



Labour policy on domestic violence – 1999-2010

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The Labour Government introduced a number of reforms to the legal remedies for victims of domestic violence, principally through the *Domestic Violence Crime and Victims Act 2004* and through the *Crime and Security Act 2010*. It also introduced non-legislative measures such as Specialist Domestic Violence Courts, Multi-Agency Risk Assessment Conferences and Independent Domestic Violence Advisers. This standard note examines the development of Labour policy in this area, and the changes to the law which Labour introduced. Library Standard Note [Domestic Violence](#) looks at the present Government's policies as well as giving an overview of the subject. Library Standard Note Library Standard Note 727, [Domestic violence: A Select Bibliography](#) provides sources of further reading.

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1 The existing legislation

For many years, much of the violence which took place within the context of a relationship was considered to be a private matter rather than a crime. In the 1980s there was considerable criticism of the policing of domestic violence, with a large body of research showing that few perpetrators of domestic violence were prosecuted, or even arrested.¹ The Government responded by improving guidance to the police, notably in Home Office Circular 1990/60 which stated that complaints of domestic violence should be recorded and investigated in the same way as crimes committed by strangers.

Part IV of the *Family Law Act 1996* was designed to improve on the previous civil law remedies against domestic violence, following a report by the Law Commission which said that they were “complex, confusing and lack integration”.² The background to the introduction of the 1996 Act is described in Library Research Paper 96/39, [Family Law Bill \(HL\): Domestic violence](#).³ It introduced two new remedies, “non-molestation orders” and “occupation orders”, and repealed the previous legislation.

¹ For a review of this literature, see Carolyn Hoyle, *Negotiating domestic violence Police, Criminal Justice and Family Law: Domestic Violence and Occupation of the Family Home*, Law Com No 207, HC 1 of 1992/93, May 1992, para 1.2

² *Family Law Bill [HL] [Bill 82 of 1995/96]: Domestic Violence*, 21 March 1996

2 Living without Fear

In July 1999 the Home Office assumed the policy lead on violence against women, which had previously been dealt with by the Women's Unit based at Cabinet Office. T

Living without Fear - An Integrated Approach to Tackling Violence against Women was published jointly by the Women's Unit and the Home Office in June 1999. It set out the current programme of work underway across government to tackle violence against women, and included a range of examples of current practice intended to support agencies dealing with domestic violence.

The Home Office commissioned a series of research papers between 1999 and 2000 to assess the effectiveness of the existing criminal and civil jurisdictions, and of various types of intervention. The papers, produced for the Policing and Reducing Crime Unit, were entitled, *Reducing Domestic Violence. What Works?* Areas covered included risk management, use of the civil and criminal law, policing, accommodation and perpetrator programmes.

3 Justice for All

Chapter 8 of the White Paper *Justice for All*,⁴ published in July 2002, sought views on proposals for changes to the current legal framework designed to combat domestic violence:

Stopping domestic violence and bringing perpetrators to justice is a priority. Since late last year, a new Ministerial Group has been starting to take the steps needed to make a real difference. The Group is concentrating on five priority areas for action:

- to increase safe accommodation choices for women and children;
- to develop early and effective health care initiatives;
- to improve the interface between the civil law and the criminal law;
- to ensure a consistent and appropriate response from the police and the CPS; and
- to promote education and awareness raising.⁵

Various measures not requiring a change in legislation, which had already been put in place, were described in the White Paper:

8.7 The police and the CPS are committed to best practice in the investigation and prosecution of domestic violence crime. A pro-arrest policy has been introduced across all police forces and the CPS has reviewed its policy and, following extensive consultation, set out how domestic violence cases are prosecuted, including in what circumstances a case may proceed without the need for the victim to give evidence personally. Guidance has also been produced for prosecutors on a range of issues relevant to domestic violence cases, such as the effect on children and the extra difficulties some victims from minority ethnic communities face in reporting these crimes. The CPS now also has a national network of domestic violence specialists who can coordinate prosecution policies and processes across the country.⁶

⁴ Home Office, *Justice for All*, Cm 5563, July 2002 :

⁵ Ibid, para 8.6

⁶ Op cit, para 8.7

4 Safety and Justice

The *Safety and Justice* consultation paper, published in June 2003,⁷ set out the Government's new strategy for tackling domestic violence, building on the proposals in the 2002 *Justice for All* White Paper. The consultation paper set out that the Government's strategy for tackling it was based on three elements:

- prevention: working to prevent it happening in the first place, and working with victims and offenders to prevent it recurring;
- protection and justice: increased legal protection for victims and their families; and
- support for victims to rebuild their lives.

Part 3 of the paper looked at improving the legal protection available to victims and the response they receive from the criminal justice system, and sought views on a number of changes including:

- extending the availability of non-molestation and occupation orders under the Family Law Act 1996;
- criminalising the breach of such orders;
- extending the availability of restraining orders under the Protection from Harassment Act 1997 to cover all violent offences; and allowing the courts to make an order where a person is charged, pending trial, or where there is insufficient evidence to convict but the court considers that it is necessary to make an order to protect the victim;
- making common assault an arrestable offence;
- improving the way the law on homicide operates in domestic violence cases;
- establishing multi-agency reviews after domestic violence homicides to learn the lessons on how agencies might have prevented the death; and
- improving liaison between the operation of the civil and criminal courts.

The Home Office published a summary of responses to the consultation document in December 2003.⁸

5 The Domestic Violence Crime and Victims Act 2004

The *Domestic Violence Crime and Victims Act 2004* came into force in stages, starting in January 2005. Full background to the bill is provided in [Library Research Paper 04/44](#). Some of the main measures, together with their commencement dates are as follows:

- Creation of an offence of causing or allowing the death of a child or vulnerable adult (section 5, which commenced on 21 March 2005)
- Making common assault an arrestable offence (section 10, which commenced on 1 July 2005). However, this provision has since been repealed, as section 110 of the

⁷ Home Office, *Safety and justice: the Government's proposals on domestic violence*, Cm 5847, June 2003.

⁸ Home Office, *Summary of responses to Safety and Justice; The Government's proposals on Domestic Violence*, December 2003

Serious Organised Crime and Police Act 2005 changed the arrest provisions to make all offences arrestable where there are reasonable grounds for believing that arrest is necessary.

- Giving cohabiting same-sex couples the same access to non-molestation and occupation orders as heterosexual couples, and making couples who have never co-habited or been married eligible for non-molestation orders (section 3, commenced 5 December 2005)
- Making breach of a non-molestation order a criminal offence, punishable, on indictment, by up to five years' imprisonment (section 1, commenced 1 July 2007)
- Extending the availability of non-molestation and occupation orders to couples who have never lived together or been married (section 4, commenced 1 July 2007)
- Allowing courts to impose restraining orders under the *Protection from Harassment Act 1997* on those convicted of any offence, not just those convicted of harassment, and also on those acquitted of any offence (section 12, commenced, after some delays,⁹ on 30 September 2009)

Section 9 of the Act, which establishes statutory multi-agency domestic homicide reviews to learn lessons from deaths arising from domestic violence, did not come into force whilst Labour was in power, at least in part because of resource implications.¹⁰ It was eventually brought into force in April 2011.

6 Consultation on further changes to the law

The Government issued a consultation document in March 2009 which aimed to “generate national debate” on proposals to prevent violence against women and girls.¹¹ At the same time, it asked Chief Constable Brian Moore from the Association of Chief Police Officers (ACPO) Domestic Abuse Working Group to conduct a full review of what additional powers the Criminal Justice System might take to control the activities of perpetrators of gender based violence (including domestic violence). The review’s report was published in September 2009. Press coverage tended to focus on proposals to register and track serial perpetrators of violence against women and girls, and to give people at risk of violence a “right to know” about relevant information in the state’s possession. The report also recommended “go” orders.¹²

7 “Go” orders – the *Crime and Security Act 2010*

“Go” orders or barring orders mean that police are given powers to order a suspected perpetrator to leave the home. A number of countries have introduced them in recent years, including Austria, Switzerland, Germany and Poland. In its 2008 report on Domestic Violence, the Home Affairs Committee recommended their introduction:

339. We recommend that the Government introduces "GO" orders, which have proved effective in other European countries in offering an inexpensive and dynamic short

⁹ See for example Home Office, [National Domestic Violence Delivery Plan Annual Progress Report 2006/07](#) March 2007, p10 and HC Deb 4 March 2008 c2367W

¹⁰ HC Deb 4 March c2293W

¹¹ HM Government, [Together we can end violence against women and girls: A consultation document](#), March 2009

¹² ACPO Review for the Home Secretary, *Tackling Perpetrators of Violence Against Women and Girls*, September 2009, Proposal 6, pp48-53

term measure of removing the perpetrator from their home, thus allowing the victim to remain in it. We recognise that it is important to ensure that, as far as possible, the victim is involved in the decision to remove the perpetrator from the home. However, it seems to us that a compromise arrangement is possible, with an initial decision to remove the perpetrator taken by the police, and subsequent decisions taken in consultation with the victim. Feedback from victims, through our eConsultation, suggests that they would welcome such a scheme.

340. Development of "GO" orders in the UK should be linked with Sanctuary schemes, which we discuss in paragraphs 221 to 227 of this report, to provide further protection to victims who remain in their own home.¹³

In its response to the Committee, the Government said it was "open to learn from the good practice and experiences of other countries".¹⁴

The ACPO review document, published in September 2009, provided a more detailed discussion of the international comparisons, particularly in Australia and Germany.¹⁵ The Government's March 2009 consultation mentioned the operation of "go" orders in other countries, and went on to ask what could be learnt from other jurisdictions and the powers they have created to control perpetrators.¹⁶

In September 2009, the Home Secretary, Alan Johnson, announced at the Labour Party Conference that the Government would be introducing Domestic Violence Protection Orders¹⁷.

The provisions were introduced by way of the *Crime and Security Bill* 2009-10. Further information is available in Library Research Papers 09/97, *Crime and Security Bill* (22 December 2010) prepared for the Bill's Second Reading. The *Crime and Security Act 2010* received Royal Assent on 8 April 2010, just before the General Election. Following a review, the Coalition Government piloted the provisions. Further details are in Library Standard Note 6337, *Domestic Violence*.

8 Non legislative reforms

Details of other action taken by the Labour government to tackle domestic violence were provided in the annual progress reports on the National Domestic Violence Delivery Plan (the most recent of which was published in August 2009).¹⁸ Some key services which were introduced include the following:

Specialist Domestic Violence Courts (SDVCs), which are court systems involving partnership between police, prosecutors, court staff, the probation service and specialist support services for victims. The magistrates sitting in these courts are specially trained, and the partners work together to identify and track domestic violence cases and support victims

¹³ House of Commons Home Affairs Committee, *Domestic violence, forced marriage and "honour-based" based violence*, 20 May 2008, HC 263 – I, 2007-08, pp107-9

¹⁴ *The Government reply to the sixth report from the Home Affairs Committee Session 2007-08 HC 263, Domestic Violence, Forced Marriage and "Honour"-based Violence*, Cm 7450, July 2008, p85

¹⁵ ACPO Review for the Home Secretary, *Tackling Perpetrators of Violence Against Women and Girls*, September 2009, pp 50-2

¹⁶ HM Government, *Together we can end violence against women and girls: A consultation document*, March 2009, p19

¹⁷ *Alan Johnson's speech to Labour Party Conference*, 29 September 2009

¹⁸ HM Government, *National Domestic Violence Delivery Plan Annual Progress Report 2008-09*, August 2009

The first 25 were accredited in 2005/06 , and by 2009 there were 127 in England and Wales.¹⁹

Multi-Agency Risk Assessment Conferences (MARACs), which were introduced in 2003. They bring local statutory and voluntary agencies together to protect women at highest risk of repeat domestic violence. The Government says that over 29,000 women received protection from MARACs in 2008, and at July 2009 there were over 225 across England and Wales.²⁰

Independent Domestic Violence Advisers (IDVAs)²¹ which were introduced in 2005-06. These are trained specialists providing independent advocacy and support to high-risk victims. By summer 2009 the numbers had increased from 100 to over 700 in England and Wales.²²

9 The Labour government's final strategy document

Following the March 2009 consultation document,²³ the Government published its strategy document in November 2009.²⁴ This acknowledged the need for a co-ordinated, integrated approach to tackling violence against women and girls – something which was welcomed by End Violence Against Women.²⁵

Proposals on prevention included:

- raising awareness through campaigns, including one aimed at targeting violence within teenagers' relationships
- promoting healthy relationships through schools and colleges, for example through including gender equality and violence against women in the school curriculum
- early identification and professional training

Provision measures included:

- a new online directory of services and an online resource centre bringing together guidance and other materials
- a new 24 hour sexual violence helpline
- exploring better training for frontline staff

Priorities for protection measures were to:

- provide end-to-end support for all victims through the criminal and civil justice systems, partly through continuing to roll out MARACs, possibly placing them on a statutory basis
- bring more offenders to justice by improving reporting and conviction rates

¹⁹ Ibid p17

²⁰ Ibid

²¹ Formerly known as Independent Domestic Violence Advocates

²² HM Government, *Together we can end violence against women and girls: A strategy*, November 2009, p17

²³ Home Office, *Together we can end violence against women and girls: a Consultation*, March 2009

²⁴ HM Government, *Together we can end violence against women and girls: a Strategy*, November 2009

²⁵ *Government plan to stop abuse of women and girls - major success for EAW coalition*, November 2009

- rehabilitate offenders and manage the continuing risk they may present to women and girls, with the National Offender Management Service publishing new strategies on domestic abuse and sexual offenders during 2010.

10 Assessments of Government policy

10.1 Home Affairs Committee

The Home Affairs Committee published a report on *Domestic Violence, Forced Marriage and "Honour"-Based Violence* in May 2008.²⁶ It summarised its overall assessment of the Government's performance as follows:

Our evidence showed that the Government has made significant steps to improve its response to domestic and so-called "honour"-based violence and forced marriage over the last few years. It has introduced new legislation on domestic violence and on forced marriage, established a National Domestic Violence Delivery Plan, an Inter-Ministerial Group on Domestic Violence and a dedicated Forced Marriage Unit. It has funded a number of initiatives in partnership with the voluntary sector, including a National Domestic Violence Helpline, and it has introduced new specialist domestic violence courts, multi-agency risk assessment conferences and independent domestic violence advocates. However, significant failings remain in a number of key areas.

Overall, we conclude that the Government's approach to all forms of domestic violence remains disproportionately focused on criminal justice responses at the expense of effective prevention and early intervention. We conclude that the vast costs of domestic violence to the UK economy—estimated at £25.3 billion in 2005-06 alone—demonstrate the scale of savings to be gained by effective prevention. We therefore recommend that the Government adopts a national strategy on domestic violence, or on violence against women more generally, to include an explicit emphasis on prevention. We conclude that such a strategy would provide a framework within which to implement many of the detailed recommendations we make in this report.²⁷

The Government response to the report was published in July 2008.²⁸

10.2 Other commentary

A national campaigning coalition *End Violence Against Women* (EVAW) published some annual reviews of the extent to which Government was working "in a strategic and integrated way to address this issue." Their 2007 survey (published in April 2008) said that overall the Government's "scorecard" was slightly lower than it was in 2006, because two departments had not replied and therefore scored nil. The Crown Prosecution Service did best, closely followed by the Home Office. The chair of EVAW, Professor Liz Kelly, made the following assessment in her introduction to the report:

There is no doubt that some Departments are making headway in developing plans and monitoring success this year. A number of Departments were able to report progress: for example, the Crown Prosecution Service has begun to develop its own strategy on violence against women and reports significant benefits. This is welcome and ground breaking, as it uses a gender analysis to inform the delivery of an

²⁶ House of Commons Home Affairs Committee, *Domestic violence, forced marriage and "honour-based" based violence*, HC 263 of 2007-08, May 2008

²⁷ HC 263-1, *Summary*, pp 6-7

²⁸ *Domestic Violence, Forced Marriage and "Honour"-Based Violence: The Government reply to the Sixth Report from the Home Affairs Committee, Session 2007-08 HC 263*, Cm 7450, July 2008

integrated service. A number of Departments also have undertaken innovative pilot projects in key areas, and with limited resources have taken real steps to try and tackle the problem: the list of good practice examples on page 20 illustrates such success. All this represents more investment and effort than has ever been made before, and we are encouraged by it.

At the same time, however, we still lack an overarching approach; there is a plethora of plans, all vital in themselves but lacking as yet a strategic overview from the top, pulling them all together and ensuring that the measures are integrated. We still see a number of Departments failing to understand how they can contribute to the wider Government effort; and too much of the progress remains limited to pilot projects with short term funding. This dislocation at the top is reflected in fractured services on the ground: a postcode lottery, which means women in some areas have access to a diversity of specialist responses, whereas in others, virtually nothing is available locally.

EVAW therefore renews for a third year the call for Government to adopt an integrated, strategic approach to ending violence against women, similar to that being put in place in Scotland.²⁹

End Violence Against Women also published its second *Map of Gaps The postcode lottery of Violence Against Women support services in Britain* in January 2009, in conjunction with the Equality and Human Rights Commission. An earlier report in 2007 had documented uneven distribution of support services for women experiencing domestic violence, with over one third of local authorities providing no services at all.³⁰ *Map of Gaps 2* summarised its findings as follows:

Many women are still left without the local support they need:

- The latest picture shows that over one in four local authorities in Britain have no specialised support services at all.
- Ethnic minority women are especially poorly served. Of the 408 local authorities in England, Scotland and Wales, just one in 10 have a specialised service for ethnic minority women. These services are uniquely suited to deal with women facing a very particular set of circumstances, for example those fleeing forced marriage or female genital mutilation, or those with insecure immigration status.
- Glasgow has the best provision in Britain, whereas the East and South East of England are particularly poorly served.
- Of the new services opened in 2008, 60% were in statutory sector. These services, like Sexual Assault Referral Centres and Specialist Domestic Violence Courts respond to recent incidents reported to the criminal justice system. While welcome, the majority of women still choose not to report the violence to the police. Thus statutory provision only deals with a tiny fraction of the problem.
- Levels of provision in the voluntary sector, which provides a wider range of services for all women, including those who do not seek help until years after they have experienced violence, have remained static or in some cases diminished. A survey of Rape Crisis England and Wales centres conducted for this year's report indicated that

²⁹ End Violence Against Women, *Making the Grade? 2007 The third annual independent analysis of UK Government initiatives on violence against women*, April 2008, p2

³⁰ Maddy Coy, Liz Kelly and Jo Foord *Map of Gaps: The Postcode Lottery of Violence Against Women Support Services*, End Violence Against Women/Equality & Human Rights Commission, November 2007

almost a quarter (24.1%) face closure this financial year and almost two-fifths (39.3%) fear closure in 2009/10 because of a lack of funding.

- The United Nations has called for the UK to do far more to support women who are victims of violence. Violence against women costs the NHS an estimated £1.2 billion a year for physical injuries and £176 million for mental health support. Despite this the Department of Health has made no significant investment in specialised violence against women services nor made reference to violence against women in its departmental strategic plans.

- In Scotland, the Government has extended provision through a national Violence Against Women Fund for over five years. But this fund is now at risk since responsibility for funding violence against women services has been devolved to local authorities, a system which, as this year's report shows, isn't working for victims of violence in the rest of Britain.

The funding crisis faced by local women's services means not only that current gaps are unlikely to be filled but also that there will be a significant decline in services to respond to women's needs. Women who suffer violence will find themselves increasingly alone. The overall impact that will have on their health and wellbeing is immeasurable.³¹

The Government gave a broad response to the *Map of Gaps2* report in a Downing Street response to e-petition for the Government to "to end the postcode lottery of violence against women support services".³²

The Government published research in August 2008 evaluating the effectiveness of the *Domestic Violence Crime and Victims Act 2004*.³³ It concluded that the impact of the Act had been "limited":

The DVCV Act 2004 was hailed as "the biggest overhaul of legislation on domestic violence in 30 years" (Baroness Scotland, 2003). Our evaluation, which provides an early 'snapshot' of progress towards the implementation of the new measures of the Act, shows that the impact by December 2007 had been limited and in some respects unclear.³⁴

Further assessments and analyses are available from Library Research Note SN/HA/727, *Domestic Violence a Select Bibliography*.

10.3 Commentary by the Conservative and Liberal Democrat parties

Conservatives

In February 2008, the then shadow Minister for Women, Theresa May, published a report by the Conservative Women's Policy Group, which offered a critique of Government policy, focussing on problems with Supporting People, the main funding source for the provision of refuge services, and the particular problems of female immigrants, and the Government's failure to implement section 12 of the *Domestic Violence, Crimes and Victims Act 2004*.³⁵ This was followed in December 2008 by the publication of a more detailed strategy

³¹ Maddy Coy, Liz Kelly and Jo Foord, *Map of Gaps The postcode lottery of Violence Against Women support services in Britain*, End Violence Against Women/ Equality and Human Rights Commission, January 2009

³² Prime Minister's Office *Violence services - e-petition response*, 6 February 2009 [on 14 March 2010]

³³ Marianne Hester et al, *Early evaluation of the Domestic Violence, Crime and Victims Act 2004*, Ministry of Justice Research Series 14/08 August 2008

³⁴ Ibid, p32

³⁵ Conservative Women's Policy Group, *Women in the World Today*, February 2008

document, *Ending Violence Against Women*. Its proposals on domestic violence were summarised as follows:

- We support the work of Specialist Domestic Violence Centres (SDVCs) and Independent Domestic Violence Advisers (IDVAs), which are important components of the work to bring domestic violence perpetrators to justice and support survivors.
- A Conservative government would conduct a full assessment of existing Multi-Agency Risk Assessment Conferences.
- A Conservative government will review the impact of the Domestic Violence, Crime and Victims Act 2004 and consider whether changes are necessary.
- We will scrap early release on End of Custody Licence – of particular concern in domestic violence cases – and will legislate to end automatic release at the halfway point of an offender’s sentence.
- We believe that the UK can learn from New York’s example of proactive policing on domestic violence. By freeing police officers from red-tape they will have the opportunity to target households with a history of violence as part of their ‘on the beat’ activities.
- Women who leave a violence relationship can face numerous financial obstacles, such as dealing with debts that have been put in her name without her knowledge. We will, in consultation with the Office of Fair Trading, develop a code of conduct on financial institutions’ dealings with domestic violence victims.
- Women who escape violence in a refuge rely on benefits to pay for their stay. A Conservative government will introduce a three-month grace period during which time women who are housed in refuges following domestic violence will not be required to seek work in order to qualify for Jobseeker’s Allowance.³⁶

Liberal Democrats

In August 2009, the Liberal Democrats issued a policy document entitled *Real Women*.³⁷ Amongst the document’s proposals for action to tackle violence against women are the following:

Providing early intervention with education by rolling out classes about rights and fair treatment in relationships, in schools with organisation like Relate

Improving systems to report abuse by providing better and more supportive systems in schools and social services (such as health visitors and midwives) for children and adults to report abuse

Ensuring that women living in refuges can continue to work so that they can stay economically empowered. Currently some women face the ‘choice’ of giving up their job and getting a refuge place, or keeping their job and living with the abuse, because of the way refuge places are funded

Retaining services specifically targeted at ethnic minority women, so that women from ethnic minorities, who need culturally specific services, feel more confident in asking for help

³⁶ Conservative Party, *Ending violence against women*, December 2008, pp3-4

³⁷ Liberal Democrat press release, *Real Women: Healthy, happy confident*, 13 August 2009

Providing all women with access to violence against women services, regardless of their immigration status and therefore helping those with no recourse to public funds.³⁸

³⁸ Liberal Democrats, *Real Women*, August 2009, p10