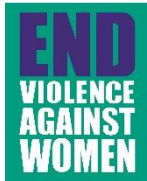




women's aid  
until women & children are safe



NSPCC



## Domestic Abuse Bill Committee Stage

### *Amendment briefing – including children in the definition of domestic abuse*

The Domestic Abuse Bill is a unique opportunity to deliver a step change in our response to domestic abuse. We welcome this Bill, but are clear that it must be widened to truly take account of the needs of children affected by domestic abuse. The COVID-19 crisis has underlined how important this is, with levels of domestic abuse expected to rise and vital support services coming under further pressure. **With as many as 1 in 5 children and young people exposed to domestic abuse during their childhood, we urge MPs to support this amendment to the Bill's statutory definition to ensure children are recognised as victims of domestic abuse too.<sup>i</sup>**

#### Explanatory statement

This amendment (set out in full in the annex below) will ensure that children who see, hear or are otherwise affected by domestic abuse (in other words, experience the domestic abuse themselves) perpetrated by one person aged 16 and over against another, are recognised within the proposed statutory definition of domestic abuse.

When we talk about children experiencing domestic abuse and the impact it has on them, we mean the effect that living in a household where one adult is being abusive - including physical abuse, psychological abuse, sexual abuse, economic abuse and coercive and controlling behaviour - to another adult has on a child. We do not generally mean the direct physical abuse of a child, but both the direct and indirect impact of living with abuse, violence and coercive and controlling behaviours. This impact should not be underestimated.

This amendment does not aim to lower or remove the age limit; instead it inserts an additional subsection making it clear that children who see, hear or otherwise experience the abuse of one adult by another adult are also negatively impacted by that abuse, and so should be seen as victims of the abuse as well.

## Why is this necessary?

- **The impact of domestic abuse on children is so severe that they must also be recognised as victims, even if the abuse was not focused on them directly.** Domestic abuse can have a devastating impact on children, resulting in emotional, social, psychological and behavioural difficulties with short and long-term implications.<sup>ii</sup> Children face increased risks of criminal behaviour, interpersonal difficulties in future intimate relationships and friendships, and risks of experiencing sexual abuse, sexual exploitation and other forms of violence and abuse in later life.<sup>iii</sup> To omit them from the definition is a failure to recognise the impact of domestic abuse on their lives.
- **Research suggests children are affected by perpetrators' controlling and coercive behaviours too, but the Bill does not acknowledge this.**<sup>iv</sup> The proposed definition is important because it recognises that domestic abuse goes beyond physical violence and includes coercive control as well. Yet even though children are impacted too – for example, perpetrators might limit children's freedoms, activities, support and time with their family and friends – their experiences are not reflected in the Bill. This is concerning because research from Action for Children suggests that the coercive and controlling aspects of domestic abuse are not given sufficient weight in child protection work, putting children and young people at risk.<sup>v</sup>
- **Amending the definition to include children would lead to a greater understanding, for example by public authorities and frontline practitioners like the police and Cafcass, that children experience domestic abuse too.** We know that, currently, children's experiences of domestic abuse aren't always valued or taken into account. The recent Joint Targeted Area Inspection report by inspectorates for children's social care, health professionals, the police and probation, found that across the six areas inspected, there were instances where children were forgotten about, missed, not spoken to or simply not considered.<sup>vi</sup> Research from the NSPCC has also highlighted that young people often feel that they are not provided with any explanations or information from the police, and that their perspective on domestic abuse incidents isn't listened to.<sup>vii</sup> Cross-national comparative research shows that, in those contexts where children are recognised as direct victims, they are more likely to be spoken to, and their perspective taken into account.<sup>viii</sup> The Bill's notes make clear that the government expects the definition to be adopted more generally, for example by public authorities and frontline practitioners like the police, but children are currently missing.
- **If children's status as victims of domestic abuse that occurs in their household isn't recognised by the Bill, this could have a negative impact on the level and quality of specialist support available to children and the response they receive from agencies.** Research from Action for Children has shown that the level of support for children affected varies significantly across England and Wales.<sup>x</sup> Without clarity in the definition, we are also concerned that inconsistent responses to child victims will continue and children will continue to be treated as merely 'witnesses' to domestic abuse by the criminal justice system and in family courts. Research suggests professionals in the family justice system differentiate between children's 'direct' and 'indirect' experiences of domestic abuse and this results in harm to children being seriously underestimated.<sup>x</sup> We would highlight that the Victims Commissioner has recommended that

children and young people who experience domestic abuse should be recognised as victims in the Domestic Abuse Bill.<sup>xi</sup> The government must ensure that the response to and provision for children becomes more consistent, not less so.

- **Making this change could help thousands of children.** Analysis by the Children’s Commissioner shows that 831,000 children in England are living in households that report domestic abuse.<sup>xii</sup> It is the most common additional factor of need identified at the end of children’s social care assessments for children in need, and was identified in more than half (51%) of relevant assessments in 2018/19.<sup>xiii</sup> According to Women’s Aid’s annual survey, 13,787 children used refuge services in 2018/19, compared to 11,489 women, and 187,403 children used community-based services, compared to 156,169 women (this does not account for children supported by community outreach services where their parent does not also receive support).<sup>xiv</sup> The Bill must reflect that children are also victims of domestic abuse, who need support.
- **If the Bill’s definition is not amended to include children, we have concerns that children’s experiences will continue to be marginalised and misunderstood.** We welcome the government’s commitment to including the impact of domestic abuse on children in the accompanying statutory guidance. However, this has not yet been published, and it still remains crucial that the definition accurately reflects children’s experiences. If we want to change different agencies’ approaches to children who have experienced domestic abuse, a crucial way of achieving this would be to include them on the face of the Bill – a piece of legislation that, one would hope, relevant agencies will be referring to consistently once it is passed into law.

#### What difference will this change make?

- **Public authorities and frontline practitioners will be encouraged to recognise and respond to children experiencing domestic abuse.** This will ensure children’s experiences and perspectives will be sought out and listened to, helping to keep children safe and ensure they receive support which meets their needs.
- **Local authorities and their partners will recognise the importance of ensuring child victims have access to the support they need.** We know provision is patchy at the moment. Children affected faced barriers to accessing support in two-thirds of the local authorities that were interviewed as part of Action for Children’s recent research.<sup>xv</sup> The current crisis has only exacerbated existing difficulties. 60% of the service providers that responded to the recent Women’s Aid Federation of England survey on the impact of COVID-19 stated that they had needed to reduce or cancel their service provision for children.<sup>xvi</sup> It is evident that specialist domestic abuse services are finding it particularly hard to support child victims of domestic abuse during the current crisis. Children cannot be forgotten.

#### Questions for the Committee to consider

- If the government recognises the impact of domestic abuse on children, why will it not include children in the proposed definition of domestic abuse?

- What is the government’s reasoning for neglecting to include children in the statutory definition, especially if by adding this sub-section it is not necessary to change or remove the age limit?

**For more information about this briefing please contact:**

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## **Annex: proposed amendment to the Domestic Abuse Bill**

### **Amendment to Clause 1, Part 1 (Definition of “domestic abuse”)**

*Amendment in bold and green below.*

#### **1 Definition of “domestic abuse”**

- (1) This section defines “domestic abuse” for the purposes of this Act.
- (2) Behaviour of a person (“A”) towards another person (“B”) is “domestic abuse” if—
  - (a) A and B are each aged 16 or over and are personally connected to each other, and
  - (b) the behaviour is abusive.
- (3) Behaviour is “abusive” if it consists of any of the following—
  - (a) physical or sexual abuse;
  - (b) violent or threatening behaviour;
  - (c) controlling or coercive behaviour;
  - (d) economic abuse (see subsection (4));
  - (e) psychological, emotional or other abuse;and it does not matter whether the behaviour consists of a single incident or a course of conduct.
- (4) “Economic abuse” means any behaviour that has a substantial adverse effect on B’s ability to—
  - (a) acquire, use or maintain money or other property, or
  - (b) obtain goods or services.
- (5) For the purposes of this Act A’s behaviour may be behaviour “towards” B despite the fact that it consists of conduct directed at another person (for example, B’s child).
- (6) Abusive behaviour by A towards B can also be towards a child (“C”) who is personally connected to A or B, for example, B’s child, even though A’s conduct is directed at B, if C sees, hears or is otherwise exposed to the domestic abuse.**

(7) References in this Act to being abusive towards another person are to be read in accordance with this section.

(8) For the meaning of “personally connected”, see section 2.

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(5) For the purposes of this Act A’s behaviour may be behaviour “towards” B despite the fact that it consists of conduct directed at another person (for example, B’s child).

**(6) Abusive behaviour by A towards B can also affect a child (“C”), who is personally connected to A or B, for example, B’s child, if they see, hear or are otherwise exposed to the behaviour.**

(7) References in this Act to being abusive towards another person are to be read in accordance with this section.

(8) For the meaning of “personally connected”, see section 2.

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<sup>i</sup> Radford, L. et al (2011). *Child abuse and neglect in the UK today*. London: NSPCC. Available at: <https://learning.nspcc.org.uk/media/1042/child-abuse-neglect-uk-today-research-report.pdf>

<sup>ii</sup> Royal College of Psychiatrists (2017). ‘Domestic violence and abuse – the impact on children and adolescents.’ Available at: <https://www.rcpsych.ac.uk/mental-health/parents-and-young-people/information-for-parents-and-carers/domestic-violence-and-abuse-effects-on-children>; UNICEF (2006). *Behind Closed Doors: The Impact of Domestic Violence on Children*. Available at: <https://www.unicef.org/media/files/BehindClosedDoors.pdf>

<sup>iii</sup> Office for National Statistics (2017). ‘People who were abused as children are more likely to be abused as an adult: Exploring the impact of what can sometimes be hidden crimes’. Available at: <https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/articles/peoplehowereabusedaschildrenaremorelikelytobeabusedasanadult/2017-09-27>

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<sup>iv</sup> Katz, E. (2015) 'Beyond the Physical Incident Model: How Children Living with Domestic Violence are Harmed By and Resist Regimes of Coercive Control', *Child Abuse Review* 25(1), pp. 46-59.

<sup>v</sup> Action for Children (2019). *Patchy, piecemeal and precarious: support for children affected by domestic abuse*. Available at: <https://www.actionforchildren.org.uk/media/12382/patchy-piecemeal-and-precarious-support-for-children-affected-by-domestic-abuse.pdf>

<sup>vi</sup> Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services (2017). *The multi-agency response to children living with domestic abuse: Prevent, protect and repair*. Available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/680671/JTAI\\_domestic\\_abuse\\_18\\_Sept\\_2017.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/680671/JTAI_domestic_abuse_18_Sept_2017.pdf)

<sup>vii</sup> Stanley, N. et al (2010). *Children and families experiencing domestic violence: Police and children's social services' responses*. London: NSPCC. Available at: [http://clok.uclan.ac.uk/2947/1/children\\_experiencing\\_domestic\\_violence\\_report\\_wdf70355.pdf](http://clok.uclan.ac.uk/2947/1/children_experiencing_domestic_violence_report_wdf70355.pdf)

<sup>viii</sup> McPhedran, S. et al (2017). 'A cross-national comparison of police attitudes about domestic violence: a focus on gender', *Policing* 40, pp. 214–227.

<sup>ix</sup> Action for Children (2019). *Patchy, piecemeal and precarious: support for children affected by domestic abuse*.

<sup>x</sup> Thiara, R and Harrison, C (2016). *Safe not Sorry - supporting the campaign for safer child contact: Key issues raised by research on child contact and domestic violence*, Centre for the Study of Safety and Well-being, University of Warwick

<sup>xi</sup> Victims' Commissioner (2020). *Sowing the seeds: Children's experiences of domestic abuse and criminality*. Available at: [https://s3-eu-west-2.amazonaws.com/victcomm2-prod-storage-119w3o4kq2z48/uploads/2020/03/Sowing-the-Seeds\\_final\\_web.pdf](https://s3-eu-west-2.amazonaws.com/victcomm2-prod-storage-119w3o4kq2z48/uploads/2020/03/Sowing-the-Seeds_final_web.pdf)

<sup>xii</sup> Office of the Children's Commissioner for England (2019). *Childhood vulnerability in numbers*. Available at: <https://www.childrenscommissioner.gov.uk/publication/childhood-vulnerability-in-england-2019/>

<sup>xiii</sup> Department for Education (2019). *Characteristics of children in need: 2018 to 2019*. Available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/843046/Characteristics\\_of\\_children\\_in\\_need\\_2018\\_to\\_2019\\_main\\_text.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/843046/Characteristics_of_children_in_need_2018_to_2019_main_text.pdf)

<sup>xiv</sup> Women's Aid (2020), *The Domestic Abuse Report 2020: The Annual Audit*. Available online at: <https://1q7dqy2unor827bqjls0c4rn-wpengine.netdna-ssl.com/wp-content/uploads/2020/01/The-Domestic-Abuse-Report-2020-The-Annual-Audit.pdf>

<sup>xv</sup> Action for Children (2019). *Patchy, piecemeal and precarious: support for children affected by domestic abuse*