a quarter of all homicides in England and Wales are classed as domestic; that is, they are committed by the partner, ex-partner or relative of the victim. Over the last 10 years, this represents an average of nearly 160 homicides per year, with almost 90 of these being committed by a partner or ex-partner.

In 2021 Clare Wade KC was commissioned to review sentencing in domestic homicide cases to establish whether current law and sentencing guidelines are fit for purpose and identify options for reform. This followed concerns raised by a number of stakeholders including the Domestic Abuse Commissioner and the Victims Commissioner, and also by the parents of two young women, Poppy Devey Waterhouse and Ellie Gould, who were tragically murdered by their ex-boyfriends in 2018 and 2019 respectively.

The majority of domestic homicides are committed by men against women. Indeed, over 90% of the murder cases in our Initial Case Review were committed by men against their female partner or ex-partner. The Review has found that in many of these cases the victim has been subjected to years of abuse before their death. The Review has also found that many domestic homicides committed by men against women involve the use of excessive and gratuitous violence, referred to as 'overkill', and that these cases often take place at the end of a relationship, when the perpetrator perceives that they can no longer control the victim and effectively decides "if I can't have you then nobody can". Where female perpetrators commit domestic homicide, it is often, though not exclusively, the case that they have been the victims of abuse and have killed their abuser.

The legislation that sets out our sentencing framework for murder is contained in Schedule 21 to the Sentencing Act 2020. It was first introduced in the Criminal Justice Act 2003 some twenty years ago and, although aggravating and mitigating factors can be applied at the discretion of judges, it does not include any specific

consideration of the seriousness of domestic homicides and the abuse that often precedes these cases.

Over the last twenty years our societal and legal understanding of domestic abuse has evolved. This Government created the criminal offence of controlling or coercive behaviour in the Serious Crime Act 2015, and introduced the landmark Domestic Abuse Act 2021, which introduced a legal definition of domestic abuse for the first time, and the new criminal offence of non-fatal strangulation. We are also delivering on our Rape Review Action Plan, Tackling Violence Against Women and Girls strategy and Tackling Domestic Abuse strategy, and more than quadrupling funding for victim and witness support services by 2024/25, up from £41 million in 2009/10. Together, these transformative cross-government programmes work to prevent abuse, support victims and pursue perpetrators, as well as to strengthen the system's response to violence against women and girls.

The Review has found that our sentencing framework for homicide does not yet fully reflect this increased seriousness that society now recognises in domestic cases, and that it does not adequately account for the extent of culpability arising from whether a perpetrator of homicide was also a perpetrator or victim of abuse before the killing.

This will change. Our response to the recommendations made in the Review will mean that for the first time, the seriousness of domestic murders and the particular harms that arise in these cases will be recognised in our sentencing framework. The perpetrators in these cases must, and will, serve sentences that truly reflect the severity of these crimes.

We will introduce legislation to give domestic murders specialist consideration in the sentencing framework

Cases of domestic murder are rarely isolated incidents. They are often the culmination of years of abuse and in the majority of cases, this abuse has been committed by the perpetrator of the murder, usually a man, against the victim, usually a woman. As announced in the interim response, for cases where an abusive partner or family member has killed their victim, the seriousness of the preceding controlling or coercive behaviour will now be recognised in statute as a statutory aggravating factor to murder. Practically, this will mean that judges must consider increasing the minimum custodial term for perpetrators who have exhibited this behaviour.

A minority of domestic murders, however, involve a victim of abuse who has snapped and killed their abuser. In most of these cases, the perpetrator of the killing and the victim of the abuse is a woman. The review recommends that, though murder is always wrong, a history of coercive or controlling behaviour by the victim of a murder against the perpetrator should be added to the statutory mitigating factors

for murder. This means that a judge must consider decreasing a perpetrator's minimum custodial term where they have been a victim of this behaviour.

I can announce today that we will introduce legislation to make this change as soon as possible, along with the statutory aggravating factor. This will ensure that the experience of abuse which precedes a murder and the impact this has on the perpetrator's culpability will now be recognised in statute.

In addition to a history of controlling or coercive behaviour, the Review identified other harms which are particularly prevalent in domestic murders and recommended that the seriousness of these should be recognised in statute. As announced in the interim response, 'overkill' will be made a statutory aggravating factor to murder, recognising the intense distress this causes the families of victims, knowing that the body of their loved one was violated in such a way.

I can announce today that we will also be accepting the recommendation in the Review to introduce another statutory aggravating factor to murder for cases where the killing takes place at the end of a relationship, or when the victim has expressed a desire to leave the relationship. Killing in this context is the final controlling act of an abusive partner, and the seriousness of this will now be recognised in statute, leading to increased sentences for these perpetrators.

We will propose that the Sentencing Council update their guidelines in light of both the Review and the Government's response to its recommendations.

The Review makes a number of recommendations which relate to the offence of manslaughter and the sentencing guidelines. These recommendations fall under the remit of the independent Sentencing Council for England and Wales rather than the Government.

Today I have written to the Chair of the Sentencing Council to propose that sentencing guidelines are revised in light of the Review and the Government's response to its recommendations. The Council have a statutory obligation to consider this request and have already resolved to set up a working group to consider the Review and response in the round.

We will commission a review of the use of defences to murder in cases involving domestic abuse

We asked Clare Wade KC to consider the use of defences to murder by domestic abuse victims who kill their abuser. She was unable to conduct a full or detailed review of this, due to insufficient resource, resulting in her recommendation that a full and comprehensive review of the defences to murder be carried out.

The Government partially accepts this recommendation as we believe that the use of, or obstacles to the use of defences to murder in domestic abuse cases should be examined. However, we do not consider it necessary to extend a review to all possible defences to murder, as this would need to consider defences which have no

real bearing on domestic homicide, which would add to the complexity and length of any review. The Government will be inviting the Law Commission to undertake this review.

Training and Data

As well as these important changes to our sentencing framework, the Review recognises the important role that improvements in training and the collection of data has in responding to domestic homicides.

In June, the Home Office launched the beta version of their new central library for all Domestic Homicide Reviews. This will enable far greater analysis of patterns, trends and risk factors for domestic homicide and ensure that this data is accessible to the public. Ultimately, this will help to improve society's understanding of the triggers and causes of domestic homicide and the ways that these horrible crimes can be prevented.

In terms of training, in April the Crown Prosecution Service published updated prosecution guidance on stalking and for cases involving controlling or coercive behaviour. They are also continuing to develop and roll out additional training on domestic abuse, controlling or coercive behaviour, stalking and the impact of trauma on victims, ensuring that this reflects our most up to date understanding of this behaviour.

We will launch a public consultation on further reform

In the interim announcement in March, the Government committed that in addition to responding to the Review's recommendations, we would seek views via a public consultation on whether there should be a starting point of 25 years for cases of murder where the perpetrator has controlled or coerced the victim before killing them. This was to ensure that all options for reform have been considered. It is for the same reason that I am announcing today that this consultation will be expanded to explore the sentencing starting point for murders committed with a knife or other weapon which was already at the scene. This is in recognition that concerns have been raised regarding the difference between the 25-year starting point for murders involving the use of a weapon which has been taken to the scene with intent, and the baseline starting point of 15 years for murder which would apply if a knife or other weapon used was already at the scene. Of course, this is particularly relevant to domestic homicides given weapons are often picked up at the scene, for example a knife that the perpetrator knew would be in the kitchen, meaning that they did not have to plan to bring a weapon with them.

I am very grateful to Clare Wade KC for her work on this review. I would also like to pay tribute to Carole Gould and Julie Devey, whom I met recently and whose tireless campaigning after the tragic murder of their daughters, Ellie Gould and Poppy Devey Waterhouse, was instrumental in bringing about this Review.