



DEBATE PACK

Number CDP-2018-0180, 13 July 2018

Progress on protecting victims of domestic abuse

Westminster Hall, Wednesday 18 July
2018, 2.30pm

A Westminster Hall debate on Progress on protecting victims of domestic abuse in the family courts is scheduled for Wednesday 18 July 2018 at 2.30pm. The Member leading the debate is Jess Phillips MP.

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1. Background

1.1 Introduction

On 17 February 2017, the Prime Minister announced ‘a major programme of work leading towards bringing forward a Domestic Violence and Abuse Act’. The [Queen’s Speech 2017](#) confirmed that there would be a draft Domestic Violence and Abuse Bill introduced to:

- Establish a Domestic Violence and Abuse Commissioner;
- Definition of domestic abuse and bring in consolidated protection orders;
- Allow aggravated sentences where abusive behaviour involves a child.

The Queen’s Speech also announced that a Courts Bill would re-introduce measures to prevent alleged abusers cross-examining victims directly in family courts.

The Prisons and Court Bill 2017

The [Prisons and Courts Bill](#) published on 23 February 2017 contained provisions to amend the [Matrimonial and Family Proceedings Act 1984](#) to prohibit any person with an unspent conviction for, or who is charged with, a ‘specified offence’ from cross examining the victim of that offence during the course of family proceedings. ‘Specified offences’ would be set out in regulations. Further information on the provision, set out in the (then) clause 47 of the Bill is provided in the [Library briefing paper](#) on the Bill.¹

The announcement of early the General Election in 2017, meant that the *Prisons and Courts Bill* was not able to proceed through its Parliamentary stages and accordingly, the Bill fell at dissolution.

Ten-Minute Rule Bill

Plaid Cymru’s Liz Saville Roberts introduced the [Courts \(Abuse of Process\) Bill 2017-19](#) under the Ten-Minute Rule on 12 December 2017, and highlighted the issue of cross-examination by perpetrators, particularly in vexatious court claims:

I am honoured to present this motion in collaboration with Harry Fletcher of the victims’ rights campaign, who, working alongside Zainab Gulamali of Plaid Cymru’s office and Speaker’s intern Ami McCarthy, has a worthy record of furthering the interests of victims here in Westminster. Our work earlier this year reviewed victims’ experiences of vexatious court claims, many of which had been initiated by perpetrators of abuse. A survey of 122 victims of stalking and domestic abuse gave us a snapshot of individuals’ unnecessary suffering and distress, as well as the courts’ unintended role. Our research uncovered that 55% of the victims had court proceedings taken out against them by their abusers. All these victims—this should be noted: all of these victims—had restraining orders in place. Two thirds of them had to appear in court, and a third were

¹ [Domestic violence in England and Wales](#) CBP 6337, 21 June 2017

personally cross-examined by the perpetrator. In only a quarter of these cases did the police view the court proceeding as a breach of those restraining orders.

The purpose of this Bill is to limit the ability of perpetrators of primarily domestic abuse, stalking and harassment to use—indeed, to misuse or abuse—family and civil courts as a cynical and calculated method of causing further distress and exercising deliberate control over the actions of their victims. The Bill also strengthens the sanctions available for a breach of a restraining or other restrictive order. In the event of multiple breaches, the Bill introduces a presumption of custody.

The Bill made no further progress.

Domestic violence consultation 2018

In March 2018, the Government launched a [consultation](#) ‘seeking views on both legislative proposals for a landmark draft Domestic Abuse Bill and a package of practical action.’ The [consultation](#) sought views on how best to:

- **promote awareness** – to make sure everyone understands what domestic abuse is and how to tackle it.
- **protect and support** – to improve the safety of victims and the support available.
- **pursue and deter** – to ensure that perpetrators are held responsible for their actions and that the response of police and the justice system is effective.
- **improve performance** – to encourage all services and organisations working with domestic abuse victims or perpetrators to do so in the best way possible.

The [full consultation document](#) proposes the introduction of a statutory definition of domestic abuse; the creation of a new Domestic Abuse Protection Notice (DAPN), to be made by the police; and a new Domestic Abuse Protection Order (DAPO) to be available to the courts in a wide range of circumstances.

In relation to protections in the family courts, the consultation states that new [Family Procedure Rules](#) allow vulnerable parties to family proceedings to give evidence behind a protective screen or via video link.² It adds:

We also want to make sure that individuals in the family justice system receive the support and protections they require. We have worked closely with senior family judges and the Family Procedure Rule Committee to introduce new rules of court and a new practice direction relating to vulnerable parties and witnesses involved in family proceedings. The new rules require the court to consider whether a party’s participation in the court proceedings is likely to be diminished by reason of vulnerability, or if the quality of the evidence of a party or witness is likely to be diminished by reason of vulnerability. If so, the court must consider whether the person needs the assistance of a particular measure, such

² See: [Practice Direction 12J - child arrangements & contact orders: domestic abuse and harm](#), r19(k)

as a protective screen or a video link. We have developed fresh training for family court staff to help them identify and support vulnerable court users. This will contribute to a more positive court experience beyond the courtroom for vulnerable people.³

The consultation asks:

44 Are there other aspects of the criminal court treatment of vulnerable people which the family court could learn from?

The consultation closed to submissions on 31 May 2018. An update is provided in the answer to the following Parliamentary Question:

Domestic Violence

[Liz Saville Roberts](#) (Dwyfor Meirionnydd):

To ask the Secretary of State for the Home Department, what discussions he has had with Cabinet colleagues on making the draft Domestic Violence and Abuse Bill available for formal parliamentary pre-legislative scrutiny.

[Victoria Atkins](#) (Home Office):

We received over 3,200 responses to our domestic abuse consultation. The responses are currently being analysed and we intend to publish a Government response as well as a draft Bill this session.

Ministers and officials from across Government meet regularly to ensure we develop a Bill and supporting non-legislative package that transforms the response to domestic abuse. ([WPQ 157213](#) 3 July 2018)

A draft Bill will be published later this session.⁴

Pressure for a faster response

Women's Aid and Queen Mary University School of Law published a report in May 2018 which argued that the Government shouldn't wait for the Domestic Abuse Bill but should use "the quickest legislative vehicle available":

The government committed to prohibit perpetrators from cross-examining their victims in the family courts in 2017, but the legislation has been delayed. The government is now proposing to ban cross-examination in the criminal justice system through the Domestic Abuse Bill, but to fully protect survivors of domestic abuse from this abhorrent practice the family court ban must also be applied as soon as possible. The ban must be enacted by the quickest legislative vehicle available.⁵

The issue of perpetrators cross-examining victims was raised during the Lords second reading of the [Courts and Tribunals \(Judiciary and Functions of](#)

³ Ministry of Justice consultation, Transforming the response to domestic abuse March 2018, p53

⁴ [Domestic Violence: WPQ 161097 \(HC\)](#), 5 July 2018

⁵ Women's Aid and Queen Mary University School of Law, "[What about my right not to be abused?](#)" [Domestic abuse, human rights and the family courts](#), May 2018 pp7-8

[Staff\) Bill \[HL\]](#). Several peers mentioned the absence of any provision to deal with the problem, including the Conservative peer and Victims' Commissioner Baroness Newlove:

The area that particularly concerns me—it was mentioned by the noble Baroness, Lady Chakrabarti—is the continuation of cross-examination of domestic abuse victims by perpetrators in our family courts. Over the last few months, I have been around the country speaking to many victims of this horrendous crime. Hearing their stories has left me shocked, as has the way that the courts have treated these vulnerable victims. Time is now of the essence. It is within our gift to transform these people's experiences now, if only we can implement the legislation. How can it be right that a victim can give evidence behind a screen in our criminal courts and yet, sadly, when they appear in our family courts, despite a restraining order being in place, cross-examination can be carried out by the individual who has made the lives of that victim and their children pure hell?

I thank Women's Aid for its briefing on some very important points. Its recent study carried out alongside Queen Mary University shows that nearly a quarter of domestic abuse victims are still being allowed to be cross-examined by the perpetrator in our family courts, and 61% are offered special measures. The original Bill put a precise prohibition on that practice.⁶

Liberal Democrat Lord Marks of Henley-on-Thames suggested that the long title of the Bill might be extended to allow the ban to be included:

We have heard in this debate much more about what the Bill does not do but should do than about what it in fact does. So, turning to what is not in the Bill, I note that the Long Title is relatively wide:

"To make provision about the judiciary and the functions of the staff of courts and tribunals".

It is certainly wide enough, I suggest, to accommodate the campaign of the noble and learned Lord, Lord Mackay, to give England and Wales back its supreme court, but not—sadly, I think—wide enough to comprise the campaign by Women's Aid to prevent victims of domestic abuse being cross-examined by the perpetrators of that abuse. Having listened to the speech of the noble Baroness, Lady Newlove, many of us would no doubt hope that the Government and the noble and learned Lord might see their way to extending the Long Title to encompass provision in that regard. Noble Lords may wish to explore the process of modernisation with inventive amendments within the Long Title, as it exists, in that context.⁷

⁶ [HL Deb 20 June 2018 cc2016-7](#)

⁷ [Ibid c2049](#)

2. News and blogs

Ministry of Housing, Communities and Local Government

[£19 million fund to support victims of domestic abuse](#)

2 July 2018

Home Office and Ministry of Justice

[Government takes action to tackle domestic abuse](#)

8 March 2018

Women's Aid

[Women's Aid responds to Domestic Abuse Bill consultation announcement](#)

8 March 2018

AVA (Against Violence and Abuse)

[Domestic Abuse Bill](#)

8 March 2018

Refuge

[Refuge responds to the Domestic Abuse Bill consultation launch](#)

8 March 2018

Victim Support

[Victim Support responds to the Government's draft Domestic Abuse Bill](#)

8 March 2018

Local Government Association

[LGA responds to Domestic Abuse Bill consultation](#)

8 March 2018

New Law Journal

[Domestic Abuse Bill consultation launched](#)

8 March 2018

Sentencing Council

[Sentencing Council publishes new guideline on domestic abuse](#)

22 February 2018

Police.uk

[Protection for victims of domestic violence](#)

25 November 2013

2.1 Press

BBC News

[Thousands misusing abuse orders to get legal aid, says parenting charity](#)

3 July 2018

Guardian

[Domestic abuse survivors and children sleeping rough, survey finds](#)

26 June 2018

Guardian

[MPs back campaign to strengthen domestic abuse bill](#)

23 May 2018

Guardian

[Our new domestic violence bill will outlaw economic and physical abuse](#)

Theresa May 8 March 2018

Independent

[Theresa May has a lot to say about domestic violence but little cash to back it up](#)

8 March 2018

BBC News

[Domestic abuse: tagging suspects plan in draft bill](#)

8 March 2018

3. Parliamentary Business

3.1 Ministerial Statements

[Public consultation on transforming the response to domestic abuse](#)

Amber Rudd (The Secretary of State for the Home Department):

The Prime Minister, Justice Secretary and I are today launching a consultation which seeks to address domestic abuse at every stage from prevention through to rehabilitation.

Domestic abuse is an inexcusable and devastating form of abuse that can have a lifelong impact on its victims and their families. There are approximately two million reported victims every year, and domestic abuse accounts for over 10% of all police recorded crime and nearly 20% of all police charges.

This Government has taken strong action to tackle domestic abuse. We are the first country to criminalise coercive and controlling behaviour, and we have introduced Domestic Violence Protection Orders and the Domestic Violence Disclosure Scheme. We have made legislative changes to legal aid to make it more accessible. Last year we also amended electoral law to make it easier for survivors of domestic abuse to register to vote, while keeping their name and address private.

In addition this year we have introduced a Secure Tenancies (Victims of Domestic Abuse) Bill that will maintain the status of survivors living in social housing with an existing lifetime tenancy when they move to a new social property. We have provided £20 million for accommodation based services such as refuges, which is already providing 2,200 additional beds in refuges and safe accommodation benefiting 19,000 victims. The best available data shows bed spaces have increased by 10% since 2010 and we are committed to supporting refuges and providing stable funding in the future.

We are reviewing the way in which refuges and supported housing are delivered and have heard the concerns about how our proposals will work in practice. We are working with all the charities and organisations working on the frontline, asking them to come forward with their ideas on how best to deliver this. That process is ongoing – and we've been clear no options are off the table as we work with them to ensure women requiring support in their time of need are not let down.

However we know there is more to do and that is why this Government is committed to transforming how we think about and tackle domestic abuse. We want victims to feel supported so that they can seek help and to rebuild their lives, safe in the knowledge that their perpetrator will be pursued and prosecuted.

The consultation seeks views under the four main themes set out below with the central aim of prevention running through each.

- Promote awareness – Proposals to help put domestic abuse at the top of everyone's agenda, and raise public and professionals' awareness.

- Protect and support – Proposals to enhance the safety of victims and the support that they receive.
- Pursue and deter – Proposals to ensure an effective response to perpetrators from initial police response through to conviction and management of offenders (including rehabilitation).
- Improve Performance – Proposals to drive consistency and better performance in the response to domestic abuse across all local areas and agencies/sectors.

The Government welcomes responses from victims and survivors, charities, specialist organisations, experts and professionals across policing, criminal justice, health, welfare, education, social services, employment and local authorities who deal with these issues on a daily basis.

We are seeking a combination of legislative and non-legislative solutions for delivering the proposals set out in the consultation. Where primary legislation is required, the responses to the consultation will inform the content of the draft Domestic Abuse Bill announced in the Queen's speech.

The consultation will run for 12 weeks to 31 May.

A copy of the consultation paper will be placed in the Library of the House and will be available online at www.gov.uk.

8 March 2018 | Written statement | HCWS 525

3.2 Parliamentary Questions

[Domestic Violence](#)

Asked by: Jim Cunningham

To ask the Secretary of State for the Home Department, what recent discussions he has had with the Chancellor of the Exchequer on supporting the financial needs of women who escape abusive relationships and consequently lose access to their finances.

Answered by: Victoria Atkins | Home Office

Home Office Ministers have met and will continue to meet a range of Ministers across Government to drive forward the Government's commitment to transform the response to domestic abuse, working towards publication of a draft Domestic Abuse Bill and supporting non-legislative package.

On 8 March we launched a 12 week public consultation on proposals for the Bill including creating for the first time a statutory definition of domestic abuse, which will cover psychological, physical, sexual, emotional and economic abuse. The Government has already provided £265,000 to support organisations that raise awareness of economic abuse, and build the understanding and capability of financial organisations to respond, and the consultation asked what more could be done to support victims of economic abuse. The consultation closed on 31 May. Over 3,200 responses to the consultation were received. The responses to the consultation are being considered and a draft Bill will be published later this session.

10 July 2018 | Written question | 161097

[Domestic Violence: Immigrants](#)

Asked by: Baroness Lister of Burtersett

To ask Her Majesty's Government what assessment they have made of the number of domestic abuse victims who are unable to access refuge services because they have no recourse to public funds.

Answered by: Lord Bourne of Aberystwyth | Ministry of Housing, Communities and Local Government

The Department does not centrally hold the number of victims of domestic abuse who are unable to access refuge services in the UK.

The provision of refuge is a devolved matter. We are carrying out a review of how domestic abuse services are delivered locally across England. To inform our review we have commissioned an audit - being run by Ipsos MORI - which will give us a complete picture of domestic abuse provision across England for all victims, enabling us to assess what impact services are having and to identify any gaps in provision. Thereafter we will make decisions on the future arrangements for domestic abuse services.

The Destitute Domestic Violence (DDV) concession lifts the no recourse to public funds condition for eligible individuals, granting a period of three months' leave outside the immigration rules and the ability to apply for access to public funds from DWP, which may be used to help fund alternative accommodation away from their abuser. Government also part funds Women's Aid to run 'Routes to Support' (formerly UK Refuges Online), which provides support to victims who need to access refuges and provides detailed monitoring and analysis of the availability of bed spaces and other services. The funding also supports the 'No Woman Turned Away project', which offers caseworker support to victims who have faced difficulties accessing a refuge, including victims with no recourse to public funds.

Government has consulted on what more can be done to protect domestic abuse victims with no recourse to public funds through the Domestic Abuse Bill, which closed on 31 May. We are currently analysing the 3,200 plus responses received and will carefully consider what future courses of action are necessary.

9 July 2018 | Written question | HL 8987

[Domestic Violence](#)

Asked by: Christine Jardine

To ask the Secretary of State for the Home Department, what the timetable is for his Department to respond to its consultation on the draft Domestic Violence and Abuse Bill; and what the timetable is for further steps to be taken in relation to that Bill.

Answered by: Victoria Atkins | Home Office

On 8 March we launched a 12 week public consultation on proposals for a landmark domestic abuse Bill and a supporting package of practical action to transform the response to domestic abuse. The consultation closed on 31 May. Over 3,200 responses to the consultation were received. The responses to the consultation are being considered and a draft Bill will be published later this session.

28 June 2018 | Written question | 157237

[Domestic Violence](#)

Asked by: Liz Saville Roberts

To ask the Secretary of State for the Home Department, what discussions he has had with Cabinet colleagues on making the draft Domestic Violence and Abuse Bill available for formal parliamentary pre-legislative scrutiny.

Answered by: Victoria Atkins | Home Office

We received over 3,200 responses to our domestic abuse consultation. The responses are currently being analysed and we intend to publish a Government response as well as a draft Bill this session.

Ministers and officials from across Government meet regularly to ensure we develop a Bill and supporting non-legislative package that transforms the response to domestic abuse.

3 July 2018 | Written question | 157213

[Domestic Violence: Victims](#)

Asked by: Virendra Sharma

To ask the Secretary of State for Housing, Communities and Local Government, what statutory duties local authorities have to ensure the protection of (a) male and (b) female victims of domestic abuse.

Answered by: Heather Wheeler | Ministry of Housing, Communities and Local Government

Local authorities have a duty under homelessness legislation to provide safe accommodation to a victim of domestic abuse who has had to flee their home. The Homelessness Statutory Code of Guidance provide local authorities with guidance on providing homeless services to people who experience domestic abuse or are at risk of domestic abuse.

Stronger duties to secure accommodation exist for households who have a priority need for accommodation. Priority need may include someone who is vulnerable in some way as a result of ceasing to occupy accommodation because of violence from another person or threats of violence from another person which are likely to be carried out.

Domestic violence and abuse can affect anyone regardless of their age, gender identity or reassignment, race, religion, class, sexual orientation and marital status. Housing authorities should bear in mind that the provisions of the Equality Act 2010 for public authorities apply to policies, practice and procedures relating to homelessness and domestic violence and abuse.

Government has consulted on what more can be done to protect domestic abuse victims through the Domestic Abuse Bill, which closed on 31 May. We are currently analysing the 3,200 plus responses received and will carefully consider what future courses of action are necessary.

12 June 2018 | Written question | 149715

[Refuges: Females](#)

Asked by: Kate Green

To ask the Secretary of State for Housing, Communities and Local Government, how many refuges in the UK are available for a woman with no recourse to public funds; and what the locations are of those refuges.

Answered by: Nigel Adams | Ministry of Housing, Communities and Local Government

The Department does not hold centrally the number and location of refuges which are available to women with no recourse to public funds in the UK.

The provision of refuge is a devolved matter. We are carrying out a comprehensive review of how domestic abuse services are delivered locally across England. To inform our review we have commissioned an audit - being run by Ipsos MORI – which will give us a complete picture of domestic abuse provision across England, including services for victims with no recourse to public funds. This will enable us to assess what impact services are having and to identify any gaps in provision. Thereafter we will make decisions on the future arrangements for domestic abuse services.

Of the projects funded through the Ministry of Housing Communities and Local Government 2016-18 £20 million fund for domestic abuse services, 14 committed to use funding they received to support victims of domestic abuse with no recourse to public funds. We also fund the 'No Women Turned Away Project' managed by Women's Aid, which provides support to victims of domestic abuse, including those with no recourse to public funds, who may have been turned away from a refuge.

Government has consulted on what more can be done to protect domestic abuse victims with no recourse to public funds through the Domestic Abuse Bill, which closed on 31 May. We are currently analysing the 3,200 plus responses received and will carefully consider what future courses of action are necessary.

11 June 2018 | Written question | 150104

4. Organisations and further reading

[Domestic violence in England and Wales](#), Commons Library briefing paper CBP-6337, 21 June 2017

Women's Aid and Queen Mary University School of Law, ["What about my right not to be abused?" Domestic abuse, human rights and the family courts](#), May 2018 p7-8

[Courts \(Abuse of Process\) Bill 2017-19](#), Parliament Bills and Legislation page

Sentencing Council, [Overarching principles – Domestic abuse: Definitive guideline](#), 24 May 2018

Home Office and Ministry of Justice, [Domestic Abuse Bill consultation](#), 8 March 2018

HM Government, [Transforming the response to domestic abuse: Government consultation](#), 8 March 2018

Home Office, [Domestic violence protection orders](#), 29 June 2011

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