

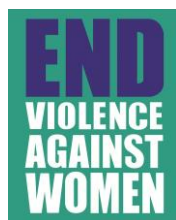


Believe in children



Beck Fitzgerald

lawyers & consultants



## Joint briefing on the Domestic Abuse Bill<sup>1</sup>

Committee Stage [HoC]

[Amendments NC19 & NC20 briefing](#)

### Summary

The Domestic Abuse Bill is a unique opportunity to transform the response to domestic abuse. Whilst the Bill is welcome, as currently drafted it does not go far enough to achieve its aim - to tackle domestic abuse, and to protect and support all victims, including children.

### Amendment NC19 & NC20: support for everyone affected by domestic abuse

Clause 53 of the bill places a duty on local authorities to deliver support to victims, including children, in **accommodation-based services** e.g. refuges. Although this is likely to benefit some victims, there is a serious risk that this will create a two-tier system, and will not help the **majority of victims** (nearly 70%<sup>2</sup>), including children, who remain in the family home and would not be covered by this duty. We are also concerned that if Clause 53 is not accompanied by a corresponding duty to provide ring-fenced funding for all services, it risks diverting existing (scarce) funding from non-accommodation-based services.

We are therefore proposing that Clause 53 should be replaced or amended. NC19 & NC20 propose an clause (set out in full in the annex) that would:

- Place a duty on all relevant public authorities (broader than just local authorities) to commission specialist domestic abuse support services for all persons affected by domestic abuse (NC20), including to:
  - All adult and child victims who remain in the community, at home or in accommodation-based services, regardless of their status, including survivors with insecure immigration status;
  - Young people under 18 who are in an abusive relationship; and
  - Adult perpetrators, to prevent re-offending.
- Be underpinned by a duty on the Secretary of State to ensure that sufficient funding is allocated annually to ensure public authorities can meet their statutory duties in the new Clause (NC19).

<sup>1</sup> This briefing is also supported by the Equality and Human Rights Commission and the Children's Commissioner for England.

<sup>2</sup> SafeLives. [Second Reading Briefing](#)

*This briefing is supported by and represents the collective views of a coalition of charities and organisations cited above, not necessarily the individual view of each organisation.*

## 1. Scale of the problem

More than 65,000 adults and 85,000 children at the highest risk of serious harm or murder are supported by community-based services.<sup>3</sup> Under the 'lockdown', calls to the National Domestic Abuse Helpline up by 49%<sup>4</sup> and domestic abuse homicides, including children, thought to have more than doubled.<sup>5</sup> Similarly, NSPCC's Helpline has seen a 10% increase in calls relating to concerns about children in households where domestic abuse is taking place. The impact of Covid-19 makes it even more important that the bill is strengthened.

The key to tackling domestic abuse is preventing offending and reoffending and supporting all people involved. This can be achieved through this holistic approach for the whole family which is delivered in some parts of the country already. An example of this is Barnardo's Home Office-funded [Opening Closed Doors service](#) in Wales and One Front Door pilots around England and Wales.<sup>6</sup>

## 2. Community-based support for all children affected by domestic abuse

As it currently stands the bill will only ensure that children in safe accommodation receive support; leaving children living in the community without statutory support.

Domestic abuse is one of the most common adverse childhood experiences.<sup>7</sup> Analysis by the Children's Commissioner, pre-Covid-19, found that **831,000** children in England are living in households that report domestic abuse.<sup>8</sup> Domestic abuse is the most common factor amongst children assessed as 'in need' by local authorities in England, featuring in **over 50%** of relevant assessments.<sup>9</sup> Children are the '**hidden victims**' of domestic abuse which has devastating effects on their wellbeing (mental and physical), education outcomes, and likelihood of entering abusive relationships. Specialist support services for children, such as Children's Independent Domestic Violence Advisors, reduces the impact of domestic abuse, and improves children's safety and health outcomes.

Whilst the Government has agreed that the Domestic Abuse Commissioner is to undertake a review of community-based services this is estimated to take '**some 12 months**'.<sup>10</sup> However, there is already existing evidence of a lack of provision. Action for Children found that there is significant variation in the level of provision for children and young people impacted by domestic abuse both between and within local authorities in England and Wales. **Children faced barriers to access support in two-thirds of the local authorities** that took part in the research, and **over 10% of these had no specialist support services available for children at all.**<sup>11</sup>

It is clear that the current crisis is putting pressure on services that do exist. A SafeLives survey of frontline domestic abuse services found that **42% were not able to effectively support child victims of domestic abuse at this time.**<sup>12</sup> At the same time, the risk to children has increased significantly. Since the lockdown, **57%** of Barnardo's frontline staff are

---

<sup>3</sup> SafeLives, 2020. [New Domestic Abuse Bill](#).

<sup>4</sup> BBC, April 2020. [Coronavirus: Domestic abuse calls up 25% since lockdown](#).

<sup>5</sup> Guardian, April 2020. [Domestic abuse killings more than doubled amid Covid-19 lockdown](#).

<sup>6</sup> SafeLives. [Seeing the Whole Picture - an evaluation of SafeLives' One Front Door](#).

<sup>7</sup> [CDC-Kaiser ACE Study](#)

<sup>8</sup> Office of the Children's Commissioner for England, [Childhood vulnerability in numbers](#)

<sup>9</sup> Department for Education, [Characteristics of children in need: 2018 to 2019, England](#).

<sup>10</sup> Minister for Safeguarding gave details regarding the timescale of the review (HC 20 May, [W43470](#))

<sup>11</sup> Action for Children, 2019. [Patchy, piecemeal and precarious: support for children affected by domestic abuse](#).

<sup>12</sup> SafeLives, 2020. [Domestic abuse frontline service COVID-19 survey results](#).

concerned about an increase in family conflict and stress, while **45%** report a decrease in referrals due to families having less contact with services.<sup>13</sup> There is a serious risk that children living in abusive households are going unrecognised and unsupported, and the numbers are growing. **It is vital that children and young people affected by domestic abuse can access specialist community-based support to recover from trauma, amending the bill through NC19 and NC20 is our chance to ensure no child is left out.**

### **3. Specialist support for young people in abusive intimate relationships**

**Young people are the group most likely to be in an abusive relationship.** A survey of 13 to 17 year olds found that 25% of girls and 18% of boys reported having experienced some form of physical violence from an intimate partner.<sup>14</sup> However, The Children’s Society found the majority (77%) of local authorities, who responded to their FOI, do not have a policy or protocol in place for responding to under 16s experiencing teenage relationship abuse, with just **39% of local authorities providing a specialist support service for under 16s** and **26 local authorities providing no specialist support** nor any additional support for this age group.<sup>15</sup>

As it currently stands the bill considers young people aged 16 or over in an abusive relationship, could be considered perpetrators. As a result, there is a danger that these young people will be criminalised and refused the opportunity to change their behaviour, break the cycle of violence, and forge a positive future.

Young people who may present as abusive in teenage relationships require a response that recognises them as children and provides specialist support to address their harmful behaviour. Under **NC20 (4) (b) Any child aged under 18 who experiences or witnesses domestic abuse** includes young people in abusive relationships, as well as those in domestic abuse households. This will ensure that these young people are able to access specialist support, such as through the Young People’s Violence Advisers, to address their harmful behaviour.

### **4. Equal protection for all victims**

Domestic abuse has a devastating impact on the lives of victims and access to support is vital for their recovery and the chance to rebuild their lives. Some victims, such as disabled, LGBT+ and migrant victims, face additional barriers to accessing support.

#### **i) Disabled women**

**Disabled women are twice as likely to experience domestic abuse** as non-disabled women, they are more likely to experience abuse for a longer period of time before accessing support, and their abuse is often directly linked to their impairments and perpetrated by individuals they are most dependent on for care.<sup>16</sup> It is also estimated that less than **2% of refugees are wheelchair accessible**<sup>17</sup> - meaning that even where services do exist they are not accessible.

#### **ii) LGBT+**

---

<sup>13</sup> Barnardo’s, 2020. Quarterly Practitioner Survey on the impact of Covid-19.

<sup>14</sup> Ibid

<sup>15</sup> The Children’s Society, May 2020. [Missing the mark](#).

<sup>16</sup> SafeLives, 2017. [Disabled Survivors Too: disabled people and domestic abuse](#).

<sup>17</sup> Women’s Aid, 2020. [The domestic abuse report 2020](#)

LGBT+ individuals face additional barriers to accessing services under normal circumstances and even more so with restrictions put in place because of Covid-19. **LGBT+ victims and survivors present with higher levels of risk and complex needs** by the time they access support and identify that mental health problems and self-harm are the most significant presentations of these needs.

### iii) Migrant victims

Some migrant victims and their children can face destitution due to a lack of entitlement to welfare support due to their immigration status, and fear of deportation; all of which has been exacerbated by the current Covid-19 related restrictions. This can be particularly acute for women with insecure immigration status and no recourse to public funds (NRPf).

Although women with NRPf who are caring for children are theoretically entitled to continued support for their children under Section 17 of the Children Act, these women are being refused help despite Section 17 duties. Of the 20 women with NRPf who were fleeing with children in 2017-18 social services either refused to fund a refuge space or provide emergency accommodation, or offered to accommodate the children in emergency accommodation but not the mother.<sup>18</sup>

As the Bill currently stands it does not address the barriers faced by all migrant victims in accessing support. Thus, is not compliant with the Istanbul Convention<sup>19</sup> which requires protection to be provided without discrimination on any grounds, including migrant and refugee status. The Istanbul Convention was signed by the UK on 8 June 2012 and the Government intends to ratify it through this Bill, however it must ensure that any statutory duty will allow all survivors access to protection equally.

The need for equal protection in the Bill was endorsed by the Joint Committee on the draft Domestic Abuse Bill, who recommended an additional clause in the Bill, imposing on public authorities dealing with a victim or alleged victim of domestic abuse, or making decisions of a strategic nature about how to exercise functions, a duty to have due regard to the need to protect the rights of victims without discrimination on any of the grounds prohibited by Article 4, paragraph 3 of the Istanbul Convention.

The Government has not incorporated this important recommendation. Instead the Government has undertaken a review into 'what support can be provided to migrant victims of domestic abuse', but will not publish its conclusions until Report Stage. This will not allow the Bill Committee the opportunity to consider whether the Government has fully addressed the needs of this group of victims in the draft Bill.

While the Government has committed to later this year inviting bids from a £1.5 million pilot fund to cover the cost of support in safe accommodation and states that it will use the pilot to better assess the level of need, no further details on this have been announced and it is not clear to what extent, if at all, it will address the barriers migrant victims face in accessing support. Nor does it provide support for those survivors in need now. Women's Aid found that 11.7% of women with NRPf were accommodated in a suitable refuge.<sup>20</sup>

---

<sup>18</sup> Women's Aid, 2019. [No Woman Turned Away Project](#).

<sup>19</sup> Article 4, paragraph 3 of the Council of Europe Convention on preventing and combating violence against women and domestic violence.

<sup>20</sup> Women's Aid, 2019. [No Woman Turned Away Project](#).

**Amendments NC19 and NC20 would introduce the principle of non-discrimination into the bill, thereby strengthening the bill to protect and provide support which is inclusive and accessible to all victims, regardless of immigration status.<sup>21</sup>**

## **5. Provision for adult perpetrators**

**Fewer than 1% of perpetrators currently receive an intervention** to change their behaviour.<sup>22</sup> A lack of funding for perpetrator services was recently identified as the biggest issue by frontline practitioners across England and Wales.<sup>23</sup> Based on evidence from the SafeLives Every Story Matters platform, **82%** of respondents said that they supported the introduction of more perpetrator programmes, nearly **80%** wanted tougher sentences, **74%** wanted mental health support for perpetrators, and **73%** wanted public awareness campaigns specifically targeted at perpetrators.<sup>24</sup>

We believe that by missing out specialist quality-assured programmes for perpetrators, the current statutory duty (Clause 53) will fail to place appropriate emphasis on the person causing the harm – the perpetrator – instead placing the onus on the victim to leave their home, disrupt their children’s lives and potentially isolate themselves from their community, networks and work. A holistic approach which supports everyone affected by domestic abuse, including perpetrators is needed instead. **For this reason, amendments NC19 and NC20 would ensure that all adult perpetrators are able to access effective quality assured perpetrator programmes.**

### **Questions for the Committee to consider:**

- What is the Government’s reasoning for limiting the statutory duty on local authorities to support in accommodation-based services, rather than extending it to cover non-accommodation based services which support the majority of victims who remain in the family home or elsewhere in the community? (Clause 53 of the bill)
- What assessment has the Government made of the impact of the decision to limit the statutory duty in Clause 53 to victims in supported accommodation on a) disabled victims; and b) victims from BAME victims?
- The Government has stated that the Domestic Abuse Commissioner will conduct a review of community-based support: why is this review needed before any decisions on funding can be made when there is significant data from frontline services on need? When will this review take place? Will Ministers commit to implement the findings?
- Whilst the £76million (£28million specifically for domestic abuse services) [announced](#) by the Government on 2nd May for services on the frontline who support vulnerable people is welcome, it is only for 6 months. What long term investment does the Government intend to provide the sector?

For more information please contact Claire Stewart, Senior Public Affairs Officer, on [claire.stewart@barnardos.org.uk](mailto:claire.stewart@barnardos.org.uk) or 07584 347 308.

## **Annex: Amendments to the Domestic Abuse Bill**

<sup>21</sup> Equality and Human Rights Commission (EHRC), non-discrimination in the provision of services is required under the UK’s international human rights obligations. See: EHRC, 2020. [Domestic Abuse Bill Second Reading Briefing](#).

<sup>22</sup> SafeLives, 2020. [Briefing for the Second Reading of the Domestic Abuse Bill](#).

<sup>23</sup> Ibid

<sup>24</sup> Safelives, 2019. [Response to the Domestic Abuse Bill Consultation](#).

### **NC19: "Secretary of State's duty to ensure effective protection and support**

- (1) In exercising functions under this Act, the Secretary of State must take steps to ensure equally effective protection against domestic abuse and support for all victims of domestic abuse irrespective of their status, including steps aimed at ensuring that -
  - (a) Domestic abuse is prevented;
  - (b) All victims of domestic abuse receive protection and access to specialist services;
  - (c) All perpetrators of domestic abuse are able to access quality assured perpetrator programmes;
  - (d) Awareness of this Act is promoted.
- (2) In discharging the duty under subsection (1) the Secretary of State must -
  - (a) Ensure that sufficient funding is provided annually to ensure that relevant public authorities can meet their statutory duties under Clause [Duty to commission specialist domestic abuse support services]; and
  - (b) Take steps to ensure continuous improvement in the outcomes that are achieved.
- (3) The outcomes in subsection 2(b) include, in particular, outcomes which demonstrate-
  - (a) Effective steps aimed at ensuring that domestic abuse is prevented;
  - (b) Effective protection and support for persons, including children, against domestic abuse irrespective of their status;
  - (c) Effective services to all adult and child victims of domestic abuse irrespective of their status;
  - (d) Effective access for all perpetrators to quality assured perpetrator programmes; and
  - (e) Effective steps to promote awareness of this Act.
- (4) Every three years from the date on which this section comes into force the Secretary of State must prepare, publish and lay before Parliament a strategic plan setting out their objectives, priorities and the measures they propose to take for the purpose of discharging their duty under subsection (1).
- (5) In preparing and adopting any strategic plan under subsection (4) the Secretary of State must take account of any strategy to end violence against women and girls adopted by a Minister of the Crown.
- (6) In this section -
  - "Quality assured" means meeting standards determined and published by the Secretary of State.
  - "Status" means a status for the purpose of Article 4(3) of the Council of Europe Convention on preventing and combating violence against women and domestic violence, and combined forms of any such status.
  - "Victims of domestic abuse" includes -
    - (a) Persons towards whom domestic abuse is directed, and
    - (b) Persons who are reasonably believed to be a risk of domestic abuse."

### ***Explanatory statement***

*The new clause would establish a clear statutory duty on public authorities in England and Wales to commission specialist support and services for all persons affected by domestic abuse, together with a duty on the Secretary of State to ensure sufficient protection and funding for the implementation of this duty.*



## **NC20: "Duty to commission specialist domestic abuse support services"**

- (1) It is the duty of relevant public authorities in England and Wales to commission sufficient specialist services for all persons affected by domestic abuse regardless of status.
- (2) To ensure compliance with the duty under subsection (1) public authorities must -
  - (a) Regularly assess population and support needs changes in their area; and
  - (b) Co-operate to discharge the duty.
- (3) The Secretary of State may issue regulations making provision for the resolution of disputes between public authorities relating to the discharge of the duty under subsection (1).
- (4) In performing the duty under subsection (1) a relevant public authority must secure sufficient specialist services for (among others) the following persons -
  - (a) Any victim of domestic abuse aged 18 or over;
  - (b) Any child aged under 18 who experiences or witnesses domestic abuse;
  - (c) Any child who is a close relative of a victim of domestic abuse;
  - (d) Any person aged 18 or over who exhibits abusive behaviour towards another person to whom they are personally connected;
  - (e) Any child aged under 18 who exhibits abusive behaviour towards another person to whom they are personally connected.

- (5) In this section -

"abusive behaviour" is behaviour that is abusive within the definition in section 1(3).

"close relative" includes a daughter, son, sibling, sibling-in-law, step child, step sister, step brother, foster child, niece, nephew or grandchild.

"domestic abuse" has the meaning given in section 2.

"relevant public authorities" are public authorities with functions relevant to the provision of specialist services for victims of domestic abuse, and include but are not limited to -

- (a) Ministers of the Crown and any government department in the charge of a Minister;
- (b) any local authority in England and Wales;
- (c) NHS Trusts in England and Wales;
- (d) Police and Crime Commissioners;
- (e) Prison, Police, and Probation Service.

"Specialist services" include but are not limited to the following when provided in connection to domestic abuse, whether provided by a public authority or any other person or body -

- (a) Protective measures and action taken to protect persons against domestic abuse;
- (b) Residential accommodation, including refuge services;
- (c) Counselling and other support;
- (d) Advocacy services;
- (e) Access to welfare benefits;
- (f) Perpetrator programmes;
- (g) Financial support;
- (h) Legal services;
- (i) Helplines;
- (j) Services designed to meet the particular needs of a group that shares a status to ensure appropriate and effective service provision, including separate or single-sex services within the meaning given in Part 7 of Schedule 3 the Equality Act, and "communal accommodation" within the meaning given in paragraph 3 of Schedule 23 to the Equality Act 2010.

“Status” means a status for the purpose of Article 4 (3) of the Council of Europe Convention in preventing and combating violence against women and domestic violence, and combined forms of any such status.

“Victims of domestic abuse” includes -

(a) Person towards whom domestic abuse is directed, and

(b) Persons who are reasonably believed to be at risk of domestic abuse.”

***Explanatory statement***

*The new clause would establish a clear statutory duty of public authorities in England and Wales to commission specialist support and services for all persons affected by domestic abuse, together with a duty on the Secretary of State to ensure sufficient protection and funding the implementation of this duty.*