



BRIEFING PAPER

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Domestic Abuse Bill 2017-19

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Summary

The main provisions of the Bill are as follows.

Part 1, Chapter 1 (clauses 1 and 2) of the Bill would **introduce a new definition of domestic abuse to the law of England and Wales**. The definition would provide the foundation for the remaining provisions in Part 1 (clauses 3-56), including the functions of the Domestic Abuse Commissioner and the new powers for dealing with domestic abuse.

Part 1, Chapter 2 (clauses 3 to 18) of the Bill would **provide the framework for a new Domestic Abuse Commissioner**. The Government intends for the Commissioner to “provide strategic oversight of the national response to domestic abuse and hold public authorities to account.” The general functions of the Commissioner would include encouraging good practice in the prevention, detection and investigation of domestic abuse, and the provision of protection and support for victims. The Commissioner would have the power to issue reports and would be required to prepare strategic plans. Specific public authorities would have a statutory duty to co-operate with the Commissioner.

Part 1, Chapter 3 of the Bill (clauses 19-52) would provide the detailed framework for **two new civil protection orders**:

- Domestic Abuse Protection Notices (DAPN), which could be given by the police to “secure the immediate protection of a victim from future domestic abuse carried out by a suspected perpetrator”. Where a DAPN has been given, the chief officer of police of the relevant force must apply within a 48-hour period to a magistrates’ court for a Domestic Abuse Protection Order.
- Domestic Abuse Protection Orders (DAPO), which can be granted by a court on application by certain categories of person (including the police, where a DAPN has been given) and may contain “prohibitions or requirements for the purpose of preventing the perpetrator from being abusive towards his or her victim”.

Clause 53 would **extend the availability of “special measures” for complainants in criminal cases involving domestic abuse**. Special measures apply to intimidated witnesses and are intended to improve the quality of their evidence. They include, for example, screening the witness from the accused; giving evidence via live link; and giving evidence in private.

Clause 54 would **permit the inclusion of a polygraph condition in the licence of a person who has committed a domestic abuse-related offence**. Offenders released from custody on licence (i.e. conditionally released from prison) subject to such a condition would be required to undertake polygraph tests.

Clause 55 would **put the Domestic Violence Disclosure Scheme on a statutory footing**. The Scheme provides a mechanism for the police to disclose information about partners or ex-partners of individuals at risk of domestic abuse.

Clause 56 would ensure that where an English housing authority is operating a discretionary scheme of flexible fixed-term tenancies, **certain victims of domestic abuse will be entitled to the grant of a new secure ‘lifetime’ tenancy**. The aim is to remove barriers which might prevent a victim from leaving their existing social housing tenancy and to support them to remain in their homes where the perpetrator has left.

Part 2 (clauses 57-74) would **create a new domestic abuse offence in Northern Ireland**, which would be analogous to existing offences in the laws of Scotland and England & Wales.

Part 3 (clause 75) would make provision for **prohibiting perpetrators of abuse from cross-examining their victims in the family courts** (and vice versa), in certain circumstances. To support this, the clause would provide family courts with the power to appoint qualified legal representatives, to undertake cross-examination on a party's behalf where that party is prohibited by clause 75 from cross-examining in person.

Part 4 (clauses 76-78) **provides for extra-territorial jurisdiction over certain types of offences** against the person committed by UK nationals (or those habitually resident in the UK) outside the UK. Such extra-territorial jurisdiction is required by Article 44 of the Istanbul Convention, which the United Kingdom has yet to ratify.

Clause 79 would provide **a power for the Home Secretary to issue guidance about domestic abuse**.

1. Introduction

The Domestic Abuse Bill 2017-19 (HC Bill 422) was introduced in the House of Commons on 16 July 2019. The Bill, together with its Explanatory Notes, is available on the [Parliament website](#), where one can follow its progress.

The Bill was announced during the Queen's Speech on 21 June 2017, following a commitment in the Conservative Party manifesto 2017 to deliver "Protections for victims of domestic abuse in law through a new landmark Domestic Violence and Abuse Bill."¹ The Government has described the Bill as a "once-in-a-generation opportunity to transform the response to" domestic abuse.²

A draft version of the Bill was [published](#) on 21 January 2019 as part of the Government's response to the '[Transforming the response to domestic abuse](#)' consultation, which ran from 8 March 2018 to 31 May 2018. The draft Bill was scrutinised by the Joint Committee on the Draft Domestic Abuse Bill, which [reported](#) on 11 June 2019. The Government [responded](#) to the Committee on 16 July 2019.

1.1 Territorial extent

The territorial extent of the Bill is somewhat complex. In the main, it would extend and apply only to England and Wales. However, several provisions would extend to the rest of the United Kingdom, some would have limited application to Wales and Scotland and Part 2 would be concerned exclusively with the law in Northern Ireland.

Box 1: Territorial extent and application

For the most part, the Bill would extend (i.e. form part of the law of) and apply (i.e. have practical effect) to England and Wales.

Part 2 of Schedule 2 would apply only to Scotland. This part of the Bill would address the extra-territorial jurisdiction of Scottish courts (other parts of the Bill would deal with the same issue in relation to courts in England and Wales, and in Northern Ireland). The Bill's measures that would address extra-territorial jurisdiction are intended to facilitate ratification of the Istanbul Convention, which would apply to the entire United Kingdom. Being as the powers of Scottish courts fall within the legislative competence of the Scottish Parliament, the Government has said it will seek approval from the Scottish Parliament for a legislative consent motion.

The Explanatory Notes to the Bill set out that "the matters to which the provisions of the Bill relate are not within the legislative competence of the National Assembly for Wales."³

The provisions in Part 2 of the Bill, clause 77 and Part 3 of Schedule 2 relate exclusively to Northern Ireland. Some of the matters dealt with in those areas of the Bill were the subject of a consultation carried out by the Department of Justice in Northern Ireland. The remainder concerns extra-territorial jurisdiction, as described above. The Government's position is that, in the absence of the Executive and a sitting Assembly in Northern Ireland, it is not practical to seek a legislative consent motion.

¹ [Conservative Party Manifesto 2017](#), p48

² HM Government, [Transforming the Response to Domestic Abuse Consultation Response and Draft Bill](#), January 2019, CP15, p1

³ Explanatory Notes, p14

1.2 Useful resources

Alongside the Bill, the Home Office and Ministry of Justice have published a collection of factsheets and supporting documents, available [on Gov.uk](#), including the

- [European Convention on Human Rights Memorandum](#);
- [Impact Assessment](#);
- [Equality Statement](#);
- [Keeling Schedule](#); and
- [Delegated Powers Memorandum](#).

[Page 51](#) of the Explanatory Notes links to additional Government policy documents relating to domestic abuse.

2. Background

2.1 The current law in England and Wales

Domestic abuse, while not itself a specific criminal offence may constitute one of several offences. These range from murder, rape and manslaughter through to assault and threatening behaviour.⁴ The closest the law has to a specific offence is the offence of coercive or controlling behaviour against an intimate partner or family member, which came into force on 29 December 2015, and is contained in [section 76](#) of the Serious Crime Act 2015.

This offence was introduced following a [consultation](#) on strengthening the law on domestic abuse.⁵ The Home Office has published [statutory guidance on the offence](#), which provides the following overview:

This offence is constituted by behaviour on the part of the perpetrator which takes place “repeatedly or continuously”. The victim and alleged perpetrator must be “personally connected” at the time the behaviour takes place. The behaviour must have had a “serious effect” on the victim, meaning that it has caused the victim to fear violence will be used against them on “at least two occasions”, or it has had a “substantial adverse effect on the victims’ day to day activities”. The alleged perpetrator must have known that their behaviour would have a serious effect on the victim, or the behaviour must have been such that he or she “ought to have known” it would have that effect.⁶

Domestic Violence Protection Notices and Orders

The Crime and Security Act 2010⁷ provides for Domestic Violence Protection Orders (DVPOs) and Domestic Violence Protection Notices (DVPNs), both of which were rolled out across England and Wales from March 2014.⁸

Under the DVPO scheme, the police and magistrates can, in the immediate aftermath of a domestic violence incident, ban a perpetrator from returning to their home and from having contact with the victim. The scheme comprises an initial temporary notice (a DVPN) authorised by a senior police officer and issued to the perpetrator by the police, followed by a DVPO that can last from 14 to 28 days, and is imposed at the magistrates’ court. DVPOs are designed to help victims who may otherwise have had to flee their home, giving them the space and time to access support and consider their options.⁹

⁴ These are discussed in Matczak et al., [Review of domestic violence policies in England & Wales](#), 2011, pp10-12; See also Annex A to the Home Office [guidance](#) on controlling or coercive behaviour, December 2015

⁵ Home Office, [Strengthening the Law on Domestic Abuse](#), August 2014

⁶ Home Office, [Controlling or Coercive Behaviour in an Intimate or Family Relationship: Statutory Guidance Framework](#), December 2015, p2; see also Crown Prosecution Service [guidance](#), December 2015

⁷ [Sections 24-33](#)

⁸ [HC Deb 25 November 2013 c5-6WMS](#)

⁹ Home Office, [2010 to 2015 government policy: violence against women and girls](#), May 2015

Family Law Act

There are two relevant civil law remedies, under the Family Law Act 1996 (as amended by [Part 1](#) of the Domestic Violence Crime and Victims Act 2004): occupation orders and non-molestation orders.

An **occupation order** is a court order that governs the occupation of a family home. It can be used temporarily to exclude an abuser from the home and surrounding area and give the victim the right to enter or remain. In certain circumstances, the court may attach a power of arrest to the order.

A **non-molestation order** is a court order that prohibits an abuser from molesting another person they are associated with. Molestation is not defined in the Act but has been interpreted to include violence, harassment and threatening behaviour. A non-molestation order contains specific terms as to what conduct is prohibited and can last for however long is deemed appropriate by the court. Breach of a non-molestation order is a criminal offence.

The Protection from Harassment Act 1997 (as amended) provides additional civil and criminal remedies, including non-harassment and restraining orders.¹⁰ The Act was amended in November 2012 to introduce two stalking offences.¹¹

2.2 Recent Government policy

Ending Violence Against Women and Girls Strategy 2016-20

On 8 March 2016, the Home Office published its 2016-20 [strategy](#) for ending violence against women and girls (VAWG).¹² The document summarised Coalition Government progress in tackling VAWG:

Since 2010 we have made real progress. The prevalence of domestic and sexual violence and abuse has dropped according to the Crime Survey for England and Wales (CSEW) and, in 2014/15, we saw total prosecutions for VAWG offences reach the highest levels ever recorded.

Significant new legislation is now in place including specific offences of stalking, forced marriage, failure to protect from Female Genital Mutilation (FGM), and revenge pornography, as well as the new domestic abuse offence to capture coercive or controlling behaviour in an intimate or family relationship.

We introduced a landmark Modern Slavery Act, and rolled out Domestic Violence Protection Orders (DVPOs) and the Domestic Violence Disclosure Scheme (DVDS) nationally. We have introduced FGM Protection Orders and an FGM mandatory

¹⁰ See: [The Protection from Harassment Act 1997](#), Commons Library Briefing Paper, 6648, 9 June 2017

¹¹ See: [Stalking: Developments in the law](#), Commons Library Briefing Paper, 6261, 21 November 2018

¹² HM Government, [Ending Violence against Women and Girls Strategy 2016–2020](#), March 2016

reporting duty, and strengthened measures to manage sex offenders or those who pose a risk of sexual harm.¹³

The VAWG strategy sets out a framework based on: prevention; the provision of services; partnership working; and pursuing perpetrators¹⁴
By 2020, it aims to realise the following objectives:

- There is a significant reduction in the number of VAWG victims, achieved by challenging the deep-rooted social norms, attitudes and behaviours that discriminate against and limit women and girls, and by educating, informing and challenging young people about healthy relationships, abuse and consent;
- All services make early intervention and prevention a priority, identifying women and girls in need before a crisis occurs, and intervening to make sure they get the help they need for themselves and for their children;
- Women and girls will be able to access the support they need, when they need it, helped by the information they need to make an informed choice;
- Specialist support, including accommodation-based support, will be available for the most vulnerable victims, and those with complex needs will be able to access the services they need;
- Services in local areas will work across boundaries in strong partnerships to assess and meet local need, and ensure that services can spot the signs of abuse in all family members and intervene early;
- Women will be able to disclose experiences of violence and abuse across all public services, including the NHS. Trained staff in these safe spaces will help people access specialist support whether as victims or as perpetrators;
- Elected representatives across England and Wales will show the leadership, political will and senior accountability necessary to achieve the necessary change, and will champion efforts to tackle these crimes;
- Everyone in a local area will be able to hold their elected leaders to account through clear data on how local need is being met;
- There will be a lower level of offending through an improved criminal justice response and a greater focus on changing the behaviour of perpetrators through a combination of disruption and support; and
- A stronger evidence base of what works, and victim safety, will be embedded into all interventions to protect victims of VAWG.¹⁵

¹³ Ibid., executive summary; For other useful summaries of developments under the Coalition see: Home Office, [2010 to 2015 government policy: violence against women and girls](#) (May 2015) and Home Office, [A Call to End Violence against Women and Girls Progress Report 2010–15](#), March 2015

¹⁴ Ibid., p8

¹⁵ Ibid., p14

Transforming the Response to Domestic Abuse consultation

The provisions in the Bill result from the consultation on [Transforming the Response to Domestic Abuse](#), which ran between 8 March 2018 and 31 May 2018.¹⁶ The consultation sought views on measures to:

- promote awareness – to put domestic abuse at the top of everyone’s agenda, and raise public and professional awareness
- protect and support – to enhance the safety of victims and the support that they receive
- transform the justice process – to prioritise victim safety in the criminal and family courts, and review the perpetrator journey from identification to rehabilitation
- improve performance – to drive consistency and better performance in the response to domestic abuse across all local areas, agencies and sectors¹⁷

The [consultation response](#) was published on 21 January 2019, together with a draft Bill.¹⁸ Alongside the draft Bill, the consultation response document set out an extensive package of 123 commitments, which are detailed in a table at [Annex C](#) of the document.¹⁹

2.3 Pre-legislative scrutiny

The draft Bill was subject to pre-legislative scrutiny by a joint committee of both Houses, appointed by the House of Commons on 27 February 2019 and House of Lords on 6 March 2019. The Joint Committee took evidence from 36 witnesses and received 539 written submissions. It published its report on 14 June 2019.²⁰ By and large, the Committee was supportive of the measures contained in the draft Bill, although made a large number of recommended drafting changes.

The Government [responded](#) to the Committee on 16 July 2019.²¹ While it did not agree with all the Committee’s recommendations, it did make several changes to the Bill in response to the Committee’s report. These changes are set out in a table at [Annex A](#) of the response document.²²

The House of Commons Home Affairs Committee also published a [report](#) on domestic abuse, on 22 October 2018, identifying issues which it believed the Government should address as part of the Bill.²³ The Joint

¹⁶ HM Government, [Transforming the Response to Domestic Abuse Government Consultation](#), 8 March 2018

¹⁷ [Domestic abuse consultation response and draft bill](#), Gov.uk, 21 January 2019 [accessed 29 September 2019]

¹⁸ HM Government, [Transforming the Response to Domestic Abuse Consultation Response and Draft Bill](#), January 2019, CP15

¹⁹ Ibid., pp85-95

²⁰ Joint Committee on the Draft Domestic Abuse Bill, [Draft Domestic Abuse Bill](#), First Report of Session 2017–19, HL Paper 378, HC 2075, 14 June 2019

²¹ [Government Response to the Report from the Joint Committee on the Draft Domestic Abuse Bill](#), CP 137, 16 July 2019

²² Ibid., p55

²³ House of Commons Home Affairs Committee, *Domestic Abuse*, Ninth Report of Session 2017–19, HC 1015, 22 October 2018

Committee on Human Rights has also taken an interest in the Bill. The Chair of the Joint Committee [wrote to](#) the Government on 10 April 2019 setting out its views.²⁴ The Government [responded](#) on 20 May 2019.²⁵

The views of the committees and the Government's response are discussed below, in the sections of this briefing dealing with content of the Bill.

2.4 The Istanbul Convention

The Council of Europe [Convention on preventing and combating violence against women and domestic violence](#) (the "Istanbul Convention") was adopted on 7 April 2011 and entered into force on 1 August 2014. While the UK is a signatory to the Convention, it has not yet ratified it.

Article 1 sets out "the Purposes of the Convention":

- a. protect women against all forms of violence, and prevent, prosecute and eliminate violence against women and domestic violence;
- b. contribute to the elimination of all forms of discrimination against women and promote substantive equality between women and men, including by empowering women;
- c. design a comprehensive framework, policies and measures for the protection of and assistance to all victims of violence against women and domestic violence;
- d. promote international co-operation with a view to eliminating violence against women and domestic violence;
- e. provide support and assistance to organisations and law enforcement agencies to effectively co-operate in order to adopt an integrated approach to eliminating violence against women and domestic violence

Article 4 identifies fundamental rights, including the requirement for parties to the Convention to

- take the necessary legislative and other measures to promote and protect the right for everyone, particularly women, to live free from violence in both the public and the private sphere.

One of the key stumbling blocks for UK ratification of the Convention is the lack of mechanism in domestic law to prosecute certain offences that take place outside the UK, which is required by Article 44 of the Convention. Clauses 76-78 of the Bill aim to address this by conferring extra-territorial jurisdiction on UK courts in respect of specified offences (see below). Outside of this, the Government has said that the UK

²⁴ Letter from the Chair of the JCHR to Victoria Atkins MP, Parliamentary Under Secretary of State for Crime, Safeguarding and Vulnerability and Minister for Women, Home Office and Edward Argar MP, Parliamentary Under Secretary of State, Ministry of Justice, 10 April 2019

²⁵ Letter from Victoria Atkins MP, Parliamentary Under Secretary of State for Crime, Safeguarding and Vulnerability and Minister for Women, Home Office and Edward Argar MP, Parliamentary Under Secretary of State, Ministry of Justice to the Chair of the JCHR, dated 20 May 2019

“complies with the vast majority of the Convention’s articles through its comprehensive work to protect women and girls.”²⁶

The [Preventing and Combating Violence Against Women and Domestic Violence Act 2017](#) came into force on 27 June 2017. The Act began as a Private Members’ Bill introduced in the Commons by Dr Eilidh Whiteford, although the Government amended it on Report. It requires the Secretary of State to lay a report before Parliament setting out the steps to be taken to enable the UK to ratify the Convention and the expected timetable, and to report each year on progress. Two such annual reports have been published and laid before Parliament.²⁷ The next is due to be published on 1 November 2019.²⁸

See the following for further information on the 2017 Act:

- [UK policy on ratifying the Istanbul Convention on preventing violence against women](#)²⁹
- [Preventing and Combating Violence Against Women and Domestic Violence \(Ratification of Convention\) Bill: Briefing for Lords Stages](#)³⁰

²⁶ Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence: [Written question - 10888](#)

²⁷ Home Office, [Ratification of the Council of Europe Convention on combating violence against women and girls and domestic violence \(Istanbul Convention\) – report on progress 2018](#), October 2018, and Home Office, [Ratification of the Council of Europe convention on combating violence against women and domestic violence \(Istanbul Convention\): report on progress](#), November 2017

²⁸ Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence: [Written question - 285010](#)

²⁹ Commons Library Briefing Paper 7829

³⁰ Lords Library In Focus LIF 2017/22

3. How big is the problem?

3.1 Crime Survey for England & Wales

The most reliable estimates of the extent of domestic violence come from the Crime Survey for England and Wales (CSEW) formerly the British Crime Survey (BCS). The CSEW asks people about their experience as victims. Being a household survey, it picks up more crime than the official police figures, as not all crimes are reported to the police, let alone recorded by them.

Two sets of figures are available from the CSEW: the first, collected from the survey's inception in 1981, come from the results of face-to-face interviews; the second, available from 2004/05, come from confidential self-completion modules, which respondents complete in private by responding to questions on a computer. The unwillingness of respondents to reveal experience of domestic violence to an interviewer means that the first measure significantly underestimates the extent of domestic violence

3.2 CSEW data

The CSEW estimates of domestic abuse³¹ are based on a relatively broad definition covering male and female victims of partner or family non-physical abuse, threats, force, sexual assault or stalking. Levels of domestic abuse have generally declined over the past decade. In the year ending March 2005 there were approximately 2.7m victims compared to just under 2.0m in the year 2017/18 - a reduction of 27%. The latest statistics also show that:³²

- Some 7.9% of women and 4.2% of men aged 16 to 59 were estimated to have experienced domestic abuse in 2017/18, equivalent to an estimated 1.3 million female and 695,000 male victims.
- Overall, 29% of women and 13% of men aged 16 to 59 had experienced some form of domestic abuse since the age of 16. These figures were equivalent to an estimated 4.9 million female and 2.2 million male victims.

The chart below shows the estimated number of victims of any domestic abuse reported in the self-completion module on intimate violence in the CSEW since year ending March 2005.³³

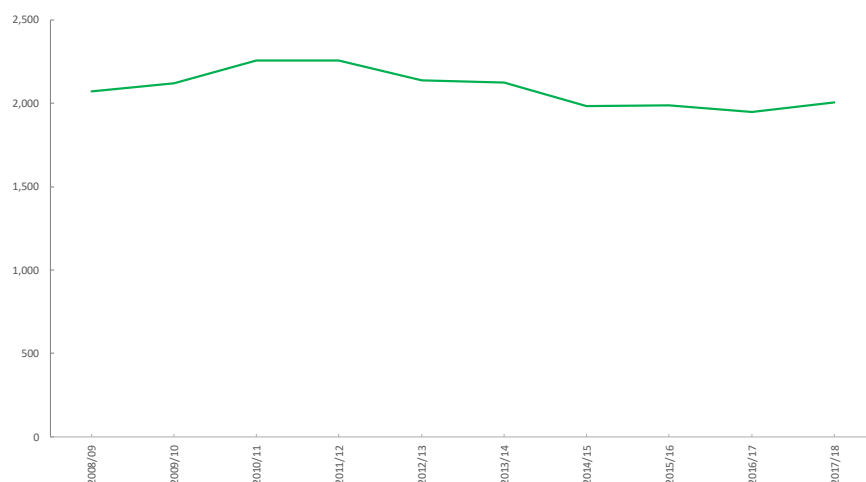
Over a quarter of women, and 13% of men have experienced domestic abuse since the age of 16

³¹ Domestic abuse includes non-physical abuse, threats, force, sexual assault or stalking carried out by a current or former partner or other family member. 'Domestic abuse' is not directly comparable to the main CSEW 'domestic violence' category.

³² ONS, [Domestic abuse: findings from the Crime Survey for England and Wales: year ending March 2018](#), 22 November 2018

³³ Data is not available for year ending March 2008

ESTIMATED NUMBER OF VICTIMS OF INTIMATE VIOLENCE IN THE LAST YEAR (000s)



Detailed breakdowns of CSEW domestic abuse can be found in Tables A1, A2, and A3 in the appendix.

3.3 Police Recorded Crime data

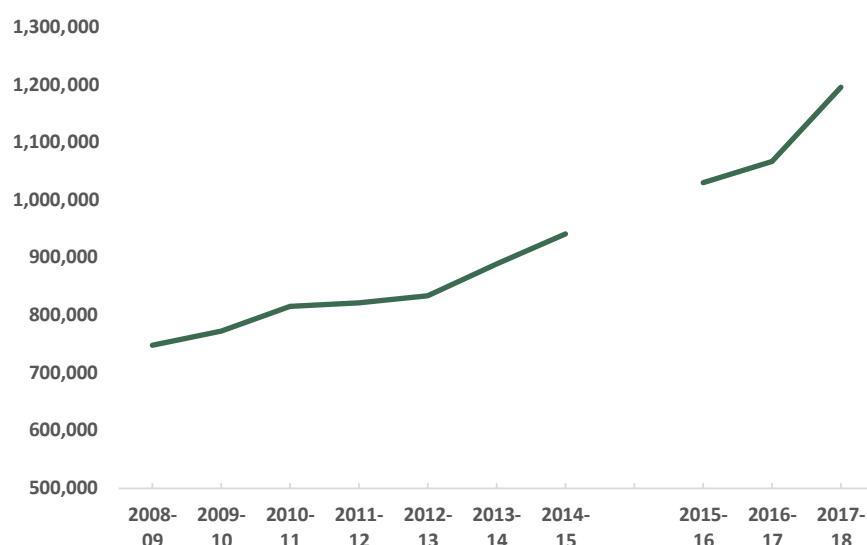
Domestic violence offences are not published within the centrally collected police recorded crime series. Most offences are not specifically defined by law and details of the individual circumstances of offences are not collected.

Prior to April 2015, police forces did collect domestic violence incident data at police force area level. This information has been collected by the Home Office, and a full breakdown by force can be found in the appendix, however, it is unaudited and has not been classified as an official statistic.

The chart below illustrates the number of domestic abuse cases (incidents and offences) recorded by the 43 police forces of England & Wales between March 2008/09 and March 2017/18³⁴:

³⁴ Data from 2015/16 are not comparable to those published for previous years due to a change in the coverage of the data collection.

DOMESTIC ABUSE INCIDENTS AND OFFENCES RECORDED BY THE POLICE



The number of cases recorded by the police has increased year on year from 2007/08. In 2014/15 the number of cases recorded reached 943,628 – this was a 43% increase on 2007/08.

Data from 2015/16 are available but are not comparable to those published for previous years due to a change in the coverage of the data collection.³⁵ According to this data, in 2017/18, there were just under 1.2 million domestic abuse-related incidents and offences recorded by the 43 police forces of England & Wales³⁶. Data by police force is given in Appendix table A4.

3.4 Crown Prosecution Service

The [Crown Prosecution Service \(CPS\) Violence against Women and Girls crime report](#) is an annual publication which contains information on domestic violence crimes.

In 2018/19, there were 98,470 domestic violence suspects referred to the CPS by the police – a fall of 11% on 2017/18 (110,653 cases). Compared to 2014/15 the number of suspects referred to the CPS has fallen by 22%.³⁷

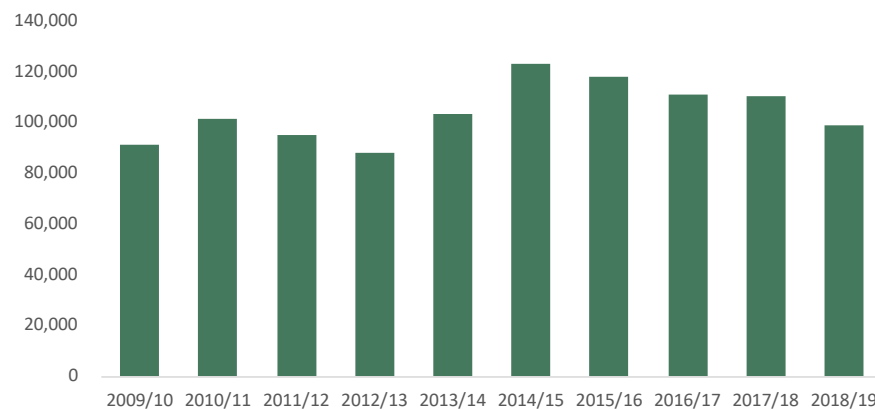
This is not the same as the total number of people arrested for the offence. Between arrest and referral to the CPS the police may decide that no crime has been committed or that there is insufficient evidence to proceed.

³⁵ ONS, [Focus on violent crime and sexual offences. England and Wales: year ending Mar 2016](#), 9 February 2017

³⁶ ONS, [Domestic abuse in England and Wales: year ending March 2018](#), 22 November 2018

³⁷ CPS, [CPS Violence against Women and Girls report 2018-2019](#), September 2019

Volume of Pre-Charge Decisions Completed by the CPS



Of the cases referred to the CPS in 2018/19 the decision to charge was made in 68.4% of cases, a slight fall in proportion from 2017/18 when 70.3% were charged. Just under 99,000 prosecutions against defendants were completed in 2018/19, a fall of 11% on the number for 2017/18 and a fall of 20% on the total for 2014/15.

4. Definition of domestic abuse

Part 1, Chapter 1 (clauses 1 and 2) of the Bill would introduce a definition of domestic abuse to the law of England and Wales. The definition would provide the foundation for the remaining provisions in Part 1 (clauses 3-56), including the functions of the Domestic Abuse Commissioner and the new powers for dealing with domestic abuse.

4.1 Background

There is currently no statutory definition of domestic abuse in domestic law, although there is a non-statutory, cross-government definition of domestic violence:

Any incident or pattern of incidents of controlling, coercive or threatening behaviour, violence or abuse between those aged 16 or over who are or have been intimate partners or family members regardless of gender or sexuality. This can encompass but is not limited to the following types of abuse:

- psychological
- physical
- sexual
- financial
- emotional

Controlling behaviour

Controlling behaviour is a range of acts designed to make a person subordinate and/or dependent by isolating them from sources of support, exploiting their resources and capacities for personal gain, depriving them of the means needed for independence, resistance and escape and regulating their everyday behaviour.

Coercive behaviour

Coercive behaviour is an act or a pattern of acts of assault, threats, humiliation and intimidation or other abuse that is used to harm, punish, or frighten their victim.³⁸

While non-statutory, the definition is “used by Government departments to inform policy development and other agencies such as the police, the Crown Prosecution Service and the UK Border Agency to inform the identification of domestic violence cases”.³⁹ The definition was extended in 2013 from an earlier version, in order to cover persons aged 16 and over and include coercive and controlling behaviour.⁴⁰

³⁸ Home Office, [Cross-government definition of domestic violence – A Consultation: Summary of Responses](#), September 2012, p19

³⁹ Ibid., p3

⁴⁰ The extended definition responded to recommendations made by the Home Affairs Select Committee in a 2008 report: House of Commons Home Affairs Committee, [Domestic Violence, Forced Marriage and “Honour”-Based Violence](#), Sixth Report of Session 2007–08, HC 263-1, p138

In the [Transforming the Response to Domestic Abuse](#) consultation document the Government proposed creating a new, statutory definition, with the aim of ensuring “that all domestic abuse is properly understood” against a definition based on the existing non-statutory definition and linked to provisions and powers in the (at the time) forthcoming Domestic Abuse Bill.⁴¹ The document’s proposed definition adopted the text of the non-statutory definition but changed “financial” to “economic” so as capture, for example, the denial of access to basic resources, including food and clothing.⁴² The document said that it was not the Government’s

intention that this definition should automatically replace all other existing definitions, or apply to other legislative provisions, already set out in statute. However, we will consider instances where that might be appropriate.⁴³

The consultation response document noted that over 85% of responses to the consultation strongly agreed or agreed with the proposed definition.⁴⁴ Similarly, the Joint Committee on the Draft Domestic Abuse Bill said that “overall” the Bill’s creation of a new definition had been welcomed by stakeholders. Nevertheless, the Joint Committee did suggest several amendments to the proposed text, discussed below in section 4.3.

4.2 The Bill

Clause 1 would supply the definition of “domestic abuse”. There would be two key features of the definition: the *relationships* within its scope, and the *behaviours* identified as abusive.

Relationships

Clause 1(2) provides that the definition would apply to persons 16 or over who are “personally connected to each other”. **Clause 2(1)** would define “personally connected” as covering the following:

- persons married to one another or civil partners;
- persons who have agreed to marry one another;
- persons who have entered into a civil partnership agreement (whether or not the agreement has been terminated);
- persons who are or have been in an intimate relationship with one another;
- persons who are in a parental relationship in relation to the same child (“parental relationship” is defined in **clause 2(2)** as being a parent of the child or having, or having had, parental responsibility for the child); and
- relatives.

⁴¹ HM Government, [Transforming the Response to Domestic Abuse Government Consultation](#), 8 March 2018, p11

⁴² Ibid., p13

⁴³ Ibid., p12

⁴⁴ HM Government, [Transforming the Response to Domestic Abuse Consultation Response and Draft Bill](#), January 2019, CP15, p6

Behaviours

Clause 1(3) would provide that behaviour is abusive if it consists of any of the following:

- physical or sexual abuse;
- violent or threatening behaviour;
- controlling or coercive behaviour;
- economic abuse (defined in **clause 1(4)** as behaviour that has a “substantial adverse effect” on a person’s ability to acquire, use or maintain money or other property; or obtain goods or services); or
- psychological, emotional “or other abuse”.

The clause states that the behaviour can be abusive irrespective of whether it consists of a single incident or a course of conduct.

Under **clause 1(5)**, A’s behaviour might be deemed “towards” B even if it involves conduct directed at a person outside of the above relationships. For example, A’s behaviour might be deemed abusive toward B if that behaviour was aimed at B’s child.

4.3 Comment

The Joint Committee’s report on the draft Bill stated that, overall, the “Bill’s role in establishing a definition of domestic abuse was welcomed”.⁴⁵ Nonetheless, the Joint Committee recommended several amendments, not all of which feature in the finalised version of the Bill.

BME and migrant women

The Joint Committee felt that certain types of abuse experienced disproportionately by BME and migrant women were not recognised adequately by the draft Bill.

In evidence to the Committee, the Welsh Government Advisor on Domestic Abuse said the definition of domestic abuse:

should include honour-based violence, forced marriage and spousal abandonment, which are the kinds of things on which we are failing around the country because there is such a lack of understanding. Unless those are in the definition, I am afraid that they will be missed in the way that they are currently.⁴⁶

Liberty said the definition risked being “inadvertently discriminatory by not recognising coercive control related to immigration status”.⁴⁷

In response to these concerns, the Joint Committee recommended that the Bill be amended to provide that the following types of abuse were caught by the definition:

⁴⁵ Joint Committee on the Draft Domestic Abuse Bill, [Draft Domestic Abuse Bill](#), First Report of Session 2017–19, HL Paper 378, HC 2075, 14 June 2019, p10

⁴⁶ Ibid., p11

⁴⁷ Ibid.

Female Genital Mutilation; forced marriage; honour-based crimes; coercive control related to immigration status; and modern slavery and exploitation.⁴⁸

In its response to the Committee's report, the Government said that, while it recognises that "domestic abuse can take many different forms and can include many types of behaviour, listing specific acts of abuse on the face of the Bill risks limiting the understanding of domestic abuse."⁴⁹ Moreover, the Government said it did not agree that all these types of abuse constituted domestic abuse. In particular, it said female genital mutilation is generally inflicted on children and is therefore a type of child abuse.⁵⁰ In light of this, the Government declined to change the list of behaviours included in the finalised Bill, but instead said it would:

provide further details, including types of abuse experienced by specific groups or communities, in the statutory guidance which will accompany the definition. In the statutory guidance we also intend to recognise the additional complex factors which may occur in domestic abuse situations – for example mental health or substance misuse issues and how they can interplay with abuse. The statutory guidance will be regularly updated to allow for emerging trends and behaviours to be recognised.⁵¹

Notably, the previous non-statutory definition did cover "so called 'honour' based violence, female genital mutilation (FGM) and forced marriage".⁵²

Single occurrences

The Committee was concerned that the draft Bill implied that, to satisfy the definition, it would be necessary to prove a course of abusive behaviour rather than a single occurrence. This followed evidence from the Magistrates Association advocating for a definition that applied explicitly to all instances of domestic abuse, including seemingly stand-alone events.⁵³

The Government accepted a recommendation on this issue, agreeing that "limiting the definition solely to patterns of abuse could risk preventing the police and public services from providing protection in seemingly one-off instances."⁵⁴ As such, the original draft of clause 1(3) has been changed to provide that, for the purposes of the definition, "it does not matter whether the behaviour consists of a single incident or a course of conduct".

⁴⁸ Ibid., p12

⁴⁹ [Government Response to the Report from the Joint Committee on the Draft Domestic Abuse Bill](#), CP 137, 16 July 2019, p14

⁵⁰ Ibid.

⁵¹ Ibid.

⁵² Home Office, [Cross-government definition of domestic violence – A Consultation: Summary of Responses](#), September 2012, p3

⁵³ Joint Committee on the Draft Domestic Abuse Bill, [Draft Domestic Abuse Bill](#), First Report of Session 2017–19, HL Paper 378, HC 2075, 14 June 2019, p13

⁵⁴ [Government Response to the Report from the Joint Committee on the Draft Domestic Abuse Bill](#), CP 137, 16 July 2019, p15

Children

The definition of domestic abuse would not extend to relationships between persons under 16 years old. Some commentators argue that the age limit should be lower, although evidence on this to the Joint Committee was mixed. The Children's Society argued for a wider definition:

including all teenagers who experience violence or abuse in romantic relationships within the definition of domestic and relationship abuse would allow for early response to prevent abuse escalating, particularly where a young person is not making a disclosure of sexual abuse but there are other signs that the relationships are abusive. We have suggested that this is from the age of 13 years old.⁵⁵

Similarly, a representative from the Office of the Children's Commissioner of England and Wales argued for removing the age limit, so as not to exclude under 16s experiencing abuse in intimate relationships.⁵⁶

Conversely, Action for Children supported retention of the age limit, to ensure that abuse of under-16s is always regarded as child abuse.⁵⁷

In its response to the consultation on Transforming the Response to Domestic Abuse, the Government noted the views which had been expressed:

59% of you strongly agreed or agreed that the current lower age limit of 16 years should be maintained in the statutory definition. One of the central arguments against lowering the lower age limit further was the risk of blurring the lines between child abuse and domestic abuse between adults; abuse perpetrated by an adult towards someone under 16 is classified as child abuse and the distinction needs to be maintained.⁵⁸

The Joint Committee also favoured retaining the age limit:

We have found it difficult to decide on the age limit that should apply to the definition of domestic abuse but, on balance, agree the age-limit of 16 in the proposed statutory definition of domestic abuse is the right one. We recognise the concerns of witnesses that abuse suffered, and perpetrated, by under 16s in intimate relationships is not captured by the definition but believe the danger of lowering the age-limit would be the inevitable criminalisation of under 16-year-old perpetrators.

...

We recommend that the Government conduct a specific review on how to address domestic abuse in relationships between under-16 year olds, including age-appropriate consequences for perpetrators.

...

⁵⁵ Op. cit., p13

⁵⁶ Ibid.

⁵⁷ Ibid.

⁵⁸ HM Government, [Transforming the Response to Domestic Abuse Consultation Response and Draft Bill](#), January 2019, CP15, p6

We also agree that abuse of children by adults must always be treated as child abuse and reducing the age limit for victims runs the risk of confusing the approach of public authorities and denying the young victims of such abuse access to specialist services.⁵⁹

In its response to the Joint Committee's recommendation to conduct a specific review of abuse in relationships between under-16s, the Government said:

we wish to give proper consideration to the concerns the Committee has raised and therefore undertake to carry out further work on this issue.

...

including discussions with stakeholders over the summer to assess the need for a review in this area, including consideration of what the scope of a potential review might look like. We expect it will go further than the justice system, taking into account safeguarding, wider services available to victims and perpetrators under 16, and will include looking at the police response.⁶⁰

The Joint Committee also expressed concern over the absence of children from the definition as victims of abuse, and recommended that "the Bill be amended so the status of children as victims of domestic abuse that occurs in their household is recognised".⁶¹ In its evidence to the Committee, Action for Children said the definition of domestic abuse

has the potential to drive the much-needed shift away from seeing children as passive witnesses to violence in the home, towards their recognition as direct victims and survivors in their own right.⁶²

In response to these concerns, the Government amended the draft Bill, such that the power of the Secretary of State to issue guidance, under **clause 79** (see below), would now include a requirement for the guidance to address "the effect of domestic abuse on children". Additionally, the Government undertook to "consider whether there is a need to amend the definition of harm in the Children Act 1989" to include the trauma experienced by children when witnessing domestic abuse.⁶³

Personally connected

The Joint Committee recommended that the Government should consider amending the definition of "personally connected" (i.e. the relationships within the scope of the definition) so as to extend it to persons in the same household.⁶⁴ This would reflect the definition of "associated persons" in [section 62\(3\)](#) of the Family Law Act 1996,

⁵⁹ Joint Committee on the Draft Domestic Abuse Bill, [Draft Domestic Abuse Bill](#), First Report of Session 2017–19, HL Paper 378, HC 2075, 14 June 2019, p15

⁶⁰ [Government Response to the Report from the Joint Committee on the Draft Domestic Abuse Bill](#), CP 137, 16 July 2019, pp17-18

⁶¹ Op. cit., p15

⁶² Ibid.

⁶³ [Government Response to the Report from the Joint Committee on the Draft Domestic Abuse Bill](#), CP 137, 16 July 2019, p18

⁶⁴ Joint Committee on the Draft Domestic Abuse Bill, [Draft Domestic Abuse Bill](#), First Report of Session 2017–19, HL Paper 378, HC 2075, 14 June 2019, p16

which deals with domestic violence and non-molestation orders. The Committee considered that widening the scope in this way would help ensure that no victim of abuse would “be denied protection simply because they lack the necessary relationship to a perpetrator with whom they live”.

The Government’s response rejected this recommendation:

We believe that a personal relationship between the victim and perpetrator is key to understanding domestic abuse. By including a ‘same household’ criterion, our definition would inadvertently capture a range of people who live together but are not personally connected, such as tenants and landlords, or friends and therefore widen the definition of domestic abuse beyond how it is commonly understood. As such we do not propose to review the ‘personally connected’ clause at the current time.⁶⁵

The Joint Committee also recommended that the Government consider amending the definition of “personally connected” to include the relationships between disabled people and their carers. Evidence to the Committee likened these, often emotionally intimate relationships, to the other types of relationships covered by the Bill.⁶⁶

In its response, the Government said abuse of disabled people by their carers is covered by existing legislation, including the requirement, in section 42 of the Care Act 2014, for local authorities to carry out safeguarding enquiries if they suspect an adult with care needs is at risk of abuse.⁶⁷

A gendered definition of domestic abuse

Of all the Joint Committee’s recommendations about the definition of domestic abuse, the one to which it gave most extensive consideration was that calling for a gendered statutory definition. This reflects earlier calls from the House of Commons Home Affairs Select Committee, in its [report](#) on domestic abuse, published before the draft Bill:

it is ... essential that future domestic abuse strategy and services should continue to include a focus on women who, because of broader inequality issues, are more likely to be victims of abuse and to suffer disproportionately as a result of abuse.

...

We recommend that the bill explicitly recognises the gender inequality underlying domestic abuse, and the need to reflect this inequality in education programmes, funding, service provision, criminal justice and other statutory responses to domestic abuse. The Equality and Human Rights Commission has recommended that the new statutory definition of domestic abuse should apply to both sexes, but that the disproportionate impact of domestic abuse on women and girls is explicitly highlighted in the text of

⁶⁵ Op. cit., p20

⁶⁶ Joint Committee on the Draft Domestic Abuse Bill, [Draft Domestic Abuse Bill](#), First Report of Session 2017–19, HL Paper 378, HC 2075, 14 June 2019, pp16-17

⁶⁷ [Government Response to the Report from the Joint Committee on the Draft Domestic Abuse Bill](#), CP 137, 16 July 2019, p20

the bill and the statutory guidance. We support this recommendation.⁶⁸

The Equality and Human Rights Commission's views were most fully set out in its [response](#) to the Government consultation that preceded the draft Bill:

We agree that the statutory definition should apply to both sexes, as both women and men experience domestic abuse. However, women are around twice as likely as men to experience domestic violence, and men are far more likely to be perpetrators. The majority of domestic homicide victims are women, killed by men. On average, two women are killed each week by their current or former partner in England and Wales, a figure that has changed relatively little in recent years. Between March 2014 and 2016, 242 women were killed by a male partner/ex-partner. 32 men were killed by their male partner/ex-partner, and 40 by their female partner/ex-partner

...

We therefore urge the UK Government to highlight the disproportionate impact of domestic violence on women and girls within the text of the bill and in the statutory guidance. This is in line with the Istanbul Convention. The Council of Europe advises that '[w]hile the focus of the convention is on all forms of violence against women, which includes domestic violence committed against women, the convention also recognises that there are other victims of domestic violence, such as boys and men.' It states that 'parties to the Convention are encouraged to apply the protective framework it creates to men who are exposed to violence within the family or domestic unit. Nevertheless, it should not be overlooked that the majority of victims of domestic violence are women and that domestic violence against them is part of a wider pattern of discrimination and inequality.

...

It is important that the statutory definition reflects the gendered impact, as it is likely to have implications for the way resources are allocated to support survivors.⁶⁹

Many of the witnesses that gave evidence to the Joint Committee supported a gendered definition of domestic abuse. By and large, their evidence focused on the implications of the definition for the strategic priorities and funding of public bodies and local services. For example, Lucy Hadley of Women's Aid said:

Getting the definition right is crucial for guiding not only policies and strategies, but priorities and funding at local level and in public sector agencies, and getting that understanding of domestic abuse across all areas of the public sector that survivors might turn to for help⁷⁰

Some witnesses to the Committee, however, preferred a gender-neutral definition and were concerned that a gendered definition could be

⁶⁸ House of Commons Home Affairs Committee, [Domestic Abuse](#), Ninth Report of Session 2017–19, HC1015, p11

⁶⁹ Response of the Equality and Human Rights Commission to the Consultation: Transforming the response to domestic abuse, 31 May 2018, pp4-5

⁷⁰ Joint Committee on the Draft Domestic Abuse Bill, [Draft Domestic Abuse Bill](#), First Report of Session 2017–19, HL Paper 378, HC 2075, 14 June 2019, p18

misunderstood to exclude men.⁷¹ The Joint Committee spoke of the implication of having a gender-neutral definition:

A gender-neutral approach that fails to take account of the differences between men and women and assumes one size fits all can fail to meet the needs of any person suffering from domestic abuse because domestic abuse is experienced differently depending on many factors, including gender. To say that domestic abuse is gender-based is simply to recognise that the socially attributed norms, roles and expectations of masculinity and femininity which affect intimate relationships and family structures are integral to the use and experience of violence and abuse, whether perpetrated or suffered by men or by women.⁷²

It recommended the introduction of a new clause in the following or very similar terms:

When applying Section 1 and 2 of this Act public authorities providing services must have regard to the gendered nature of abuse and the intersectionality of other protected characteristics of service users in the provision of services, as required under existing equalities legislation.

The Joint Committee also made a related recommendation about the statutory guidance:

We recommend that the statutory guidance the Government is committed to issuing on the operation of the statutory definition of domestic abuse should require public authorities to acknowledge the disproportionate impact of domestic abuse on women and girls when developing strategies and policies in this area.⁷³

In its response, the Government said it believed it to be:

critical that the statutory definition is gender-neutral so that all types of abuse are identified and that no victim is inadvertently excluded from support or protection.⁷⁴

However, the Government proposed to address some of these concerns by amending the provision of the Bill setting out the power of the Secretary of State to issue guidance about domestic abuse (**clause 79**, see below). That provision now includes the following:

Any guidance issued under this section must, so far as relevant, take account of the fact that the majority of victims of domestic abuse in England and Wales are female.

⁷¹ Ibid., pp18-19

⁷² Ibid., p17

⁷³ Ibid., p21

⁷⁴ [*Government Response to the Report from the Joint Committee on the Draft Domestic Abuse Bill*](#), CP 137, 16 July 2019, p21

5. Domestic Abuse Commissioner

Part 1, Chapter 2 of the Bill would provide the framework for a new Domestic Abuse Commissioner. The Government intends that the Commissioner would “provide strategic oversight of the national response to domestic abuse and hold public authorities to account.”⁷⁵ To this end, the general functions of the Commissioner would be to:

encourage good practice in the prevention of domestic abuse; the prevention, detection, investigation and prosecution of domestic abuse-related offences; the identification of perpetrators, victims and children affected by domestic abuse; and the provision of protection and support for victims.⁷⁶

The Commissioner would have the power to issue reports and would be required to prepare strategic plans, to be laid before Parliament. Specific public authorities would have a statutory duty to co-operate with the Commissioner.

5.1 Background

Government proposals

The [Transforming the Response to Domestic Abuse](#) consultation document set out the Government’s case for introducing a Domestic Abuse Commissioner:

Domestic abuse also remains largely hidden – only an estimated one-fifth victims of domestic abuse report it to the police, and compared to the previous year, fewer referrals were made to the crown prosecution service from the police in 2016–17. We know we need to do more to embed government guidance, such as the National Statement of Expectations, share best practice and challenge local areas where provision is insufficient. This could be achieved by introducing a Commissioner who would stand up for victims of domestic abuse and their children, raise awareness of the issue, and monitor and oversee delivery of services including those provided to the majority who may never come into contact with the criminal justice system. The Commissioner could work with local areas to ensure that services provided, whether working with victims, perpetrators or those at risk, are as effective, evidence-based and safe as they can be. They would also work with Wales’ National Advisor for Violence Against Women, other forms of gender-based violence, domestic abuse and sexual violence.⁷⁷

The document proposed that the Commissioner would:

- map and monitor provision of domestic abuse services against the National Statement of Expectations, and publish information to showcase and share best practice, as well as to highlight where local provision falls short of what is expected
- require local public bodies to cooperate and provide information

⁷⁵ Domestic Abuse Bill Explanatory Notes, p21

⁷⁶ Ibid., p17

⁷⁷ HM Government, [Transforming the Response to Domestic Abuse](#), March 2018, p65

- oversee the Domestic Homicide Review Quality Assurance process ... feeding lessons learned into their recommendations
- oversee compliance with the Specialist Domestic Abuse Courts Manual
- publish findings in reports, which will be laid before Parliament
- provide recommendations to public bodies, including national and local government to improve the response to domestic abuse, accompanied with a duty on the responsible person/organisation to respond to these recommendations⁷⁸

Home Affairs Committee report

In its October 2018 [report](#) on domestic abuse, the Home Affairs Select Committee welcomed, in principle, the introduction of a Domestic Abuse Commissioner.⁷⁹ The Committee argued that, in order to be effective, the Commissioner would:

need to have sufficient authority to investigate and comment on the impact of mainstream Government services on victims of domestic abuse, such as access to justice, health, housing and welfare benefits, as well as on specifically tailored domestic abuse services.⁸⁰

The Committee said the Commissioner's effectiveness would rest heavily on its independence from government:

It is essential that the Commissioner is fully independent: to this end, we also recommend that the Commissioner is accountable, and reports directly, to Parliament rather than to Government, and is independently accommodated and resourced⁸¹

In a similar vein to concerns about the definition of domestic abuse, the Home Affairs Committee said the Commissioner's remit should be enlarged, to recognise the gendered nature of domestic abuse:

Confining the scope of the new Commissioner to domestic abuse would fail to recognise the gendered nature of domestic abuse, and its links to other forms of gender-based abuse in the lives of many women and girls. We therefore recommend this new post is established as a Violence Against Women and Girls and Domestic Abuse Commissioner. The remit of the new Commissioner should reflect the scope of both the domestic abuse and the VAWG strategies.⁸²

In its consultation [response](#), the Government noted that:

Of those who responded to the consultation, 65% either agreed or strongly agreed with the proposed model.⁸³

⁷⁸ Ibid.

⁷⁹ House of Commons Home Affairs Committee, *Domestic Abuse*, Ninth Report of Session 2017–19, HC 1015, 22 October 2018, p42

⁸⁰ Ibid.

⁸¹ Ibid.

⁸² Ibid.

⁸³ HM Government, *Transforming the Response to Domestic Abuse Consultation Response and Draft Bill*, January 2019, CP 15, p77

Changes to draft Bill

The version of the Bill presented to Parliament differs significantly from the draft Bill in its treatment of the Commissioner. In very large part, the changes result from recommendations made by the Joint Committee.⁸⁴

The following section summarises the main features of the Bill's provisions on the Domestic Abuse Commissioner, before discussing comment on those, including the observations of the Joint Committee.

5.2 The Bill

The Bill would require the Home Secretary to appoint a Domestic Abuse Commissioner (**clause 3**); provide the Commissioner with funding (**clause 4**); and staffing and accommodation (**clause 5**).

General duty

The general duty of the Commissioner would be to encourage good practice in (**clause 6(1)**):

- the prevention of domestic abuse;
- the prevention, detection, investigation and prosecution of offences involving domestic abuse;
- the identification of:
 - people who carry out domestic abuse;
 - victims of domestic abuse;
 - children affected by domestic abuse;
- the provision of protection and support to people affected by domestic abuse.

The things the Commissioner may do in pursuance of this general duty would include (**clause 6(2)**):

- assessing, monitoring, and publishing information about, the provision of services to people affected by domestic abuse;
- making recommendations to any public authority about the exercise of its functions;
- undertaking or supporting (financially or otherwise) the carrying out of research;
- providing information, education or training;
- taking other steps to increase public awareness of domestic abuse;
- consulting public authorities, voluntary organisations and other persons; and
- co-operating with, or working jointly with, public authorities, voluntary organisations and other persons, whether in England and Wales or outside the United Kingdom.

⁸⁴ [Annex A](#) of the Government's response to the Joint Committee provides a table of changes to the draft Bill.

The Commissioner would not have power to do anything in pursuance of this general duty that relates to devolved Welsh matters (**clause 6(4)**). On this point the Explanatory Notes state:

The remit of the Domestic Abuse Commissioner will extend to England and Wales, however, certain of the Commissioner's functions and powers will apply to England only recognising that the matters within the Commissioner's remit relate to a mix of reserved and devolved matters in Wales. Moreover, in Wales there are two National Advisers for Violence against Women, Domestic Abuse and Sexual Violence appointed by the Welsh Ministers under section 20 of the Violence against Women, Domestic Abuse and Sexual Violence (Wales) Act 2015. Accordingly [the Bill] limit[s] the application of the Commissioner's functions in Wales. In England, the Commissioner's responsibilities will cover all services provided by statutory agencies, and in Wales, will cover services provided by statutory agencies which are reserved, principally criminal, civil and family justice agencies such as Police and Crime Commissioners, police forces, the Crown Prosecution Service and the courts. The Commissioner may not assess or monitor services provided by devolved agencies in Wales, such as those responsible for social care or education, or make recommendations to a Welsh authority discharging devolved functions.⁸⁵

The Commissioner would be able to do anything incidental to facilitate carrying out its functions but would not be able to borrow money (**clause 9**) or exercise functions in relation to individual cases (but might consider individual cases in the context of considering a general issue - **clause 17**).

Reports

The Commissioner would have the power to report to the Home Secretary on any matter relating to domestic abuse and would have to publish all such reports, arranging for a copy to be laid before Parliament (**clause 7**). The Secretary of State might direct the Commissioner to omit material from any report, prior to publication/it being laid, if the Secretary of State thought publication of that material might jeopardise the safety of any person or prejudice the investigation or prosecution of an offence (**clause 7(4)**).

Advice and assistance

The Commissioner would be able to provide the Home Secretary with any advice or assistance that the Home Secretary might request (**clause 8**).

The Commissioner might, at the request of any other person, provide that person with advice and assistance (**clause 8(2)**), for which the Commissioner may charge a fee, to recoup costs. The Explanatory Notes state:

While it is open to anyone to request such advice, in practice the Commissioner is likely to focus on those agencies where the provision of advice will have the greatest impact, for example,

⁸⁵ Explanatory Notes, p18

police forces, Police and Crime Commissioners, local authorities and NHS bodies⁸⁶

Framework document

The Home Secretary would have to issue a framework document dealing with matters relating to the Commissioner, including governance, funding and staffing; and matters relating to the exercise of the Commissioner's functions (**clause 10**). Both the Commissioner and Home Secretary would have to have regard to this document (**clause 10(3)-(4)**).

The document would be published in a manner the Home Secretary considers appropriate; be sent to Welsh Ministers and be laid before Parliament (**clause 10(8)**). Prior to its publication, the Home Secretary would have to consult with Welsh Ministers.

Advisory board, plans and annual reports

The Commissioner would have to establish an advisory board of between 6 and 10 members, comprising at least one person representing each of the following (**clause 11**):

- victims of domestic abuse;
- charities and voluntary organisations in the sector (in England);
- health care service providers (in England);
- social care service providers (in England); and
- policing and criminal justice.

The board would have to include one person appearing to the Commissioner to have academic expertise in relation to domestic abuse.

As soon as reasonably practicable after appointment, the Commissioner would be required to publish a strategic plan, setting out the Commissioner's objectives and priorities (**clause 12**). At the end of each financial year, the Commissioner would have to submit to the Home Secretary an annual report assessing the extent to which these objectives and priorities have been met (**clause 13**). Each annual report would have to be laid before Parliament.

Duties of public authorities

The Commissioner might request that a specified public authority comply with the Commissioner in any way necessary for the purpose of the Commissioner's functions (**clause 14**).

Clause 14(3) lists 17 authorities which, broadly, all relate to policing, health and social care. The Home Secretary might amend this list by regulations subject to the negative procedure.

Where the Commissioner published a report containing recommendations in relation to a public authority, that authority (or the Minister in charge of the department) would be required to prepare comments on the report, which would have to be published within 56 days of the report (**clause 15**).

⁸⁶ Ibid.

Disclosure of information

Clause 15 would provide the structure of an information sharing gateway, enabling the Commissioner to disclose and receive information for a purpose connected with a function of the Commissioner.

5.3 Comment

As noted above, several changes were made to the draft Bill in response to comments from the Joint Committee. The Joint Committee summarised the views of the evidence it received as follows:

While our witnesses were broadly in favour of the principle of having a Commissioner, they expressed concerns about whether the Commissioner would have enough resources, powers and independence to deliver what was expected of them.⁸⁷

The Committee was particularly concerned to see that the Commissioner was independent of Government.⁸⁸ Many of these concerns echoed those in the Home Affairs Select Committee's 2018 report on domestic abuse, which argued, among other things, that the Commissioner should account directly to Parliament.⁸⁹ The changes made to the draft Bill, to address some of these concerns, include:

- the creation of a framework document (clause 10) delineating the Commissioner's relationship with government;
- the requirement for the Commissioner to lay their reports and strategic plans before Parliament directly (rather than, as was originally the case, via the Home Secretary);
- removal of the requirement for the Commissioner to submit their strategic plans to the Home Secretary "for approval"; and
- the creation of a duty for Ministers in charge of Government departments to respond to relevant recommendations.

There are, however, two notable recommendations with which the Government disagreed, that did not result in changes to the draft Bill.

First, the Joint Committee expressed "grave concerns about the proposal for the Commissioner's role to be responsible to the Home Office".⁹⁰ Some of the witness evidence on this point came from Kevin Hyland, who resigned his role as Independent Anti-Slavery Commissioner, attributing his resignation in part to the role's lack independence from the Home Office.⁹¹ Mr Hyland said that "the Secretary of State would have too much control" of the Commissioner's

⁸⁷ Joint Committee on the Draft Domestic Abuse Bill, [Draft Domestic Abuse Bill](#), First Report of Session 2017–19, HL Paper 378, HC 2075, 14 June 2019, p74

⁸⁸ *Ibid.*, pp76-80

⁸⁹ House of Commons Home Affairs Committee, *Domestic Abuse*, Ninth Report of Session 2017–19, HC 1015, 22 October 2018, p42

⁹⁰ Joint Committee on the Draft Domestic Abuse Bill, [Draft Domestic Abuse Bill](#), First Report of Session 2017–19, HL Paper 378, HC 2075, 14 June 2019, p83

⁹¹ [Independent Anti-Slavery Commissioner: letter of resignation and Prime Minister's response](#), 17 May 2018

budget and staffing.⁹² The Joint Committee recommended that the Commissioner be responsible instead to the Cabinet Office:

There is a potential for the Home Office to experience serious conflicts between its work in relation to domestic abuse and its responsibility for immigration control. This has led a number of our witnesses to question whether the Commissioner could really be independent when considering the needs of migrant women if answerable to the Home Office. They suggested that a Cabinet lead would enable a cross-departmental approach. This argument was supported by the former Anti-Slavery Commissioner's assertion that his most effective cross-government work was done when he reported to the Cabinet Office rather than the Home Office.

We recommend that the Commissioner be responsible to the Cabinet Office, to provide the Commissioner with extra authority in relation to the wide range of Ministers and government departments with which their office will have to engage.⁹³

The Government disagreed:

We believe that the mechanisms in place for protecting the Commissioner's independence are already sufficiently robust and do not agree with the Committee's assessment that Cabinet Office sponsorship would enhance this. We are confident that sponsorship by the relevant Department does not prevent Commissioners or other non-departmental public bodies from exercising their independence and that it is not in the interests of good accountability and transparency for one Department to have overall policy and legislative framework responsibility for a commissioner, and another being accountable for its spending and performance. There are many examples of this from across government. Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services is sponsored by the Home Office, the Children's Commissioner by DfE and the Information Commissioner by the Department for Digital, Culture Media and Sport, and each of these demonstrably and robustly maintain their independence of their sponsoring Department.⁹⁴

The second notable area in which the Government disagreed with the Joint Committee, and the Home Affairs Committee before it (see above), was as regards the Commissioner's sole focus on domestic abuse. Both committees recommended extending the remit to include violence against women and girls more generally.⁹⁵ While the Government did not accept these recommendations, it indicated that the position would be reviewed three years after commencement of the relevant parts of the Bill:

We believe that given the complexity and prevalence of domestic abuse, with nearly two million victims every year, that there is merit in establishing a specific Domestic Abuse Commissioner with a clear focus on this issue alone. We do, however, agree with the Committee that integration of domestic abuse and broader

⁹² Op. cit., p77

⁹³ Joint Committee on the Draft Domestic Abuse Bill, [Draft Domestic Abuse Bill](#), First Report of Session 2017–19, HL Paper 378, HC 2075, 14 June 2019, p83

⁹⁴ [Government Response to the Report from the Joint Committee on the Draft Domestic Abuse Bill](#), CP 137, 16 July 2019, p53

⁹⁵ Op. cit., p75

VAWG policy and legislation is crucial ... However, as a new role, we agree that the remit of the Commissioner will need to be kept under review and, to this end, we will review the functions of the Commissioner three years after the commencement of the provisions in Chapter 2 of Part 1 of the Bill.⁹⁶

⁹⁶ [*Government Response to the Report from the Joint Committee on the Draft Domestic Abuse Bill*](#), CP 137, 16 July 2019, p51

6. Powers for dealing with domestic abuse

Part 1, Chapter 3 of the Bill (clauses 19-52) would provide the detailed framework for two new civil protection orders:

- **Domestic Abuse Protection Notices (DAPN)**, which could be given by the police to “secure the immediate protection of a victim from future domestic abuse carried out by a suspected perpetrator”. Where a DAPN has been given, the chief officer of police of the relevant force would have to apply within a 48-hour period to a magistrates’ court for a Domestic Abuse Protection Order.⁹⁷
- **Domestic Abuse Protection Orders (DAPO)**, which could be granted by a court on application by certain categories of person (including the police, where a DAPN has been given) and might contain “prohibitions or requirements for the purpose of preventing the perpetrator from being abusive towards his or her victim”.⁹⁸

The new notices and orders are modelled on the existing Domestic Violence Protection Notices and Domestic Violence Protection Orders (see above section on the current law), although differ in important respects.

Home Office assessment of DVPOs

In March 2016, the Home Office published an [assessment of DVPOs](#).⁹⁹ This included details of stakeholder workshops, which found:

Perceptions of the DVPO scheme

- The DVPO was viewed as positive as it provides victims with the immediate protection from a violent and / or abusive situation.
- A high level of awareness of DVPOs was reported by the practitioners taking part in the workshops who viewed them as a useful tool in helping to tackle domestic abuse.
- Magistrates suggested that understanding of DVPOs in their sector could be further improved through clearer guidance around the court process and, in particular, sentencing guidelines for breaches.
- Police participants reported a reasonably high level of awareness of DVPOs amongst frontline officers. There was lower levels of awareness amongst officers who were not regularly using them. Police participants suggested refresher training to those officers who had had limited contact with the scheme.

The DVPO process

- Police should consider the risks of coercive control in domestic violence cases to ensure DVPOs are not just targeted at cases with obvious signs of physical abuse.

⁹⁷ Explanatory Notes, page 21

⁹⁸ Ibid., p24

⁹⁹ Home Office, [Domestic Violence Protection Orders \(DVPO\) One year on – Home Office assessment of national roll-out](#), March 2016

- Those taking part in workshops highlighted the importance of proper risk assessment. This was thought to be particularly relevant in incidents where the issuing of a DVPO impacts on a perpetrator's contact with children in the household.
- Practitioners agreed DVPO conditions need to be proportionate, clear, necessary and enforceable.
- Criminalisation of breaches of a DVPO would bring advantages but also limitations.
- Practitioners agreed that establishing and maintaining good inter-agency communication and referral processes were key to the effectiveness of DVPOs.

Support service provision

- Findings showed a need to ensure victims are routinely made aware of local support ¹⁰⁰

The report showed that from implementation in March 2014 up to 31 December 2014, 3,337 DVPNs had been authorised, with 3,072 DVPOs granted by magistrates. 565 (18%) of DVPOs had been breached. Data from the 17 police forces that submitted returns from 1 January 2015 to 31 July 2015 showed that a further 1,384 DVPOs were granted during this period. ¹⁰¹ The report showed a wide variation in the use of DVPOs during the reporting period (8 March 2014 to 31 December 2014), ranging from 3 made in Cambridgeshire to 229 in Essex. ¹⁰²

2017 report on police response to domestic abuse

More recently, in a 2017 [report](#) on the police response to domestic abuse, HM Inspector of Constabulary and Fire & Rescue Services noted:

Many forces are still not using DVPOs as widely as they could, and opportunities to use them are continuing to be missed. Over half of the forces that were able to provide data on the use of DVPOs reported a decrease in the number of DVPOs granted per 100 domestic abuse related offences in the 12 months to 30 June 2016 compared to the 12 months to 31 March 2015. ¹⁰³

6.1 New Domestic Abuse Protection Orders and Notices

In the [Transforming the Response to Domestic Abuse](#) consultation document, the Government observed that the existing provisions could cause confusion:

orders vary in terms of who can apply for them, the conditions attached and the consequences of breach. Different parties, including victims, agencies and the police, can apply for different orders and there is no single order that is applicable across the criminal, family and civil court jurisdictions. This can lead to confusion for victims and practitioners in domestic abuse cases

¹⁰⁰ Ibid., p4

¹⁰¹ Ibid., p3

¹⁰² Ibid., p7

¹⁰³ Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services, *A progress report on the police response to domestic abuse*, November 2017, p25

and problems with enforcement. Some police practitioners and organisations representing victims have also cited the absence of the potential for criminal sanction following breach as limiting the effectiveness of the existing domestic violence protection order.¹⁰⁴

The document proposed creating a new Domestic Abuse Protection Notice (DAPN), which could be made by the police, and a Domestic Abuse Protection Order (DAPO), which could be made by the courts, in an effort to:

bring together the strongest elements from existing protective orders used in domestic abuse cases, creating a single, flexible pathway for victims, police and other practitioners.¹⁰⁵

While the existing DVPN and DVPO would be replaced by the new notice and order respectively, the other orders relevant to domestic abuse (e.g. restraining orders, non-molestation orders and occupation orders) would continue to exist “as these provide protection in situations other than domestic abuse”.¹⁰⁶ DAPNs and DAPOs would be modelled on the existing DVPN and DVPO, with some key differences:

- the DAPO would not be subject to a particular time limit, unlike the DVPO which lasts for up to 28 days;
- it would link to the new statutory definition of domestic abuse and would not, therefore, be limited to circumstances involving violence or threats of violence;
- DAPOs would be “available in a variety of courts on application by the police, the victim, persons or bodies specified in regulations or other person with the leave of the court”;¹⁰⁷
- DAPOs would be more flexible in terms of the conditions that could be attached to them – these could include both prohibitions (e.g. not to contact or come within a specified distance of the victim) as well as positive requirements (e.g. participation in drug and alcohol programmes);¹⁰⁸
- breach of a DAPO would be a criminal offence, punishable by up to five years’ imprisonment.

In evidence to the Joint Committee on the Draft Domestic Abuse Bill, Victoria Atkins MP, Parliamentary Under Secretary of State at the Home Office, said the Government intended DAPOs to become the “go to” protective order in domestic abuse cases.¹⁰⁹

¹⁰⁴ HM Government, [Transforming the Response to Domestic Abuse](#), 8 March 2018, p34

¹⁰⁵ Ibid.

¹⁰⁶ Ibid.

¹⁰⁷ Domestic Abuse Bill Explanatory Notes, p8

¹⁰⁸ HM Government, [Transforming the Response to Domestic Abuse](#), 8 March 2018, p35

¹⁰⁹ Joint Committee on the Draft Domestic Abuse Bill, [Draft Domestic Abuse Bill](#), First Report of Session 2017–19, HL Paper 378, HC 2075, 14 June 2019, p23

6.2 The Bill

Domestic Abuse Protection Notices

Clause 19(2) would define a domestic abuse protection (DAPN) as “a notice prohibiting P from being abusive towards a person aged 16 or over to whom P is personally connected”.

Clause 19(1) would provide the power for a senior police officer¹¹⁰ to give a DAPN provided two conditions are met.

The first condition (**clause 19(3)**) is that the officer has reasonable grounds for believing that a person, “P”, has been abusive towards a person aged 16 or over with whom they are personally connected.

The second condition (**clause 19(4)**) is that the officer has reasonable grounds for believing it is necessary to give the notice to protect that person from domestic abuse, or the risk of it, carried out by P.

Clause 19(5) provides that it would not matter where the suspected abuse occurred. As such, abuse abroad could, for example, provide a basis for giving a notice. **Clause 19(7)** provides that a DAPN will have effect throughout the United Kingdom.

Clause 20 sets out that a DAPN might provide that a person to whom the notice is given may not contact a person for whose protection the notice is given; and/or may not come within a distance, specified in the notice, of where that person lives. If P lives in the same premises, the DAPN might prohibit P from evicting or excluding the person from the premises; prohibit P from entering the premises; and/or require P to leave the premises.

Clause 21 would require the senior police officer to consider the following before making a DAPN:

- the welfare of people under the age of 18 whose interests the officer considers relevant;
- the opinion of the person for whose protection the notice would be given;
- representations made by P; and
- in relation to premises, the opinion of any relevant occupants (defined as persons connected to P or the person for whose protection the notice is proposed).

Under **clause 21(4)**, it would not be “necessary for the person for whose protection a domestic abuse protection notice is given to consent to the giving of the notice.”

Clause 22 sets out further requirements in relation to DAPNs. These include:

- it would have to be in writing stating that P might be arrested for its breach and that an application for a DAPO will be heard by a magistrates’ court within 48 hours; and that until determination of that application the DAPN remains in force;

¹¹⁰ A constable of at least the rank of inspector

- the DAPN would have to be served personally by a constable; and
- where a person is subject to service law (i.e. that governing the armed forces), the constable would have to make reasonable efforts to inform P's commanding officer.

Under **clause 23**, P might be arrested without warrant for a reasonably suspected breach of the DAPN. A person so arrested must be held in custody and brought before a magistrates' court within 24 hours.

That court might remand P. When remanding P on bail, P might be required to comply with any requirements that seem necessary to "secure that the person does not interfere with witnesses or otherwise obstruct the course of justice".

Domestic Abuse Protection Orders

Clause 24 would define "domestic abuse protection order" (DAPO) as:

an order which, for the purpose of preventing a person ("P") from being abusive towards a person aged 16 or over to whom P is personally connected,

- (a) **prohibits** P from doing things described in the order, or
- (b) **requires** P to do things described in the order.

A DAPO might be made by a court on application by (**clause 25(2)**):

- the person for whose protection the order is sought;
- the appropriate chief officer of police;
- person specified in regulations made by the Home Secretary; or
- any other person with the leave of the court to which the application is to be made.

Where a DAPN has been given by a police force, the chief officer of police in relation to that force would have to apply for a DAPO.

Under **clause 25(5)** applications for DAPOs would be made in the family court, unless:

- the application is made by a chief officer of police as set out above (in which case it must be made in the magistrates' court); or
- P and the person for whom protection is sought are parties to civil proceedings, and the relevant civil court would have the power under **clause 28** (see below) to make a DAPO.

Where a DAPN has been given and an application has been made to a magistrates' court for a DAPO, that application would have to be heard within 48 hours of P receiving the notice (**clause 26**). If P is brought before the court hearing the application by reason of having breached a DAPN and the court adjourns the hearing, the court would have power to remand P (as set out in **clause 27**).

Clause 28 provides that DAPOs may be made by the High Court or family court; on conviction in a criminal court; or in the county court in any relevant proceedings.

A court might only make a DAPO if (**clause 29**):

- it is satisfied on the balance of probabilities that P has been abusive to a person aged 16 or over to whom P is personally connected; and
- the order is necessary and proportionate to protect that person from domestic abuse, or the risk of domestic abuse, carried out by P.

A DAPO may only be made against persons 18 or over (**clause 29(5)**).

Clause 30 sets out matters to be considered before making a DAPO. These mirror the consideration for DAPNs (see above, on clause 21). As with DAPNs, it is “not necessary for the person for whose protection a domestic abuse protection order is made to consent to the making of the order.”

A court might make a DAPO against P without notice to P where this is just and convenient (**clause 31**). In doing so, the court would have to consider several factors, including risk of harm to the person for whose protection the DAPO would be made; and whether the person making an application might be deterred or prevented from pursuing the application if the DAPO is not made immediately.

Clause 32 states that:

A court may by a domestic abuse protection order impose **any requirements that the court considers necessary** to protect the person for whose protection the order is made from domestic abuse or the risk of domestic abuse.

Clause 32(4)-(6) would provide examples of the types of provision that may be made in a DAPO, including geographical and contact restrictions, although the examples are not exhaustive (**clause 32(3)**).

Clause 32(6) states that:

A domestic abuse protection order may require P to submit to **electronic monitoring** in England and Wales of P’s compliance with other requirements imposed by the order.

Requirements imposed by DAPO would have to, so far as practicable, avoid conflicting with a person’s religious beliefs or interfering with attendance at an education establishment (**clause 33**).

Clause 34 would make detailed provision in relation to electronic monitoring requirements. These include that the requirement could not be made in P’s absence or without the consent of a person without whose co-operation the monitoring would be impracticable. The requirement could only be made if the court has been notified by the Home Secretary that electronic monitoring is available in the relevant area. A DAPO that would require electronic monitoring must specify who carries out the monitoring (**clause 34(6)**).

DAPOs would not be subject to a defined time limit: they would have effect for as long as they specify or until the occurrence of a specified event (**clause 35(3)**). However, a DAPO could not provide for an

electronic monitoring requirement lasting more than 12 months (**clause 35(6)**).¹¹¹

DAPOs would have effect throughout the United Kingdom, unless expressly limited in the order (**clause 35(7)**).

Failure without reasonable excuse to comply with a DAPO would constitute an offence (**clause 36**), for which the maximum penalty is five years' imprisonment if convicted at a Crown Court or 12 months if convicted at a magistrates' court (**clause 36(5)**). As DAPOs would be civil orders, their breach might alternatively be punished as contempt of court (punishable by up to two years' imprisonment).

A person in breach of a DAPO could be arrested without warrant (**clause 37**). A complainant (e.g. victim) may, alternatively, seek for the matter to be dealt with in civil proceedings for contempt, in which case a warrant may be sought from the court (**clause 37(3)**). The court dealing with the contempt proceedings could remand P either in custody or on bail (**clause 37(6)** and **Schedule 1**).

Where a person is subject to a DAPO, they would have to notify the police of their name and address within three days (**clause 38**). The notification could be effected by attending a police station or giving an oral notification to a police officer or person authorised by the officer in charge (**clause 39**). Failure so to notify would constitute an offence, punishable by up to five years' imprisonment, i.e. the same penalty as for breach of a DAPO (**clause 40**).

DAPOs could be varied or discharged, either on application to the court or, in some cases, by the court of its own volition (**clauses 41-42**).

They may be appealed against by (**clause 43**):

- the person for whose protection the order was sought;
- the applicant; or
- the person against whom it was made.

If the relevant chief officer of police is not the appellant, they would have the right to be heard in determination of the appeal (**clause 44**).

If the making (or variation) of a DAPO were considered at the conclusion of criminal proceedings, proceedings in respect of that DAPO would be civil proceedings (**clause 45**). As such, evidence not normally admissible in criminal courts might be heard (e.g. hearsay evidence).

Clause 46 would apply 'special measures' provisions to proceedings under this part of the Bill. As such, domestic abuse victims would be eligible for special measures when giving evidence in DAPO proceedings (see discussion of special measures in section 7 of this briefing).

The Home Secretary would have to issue guidance to the police and others eligible to apply for DAPOs (**clause 47**), and a code of practice

¹¹¹ This implies the Government considers DAPOs may be used for this long or longer, which is considerably longer than the existing 28 days for DVPOs. See below for discussion of this by the Joint Committee on the Draft Domestic Abuse Bill.

relating to the processing of data gathered during electronic monitoring of persons subject to DAPO monitoring requirements (**clause 48**).

Clause 49 would amend the Children Act 1989 to enable a judge sitting in the family court or Family Division of the High Court, hearing a DAPO application, to make an interim care order or exercise other powers under the 1989 Act. This would obviate the need to make separate applications for the exercise of those powers. The powers may be used, for example, to safeguard the welfare of children involved (e.g. an interim care order allows the local authority to make decisions about where the child will live).

Proceedings under this part of the Bill would be added to the list of proceedings that cannot be subject to conditional fee agreements (**clause 50**).

Clause 51 would repeal the provisions in the Crime and Security Act 2010 on which the existing DVPNs and DVPOs are based.

6.3 Comment

The report of the Joint Committee on the Draft Domestic Abuse Bill summarised the views of witnesses:

Our witnesses were, unsurprisingly, supportive of any tool that would give the police and courts greater powers to protect victims of abusive relationships. Some aspects of the new orders, such as requiring “abusive” rather than “violent” behaviour as a precondition of the orders and introducing criminal sanctions with the power of arrest for a breach of the order, were welcomed. Overall, however, the response was negative. Particular concerns were that the proposed new notices and orders did not ‘cure’ the difficulties seen in the operation of the current Domestic Violence Protection Notices and Orders and the practical workings of the DAPO scheme had not been considered, or funded, sufficiently.¹¹²

The Committee welcomed, among other things, the inclusion of “abuse” rather than “violence”, which it saw as removing a “key weakness of the previous scheme”.¹¹³ It also supported the fact DAPOs could be made without the victim’s consent, given the vulnerable position of domestic abuse victims.¹¹⁴

The Committee did, however, express concern about the more onerous restrictions possible with DAPOs, which it felt might limit the court’s willingness to make them:

DVPOs were intended as emergency orders that give victims of abuse a breathing space, overcoming the high bar placed on their issue by the courts by being limited to between 14 and 28 days, a limited interference with the perpetrator’s property rights. DAPOs, in contrast, do not appear to be subject to a statutory time-limit, although their duration must be specified in the order.

...

¹¹² Joint Committee on the Draft Domestic Abuse Bill, *Draft Domestic Abuse Bill*, First Report of Session 2017–19, HL Paper 378, HC 2075, 14 June 2019, p23

¹¹³ *Ibid.*, p25

¹¹⁴ *Ibid.*, pp25-26

We are concerned that the potentially indefinite nature of Domestic Abuse Protection Orders will result in the courts' granting them less often than they grant time-limited Domestic Violence Protection Orders, meaning protection for victims will overall be reduced.¹¹⁵

In its response to the Committee on this point, the Government said:

The flexibility afforded by the Bill allows the DAPO to retain the short-term 'breathing space' function of the existing DVPO if the courts consider a short duration DAPO with, for example, non-occupation and non-contact requirements to be the most appropriate intervention in the individual circumstances, as well as to address the weaknesses of these existing orders by being able to provide victims with longer-term protection where this is necessary and proportionate.¹¹⁶

Some stakeholders highlighted the interaction between electronic monitoring requirements and human rights:

Liberty and Rights of Women expressed concerns that attaching positive requirements, specifically electronic monitoring, to protective civil orders may breach the right to liberty and the right to privacy of the subject of the order. These concerns were heightened by the fact that legal aid will not be available in DAPO cases.¹¹⁷

In its [European Convention on Human Rights Memorandum](#) on the draft Bill, the Government said it was satisfied the legislation was compliant with the Convention:

An electronic monitoring requirement under a DAPO is also likely to engage the Article 8 rights of the individual being monitored. The physical wearing of a tag and the collection of data of an individual's whereabouts (24 hours a day) will interfere with the Article 8 rights of the individual. Any interference could be seen as the Government taking steps, as a positive obligation, to prevent crime and disorder, protect public safety and the protection of the rights and freedoms of others. The legislation is precise and accessible as envisaged by *Malone v United Kingdom* [1985] 7 EHRR 14. An independent court would be responsible for imposing the requirement and has full discretion in making a relevant order. The court would therefore need to ensure that on the particular circumstances of the individual case that any interference with Article 8 rights was justified to ensure the compliance with other measures, and that the imposition of the requirement was a necessary and a proportionate means of achieving the aim. Any such imposition would be subject to the safeguards of the appellate courts. It is therefore the Government position that any interference with Article 8 rights brought about by the legislation on electronic monitoring of a DAPO will be justified and compliant with the ECHR.¹¹⁸

Overall, though, the Committee was supportive of the option to attach positive requirements. It argued that, to be effective, DAPOs would

¹¹⁵ Ibid., p26

¹¹⁶ [Government Response to the Report from the Joint Committee on the Draft Domestic Abuse Bill](#), CP 137, 16 July 2019, p23

¹¹⁷ Op. cit., p27

¹¹⁸ *Draft Domestic Abuse Bill - European Convention on Human Rights Memorandum*, pp8-9

require associated funding and infrastructure, neither of which were addressed in the draft (or finalised) Bill:

We believe attaching positive requirements to Domestic Abuse Protection Orders has the potential to enhance the protection given to victims. The practicalities of the scheme, however, do not appear to have been thought through. Without funding for training or an infrastructure for monitoring compliance, use of positive requirements will be very limited or run the risk of making things worse as victims are forced to try and monitor their abusers' compliance with the order themselves. The simple question which the draft Bill does not address is which organisation or organisations are to be responsible for the monitoring of positive requirements. Without this clarity, the provisions relating to this proposal may fail. The use of positive requirements also has legal implications for the utility of the order which we consider below.¹¹⁹

The Government's response was as follows:

We want to ensure that when a court decides that a positive requirement is needed, there is appropriate provision of effective programmes in that local area. Under the terms of the Bill, a court must receive evidence about the suitability and enforceability of a positive requirement before it is ordered. As such, we will ensure that there are clear processes in place for assessing the suitability and enforceability of the intervention and for monitoring the perpetrator's compliance.¹²⁰

¹¹⁹ Ibid., p29

¹²⁰ [Government Response to the Report from the Joint Committee on the Draft Domestic Abuse Bill](#), CP 137, p24

7. Special measures

Clause 53 would extend the availability of “special measures” for complainants in criminal cases involving domestic abuse. Special measures apply to intimidated witnesses and are intended to improve the quality of their evidence. They include, for example:

- screening the witness from the accused;
- giving evidence via live link;
- giving evidence in private;
- removal of wigs and gowns; and
- video recorded evidence.

The Bill would deem complainants in domestic abuse cases to be automatically eligible for special measures, as is the case in relation to sexual offences, modern slavery offences and offences involving guns and knives.

7.1 Background

The Government’s proposal to extend special measures eligibility for domestic abuse complainants was set out in the [Transforming the Response to Domestic Abuse](#) consultation document:

Victims of domestic abuse may already have access to special measures if the court is satisfied that the quality of evidence given by the victim is likely to be diminished by reason of fear or distress in connection with giving evidence. There are a range of special measures available but the most commonly used is a screen – allowing the witness to give evidence in the court room without being seen by the defendant and the public gallery.

Currently prosecutors apply for these special measures for victims of domestic abuse at the first court hearing on the basis that they are eligible for assistance on grounds of fear or distress under s17(1) of the Youth Justice and Criminal Evidence Act.

We could create a legislative assumption that all victims of domestic abuse are to be treated as being eligible for assistance on the grounds of fear and distress, if the victim wants such assistance. If the victim is deemed to be eligible for assistance the court will then determine whether any available special measures would be likely to improve the quality of the evidence given by the witness and whether the measure might inhibit a party effectively testing that evidence. This is similar to the assumption for victims of other specific offences such as sexual offences and modern slavery offences.

As a result, the prosecution would not have to establish eligibility for special measures on the grounds of “fear or distress”, simply that the special measure (such as a screen or evidence via video-link) is likely to improve the quality of the evidence and would not inhibit any party effectively testing that evidence. This would mean the victim would have greater certainty from the outset that they would not have to face the accused in court.¹²¹

¹²¹ HM Government, [Transforming the Response to Domestic Abuse](#), March 2018, p51

The consultation response document reported a positive response on the issue:

Of those who answered the question, 83% said that access to special measures for victims of domestic abuse should be automatic, and that if the government provided this you would have more confidence in the criminal justice system. You also said that the use and availability of special measures should be increased¹²²

7.2 The Bill

Clause 53 would amend section 17 of the Youth Justice and Criminal Evidence Act 1999, providing eligibility for special measures:

where it is alleged that the behaviour of the accused amounted to domestic abuse within the meaning of Part 1 of the Domestic Abuse Act 2019.

7.3 Comment

Witnesses to the Joint Committee and the Committee itself welcomed the Bill's special measures proposal.¹²³ However, several witnesses called for the Bill to go further, and address the availability of special measures in the family courts.

The availability of special measures in the family courts is governed by procedural rules. [Family Procedure Rules, Part 3A](#), describes these as "participation directions". [Practice Direction 12J](#), which deals with child arrangements and contact in domestic abuse cases, provides:

If at any stage the court is advised by any party (in the application form, or otherwise), by Cafcass or CAFCASS Cymru or otherwise that there is a need for special arrangements to protect the party or child attending any hearing, the court must ensure so far as practicable that appropriate arrangements are made for the hearing (including the waiting arrangements at court prior to the hearing, and arrangements for entering and exiting the court building) and for all subsequent hearings in the case, unless it is advised and considers that these are no longer necessary. Where practicable, the court should enquire of the alleged victim of domestic abuse how best she/he wishes to participate.¹²⁴

Witnesses to the Joint Committee said that the use of special measures in the family courts was "not satisfactory or on par with those facilities available in the criminal courts".¹²⁵ The Committee recommended:

We recommend that this provision be extended to victims of domestic abuse appearing in family and other civil courts. We note the Government's comment that this is already possible under family court rules but, given the persuasive evidence about poor implementation, we recommend that the provision for special measures in the family court's rules and practice directions

¹²² HM Government, [Transforming the Response to Domestic Abuse Consultation Response and Draft Bill](#), January 2019, CP15, p55

¹²³ Joint Committee on the Draft Domestic Abuse Bill, [Draft Domestic Abuse Bill](#), First Report of Session 2017–19, HL Paper 378, HC 2075, 14 June 2019, pp39-41

¹²⁴ Practice Direction 12J, para 10

¹²⁵ Op. cit., p39

is put on a statutory basis, and that a single consistent approach is taken across all criminal and civil jurisdictions. This is particularly important given the Government's plans for a reduced but improved court estate, which may provide an additional barrier to participation for vulnerable victims.¹²⁶

The Government's did not accept this recommendation, arguing that the availability of special measures in the family courts is already under review and the Government did not want to pre-empt the review's findings.¹²⁷

¹²⁶ Ibid., p41

¹²⁷ [Government Response to the Report from the Joint Committee on the Draft Domestic Abuse Bill](#), CP 137, 16 July 2019, p31

8. Polygraph conditions

Clause 54 would permit the inclusion of a polygraph condition in the licence of a person who has committed a domestic abuse-related offence. Offenders released from custody on licence (i.e. conditionally released from prison) subject to such a condition would be required to undertake polygraph tests.

8.1 Background

A polygraph is

a device that measures certain physiological responses such as heart rate, breathing rate, blood pressure and skin resistance, changes in which are thought to indicate whether the subject is lying.¹²⁸

The proposal to extend polygraph testing to domestic abuse offenders did not feature in the initial Transforming the Response to Domestic Abuse consultation. It was first proposed in the consultation response document:

We will also introduce a measure through the Domestic Abuse Bill which will enable the National Probation Service to pilot polygraph testing with high risk domestic abuse perpetrators to monitor compliance with licence conditions in the community. Polygraph examinations are already successfully used in the management of sexual offenders released on licence. Extending these examinations to perpetrators will provide an additional source of information for offender managers to enable them to formulate improved risk management plans, share information related to risk with other relevant agencies, and support victim safety planning.¹²⁹

The Explanatory Notes to the Bill provide further detail:

Imposing polygraph examinations on certain domestic abuse perpetrators would assist National Probation Service offender managers by providing them with additional information (through self-disclosure by the offender) about the offender's risk that would not otherwise be available, for example details of any contact with their victims and whether or not they are forming new relationships. In addition, risk factors such as alcohol consumption that may be related to the offender's behaviour can be monitored and addressed. Such additional information would enable the offender manager to monitor compliance with other conditions of the offender's licence and improve risk management plans.¹³⁰

8.2 The Bill

Clause 54 would amend the Offender Management Act 2007, allowing the application of a polygraph condition to offenders released on licence in respect of "a relevant offence involving domestic abuse".

¹²⁸ Explanatory Notes, p9

¹²⁹ HM Government, [Transforming the Response to Domestic Abuse Consultation Response and Draft Bill](#), January 2019, CP15, p75

¹³⁰ Explanatory Notes, p36

The relevant offences are defined in **clause 54(4)**, which would insert a new subsection into section 28 of the 2007 Act. The offences would include the following, where these involve behaviour that would amount to domestic abuse (within the Bill's definition):

- murder;
- breach of a restraining order;
- controlling or coercive behaviour; and
- breach of a domestic abuse protection order.

The polygraph condition could not be imposed on a person under 18.

8.3 Comment

The Joint Committee did not make any recommendations in respect of the Bill's polygraph proposals, although did caution that no statements or data gleaned from polygraph testing should be admissible in criminal proceedings (which is the effect of the current law, and the law as it would be if amended by the Bill).¹³¹

¹³¹ Joint Committee on the Draft Domestic Abuse Bill, [Draft Domestic Abuse Bill](#), First Report of Session 2017–19, HL Paper 378, HC 2075, 14 June 2019, p42

9. Disclosure of information by police

Clause 55 would put the current Domestic Violence Disclosure Scheme (DVDS) on a statutory footing. The DVDS provides a mechanism for the police to disclose information about partners or ex-partners of individuals at risk of domestic abuse.

The DVDS is often referred to as Clare's Law, named after Clare Wood, who was brutally murdered in February 2009 by her former partner, George Appleton, who had a history of violence against women.¹³²

9.1 The Domestic Violence Disclosure Scheme

The DVDS was rolled out across England and Wales from March 2014.¹³³ The Scheme provides a structured means for an individual to ask the police to check whether a new or existing partner has a violent past ("right to ask"). If police checks show that a person may be at risk of domestic violence from their partner, the police will consider disclosing the information ("right to know").¹³⁴

Home Office assessment of DVDS

The Home Office published an [assessment of the DVDS](#) in March 2016.¹³⁵ The assessment included details of a number of stakeholder workshops, which found:

Perceptions of the DVDS scheme

- The police and partner agencies were largely positive about the DVDS.
- Good practice was emerging, with some forces placing markers on the Police National Computer (PNC) following a disclosure to alert other officers to an individual potentially at high risk of domestic violence or abuse.

The disclosure process

- Police officers working on the DVDS felt that specialist officers working in domestic violence and abuse had a good knowledge of the scheme and further awareness raising with all frontline officers would be beneficial in order to further promote the scheme to the public and how they might access it.
- Practitioners felt that there was some variation across the country in the number of disclosures made by forces under the DVDS. This may be as a result of the staged roll out rather than differing practice. There will need to be a further assessment of use to test this.

¹³² [Salford murder victim Clare Wood 'was not protected'](#), *BBC News*, 23 May 2011 [accessed 29 September 2019]

¹³³ [HC Deb 25 November 2013 c5-6WMS](#)

¹³⁴ For further information and background see the Library Briefing Paper 6250, [Clare's law: the Domestic Violence Disclosure Scheme](#).

¹³⁵ Home Office, [Domestic Violence Disclosure Scheme \(DVDS\) One year on – Home Office assessment of national roll-out](#), March 2016

- Practitioners felt that there was some inconsistency in information given in disclosures and variation in the service provided to victims.

Support service provision

- The police felt that there could be better consistency between forces in the follow-up support given to those who received non-disclosures i.e. those who were told there was no information to disclose¹³⁶

Police data showed that from implementation in March 2014 up to 31 December 2014, a total of 4,724 applications had taken place with 1,938 disclosures made. Data from the 15 police forces that submitted returns from 1 January 2015 to 31 July 2015 showed that a further 691 DVDS disclosure applications with 297 disclosures were made during this period.¹³⁷

In 2017 Her Majesty's Inspectorate of Constabulary and Fire and Rescue Services produced a [thematic report on domestic abuse](#). This found that police forces needed to raise awareness of the DVDS amongst victims and make sure they are referred to appropriate support organisations. It identified inconsistencies surrounding the use of the scheme by police forces, noting the low volume of disclosures and "extremely wide" variation between forces on the use of 'right to know' and 'right to ask' disclosures.¹³⁸

In its report on the draft Bill, the Joint Committee noted:

The DVDS has had limited use since its creation in 2014—the latest figures revealed that there were 4,655 "right to ask" applications resulting in 2055 disclosures in the year ending March 2018. There were also 6,313 "right to know" applications resulting in 3,594 disclosures in the same period. This compares with the 1,198,094 domestic abuse-related incidents and crimes recorded by the police in England and Wales in the same year.¹³⁹

In the Transforming the Response to Domestic Abuse consultation document the Government said putting the DVDS on a statutory footing would:

place a duty on the police to have regard to the guidance and strengthen the visibility and use of the scheme. We think that this will result in more people being warned of the dangers posed by their partners (or ex-partners) and help keep victims safer¹⁴⁰

9.2 The Bill

Clause 55 would require the Home Secretary to "issue guidance to chief officers of police about the disclosure of police information ... for

¹³⁶ Ibid, pp4-5

¹³⁷ Ibid, p4

¹³⁸ HMICFRS, [A progress report on the police response to domestic abuse](#), November 2017, p39

¹³⁹ Joint Committee on the Draft Domestic Abuse Bill, [Draft Domestic Abuse Bill](#), First Report of Session 2017–19, HL Paper 378, HC 2075, 14 June 2019, pp36-37

¹⁴⁰ HM Government, [Transforming the Response to Domestic Abuse Consultation Response and Draft Bill](#), January 2019, CP15, p46

the purposes of preventing domestic abuse” (**clause 55(1)**). Each chief officer must have regard to such guidance (**clause 55(2)**).

The Secretary of State might from time to time revise the guidance (**clause 55(3)**). Before issuing or revising the guidance, the Secretary of State would have to consult:

- the Domestic Abuse Commissioner
- the National Police Chiefs’ Council
- such other persons as the Secretary of State considers appropriate

9.3 Comment

The Joint Committee said that its “witnesses broadly welcomed the move”,¹⁴¹ although noted the views of academics who observed “there is no evidence to date that DVDS acts as a preventive strategy or an effective intervention”.¹⁴²

Ultimately, the Joint Committee endorsed the decision to put the DVDS on a statutory footing:

We believe this will increase awareness of the DVDS among the general public and so those who could benefit from it. We acknowledge that the DVDS is only ever likely to be used by a small number of people, and there may be some risks involved for an individual making a ‘right to ask’ application, but we believe these can be reduced by a situation-sensitive approach by the police. Ultimately, the DVDS is only one small part of the wider state response to the challenge of tackling domestic violence.

We note the criticisms of the police’s limited use of the ‘right to know’ powers they possess under the Domestic Violence Disclosure Scheme (DVDS). We believe this will improve with the reforms to the guidance contained in the draft Bill. We also believe that it would increase with improved multi-agency working and we recommend further work is done in this area.¹⁴³

¹⁴¹ Joint Committee on the Draft Domestic Abuse Bill, [*Draft Domestic Abuse Bill*](#), First Report of Session 2017–19, HL Paper 378, HC 2075, 14 June 2019, p36

¹⁴² Ibid.

¹⁴³ Ibid., p38

10. Secure tenancies

In 2017/18, over 5,000 (1.68%) of all new social housing lettings were to existing social tenants who gave 'Domestic Abuse' as the main reason they left their previous social home.¹⁴⁴ **Clause 56** of the Bill will ensure that where an English housing authority is operating a discretionary scheme of flexible fixed-term tenancies, certain victims of domestic abuse will be entitled to the grant of a new secure 'lifetime' tenancy. The aim is to remove barriers which might prevent a victim from leaving their existing social housing tenancy and to support them to remain in their homes where the perpetrator has left.

10.1 Background

Tenancies currently offered by local authorities in England are, as a rule, secure tenancies governed by the *Housing Act 1985*. Secure tenancies offer what is often referred to as a 'tenancy for life', which means that the tenant retains security of tenure provided they do not breach the conditions of their tenancy (e.g. fail to pay the rent).

The *Localism Act 2011* introduced a *power* for local authorities to offer 'flexible tenancies' to new social tenants. Flexible tenancies are secure fixed-term tenancies with a minimum term of two years. This provision came into force in April 2012. The discretionary power has been little used by local authorities.

In the Summer Budget 2015 the Government announced that it would "review the use of lifetime tenancies in social housing to limit their use...and ensure the best use is made of the social housing stock."¹⁴⁵ Measures were included in the *Housing and Planning Act 2016* to prevent local authorities in England from offering secure tenancies for life in most circumstances. To date, the relevant provisions, sections 118-121 and Schedule 7 of the 2016 Act, have not been brought into force.

As the *Housing and Planning Bill* progressed through Parliament there was a good deal of debate about potential exemptions from the requirement to offer a fixed-term tenancy. There were concerns that victims of domestic violence would be less likely to leave their homes if doing so would result in an offer of a tenancy with less security of tenure. In response to a Labour amendment on this issue,¹⁴⁶ Baroness Evans of Bowes Park, for the Government, said:

In developing the regulations that determine when a local authority may grant existing lifetime tenants a further lifetime tenancy when they move home, we will give very careful consideration to whether this should include those who are moving home to escape violence or intimidation of any kind.¹⁴⁷

¹⁴⁴ MHCLG, [Domestic Abuse Bill 2019 – Secure Tenancies and Victims of Domestic Abuse Fact Sheet](#)

¹⁴⁵ Summer Budget 2015, para 1.155

¹⁴⁶ [HL Deb 14 March 2016 cc1708-10](#)

¹⁴⁷ [HL Deb 14 March 2016 cc1714-5](#)

At Report Stage in the House of Lords Baroness Evans, when pressed on the matter, confirmed that an exemption for those leaving their homes to escape domestic violence would be included in regulations.¹⁴⁸ She also said that authorities would be required to provide victims of domestic violence with a replacement lifetime tenancy.

Subsequently, the Government introduced the *Secure Tenancies (Victims of Domestic Abuse) Bill* in the House of Lords on 19 December 2017. Baroness Lister of Burtersett, a Labour Peer, said that it had not proved possible under the terms of the 2016 Act to require authorities to provide new lifetime tenancies to victims of domestic abuse, hence the need for primary legislation.¹⁴⁹ The *Secure Tenancies (Victims of Domestic Abuse) Act 2018* received Royal Assent on 10 May 2018. This Act provides that when the mandatory fixed-term tenancies provisions in the 2016 Act are brought into force, certain victims of domestic abuse will retain a right to a lifetime secure tenancy.¹⁵⁰ The Government has that they will not implement the 2016 Act provisions at this time; as a result, the 2018 Act has also not been brought into force.¹⁵¹

As noted above, authorities currently have discretion to offer new social tenants a flexible tenancy with a minimum fixed-term of two years under the *Localism Act 2011*. Few authorities have taken up this option but where they have, there is no requirement to offer a lifetime tenancy to victims of domestic violence. The Social Housing Green Paper, [A new deal for social housing](#) (August 2018)¹⁵² included a commitment to address this issue – section 56 of the current Bill will fulfil this commitment:

...we said that we would seek to bring forward legislation to make sure that similar protections for victims of domestic abuse are in place where, as now, local authorities offer fixed term tenancies at their discretion.¹⁵³

In the meantime, local authorities in England are required to comply with new statutory guidance which was issued in November 2018: [Improving access to social housing for victims of domestic abuse in refuges or other types of temporary accommodation](#).

10.2 The Bill

Clause 56 of the Bill will insert a new section into Part 4 of the *Housing Act 1985* to place a duty on English housing authorities to offer a secure tenancy **which is not a flexible tenancy** where:

¹⁴⁸ HL Deb 18 April 2016 cc502-3

¹⁴⁹ HL Deb 9 January 2018 c137

¹⁵⁰ For more information see Library paper: [Secure Tenancies \(Victims of Domestic Abuse\) Bill \[HL\] 2017-19](#)

¹⁵¹ [Bill 422-EN](#), para 37

¹⁵² MHCLG, [A new deal for social housing](#), Cm 9671, August 2018, para 188

¹⁵³ MHCLG, [Domestic Abuse Bill 2019 – Secure Tenancies and Victims of Domestic Abuse Fact Sheet](#)

- they are rehousing someone who holds or held a qualifying tenancy (solely or jointly), or when offering a new sole tenancy of their existing home to a lifetime tenant; **and**
- that person is or has been a victim of domestic abuse as defined by clause 1 of the Bill carried out by another person, and the new tenancy is being granted for reasons connected with that abuse.

Qualifying tenancies will include secure local authority tenancies and assured tenancies (but not assured shorthold tenancies) granted by a private registered provider of social housing¹⁵⁴, a charitable housing trust, or the Regulator of Social Housing.

10.3 Comment

Clause 56 replicates provisions in the *Secure Tenancies (Victims of Domestic Abuse) Act 2018*. Those provisions attracted cross-party support and were welcomed by Women's Aid and other organisations who support victims of domestic violence.

The Joint Committee's report recorded that "the provision elicited very few comments from our witnesses".¹⁵⁵ The Committee was told that the change was likely to affect 1,000 people per year.¹⁵⁶

¹⁵⁴ More commonly referred to as housing associations.

¹⁵⁵ [Joint Committee on the Draft Domestic Abuse Bill, First Report of Session 2017-19, HC 2075](#), 14 June 2019, para 199

¹⁵⁶ Ibid.

11. Domestic abuse: Northern Ireland

Part 2 of the Bill would create a new domestic abuse offence in Northern Ireland, which would be analogous to existing offences in the laws of Scotland and England & Wales.

11.1 Background

The proposal to amend the law of Northern Ireland to create a domestic abuse offence did not feature in either the Transforming the Response to Domestic Abuse consultation or the Government response to it. As such, the draft Domestic Abuse Bill did not contain the provisions that are now set out in Part 2 of the Bill. They result in part from the Government's response to the recommendations of the Joint Committee (see below).

Department of Justice Consultation

On 5 February 2016 the Department of Justice in Northern Ireland published a [consultation](#) seeking views on creating "a specific offence to capture patterns of coercive and controlling behaviour in intimate relationships".¹⁵⁷ The consultation document set out arguments for and against a specific offence:

There is no specific offence of domestic abuse outlining that coercive and controlling behaviour in an intimate relationship is criminal. It has been argued that this means the law is ambiguous and perpetrators of domestic abuse are committing criminal acts but not being brought to justice. We now ask whether the law needs to change to make it clear that these behaviours are criminal when perpetrated in an intimate relationship to control someone or cause them fear.

There are arguments for and against making a specific domestic abuse offence. Victims of domestic abuse often fear the consequences that reporting their abuse might have for their families and even their perpetrators. Accessing the criminal justice system can be intimidating, particularly where a victim is likely to remain emotionally involved with their perpetrator. In making new laws we must carefully consider the concerns victims may have about accessing the criminal justice system. Creating a new offence may also be seen as duplicating existing legislation relating to harassment.

Conversely, creating a specific offence of domestic abuse may send a clear, consistent message that non-violent control in an intimate relationship is criminal. Explicitly capturing this in legislation may also help victims identify the behaviour they are suffering as wrong and encourage them to report it, and cause perpetrators to rethink their controlling behaviour.¹⁵⁸

The Department of Justice published a [summary of responses](#) to the consultation, on 28 October 2016, identifying the following views:

¹⁵⁷ Department of Justice, [Domestic Abuse Offence and Domestic Violence Disclosure Scheme](#), February 2016, p5

¹⁵⁸ Ibid., pp4-5

Overwhelmingly, respondents considered that as there is no distinct offence, the current law needs to change to recognise domestic abuse in all forms. Creating an offence would be a positive step towards ensuring that certain types of abuse are not overlooked or treated less seriously. It was suggested that any offence should include mental, emotional and financial control.

It was highlighted that currently the criminal justice system treats and, where appropriate, prosecutes each occurrence of domestic violence as an individual incident with the cumulative impact of controlling behaviour being overlooked. Consequently, not taking the repetition of these acts into account means the law currently does not provide sufficient protection for victims.

It was highlighted that perpetrators who use controlling and coercive behaviour may justify and minimise the harm caused by the fact their behaviour is non-violent. Thus it was noted that as well as providing better protection for victims, a domestic abuse offence would also send a strong message to perpetrators, that abuse whether physical or emotional is unacceptable and will result in serious consequences.

Relatedly, a range of respondents stressed the need for a strong sentencing regime that reflects the seriousness of domestic abuse/coercive and controlling behaviour. However, it was also suggested that the Department should also consider exploring a restorative justice programme to address such behaviour.

Some respondents expressed concerns that prosecuting cases could be inherently problematic, for example meeting evidence thresholds. It was therefore suggested that a holistic approach to capturing evidence and innovative approaches to assist in building a portfolio of evidence for domestic abuse cases should be considered.

Respondents considered further work would be required in framing/establishing the standard for the offence e.g. should the offence specify particular conduct/relate to a perpetrator acting in an intentional or reckless way or should it focus on the impact to the victim. It was suggested that the offence in Northern Ireland should also encapsulate situations where ex-partners are continuing to exert coercive control over their victim, even after separation.¹⁵⁹

On 12 September 2016 the then Minister of Justice, Claire Sugden, [announced](#) the Northern Ireland Executive's intention to introduce a specific domestic abuse offence to capture patterns of coercive and controlling behaviour in intimate relationships.¹⁶⁰ Progress on this has stalled, given the collapse of the power-sharing Executive in Northern Ireland, in January 2017.¹⁶¹

Joint Committee report and Government response

In its pre-legislative scrutiny of the Bill, the Joint Committee took evidence on the legal position in Northern Ireland. Written evidence from the Belfast Area Domestic & Sexual Violence Partnership called for the extension of the Bill to Northern Ireland:

¹⁵⁹ Ibid., pp2-3

¹⁶⁰ Ibid., p62

¹⁶¹ For background on this, see: [Northern Ireland: May 2016 - March 2018](#), Commons Library Briefing Paper, 08231, March 2018

the collapse of the NI Assembly and ongoing political impasse has left significant gaps in domestic abuse legislation. Northern Ireland is the only jurisdiction in the UK that does not have legislation in place to address the issues of coercive control and stalking. Prior to 2016, the NI Department of Justice had consulted on improving domestic abuse legislation, but a draft bill was unable to progress.¹⁶²

Other evidence pointed out that, as the law in Northern Ireland - uniquely in the United Kingdom¹⁶³ - lacked an offence of coercive or controlling behaviour in intimate relationships, the United Kingdom would not be fully compliant with the Istanbul Convention, and therefore unable to ratify it.¹⁶⁴

The Joint Committee on Human Rights also highlighted the position in Northern Ireland, in a letter from its Chair to the Government:

Given the protracted absence of the Northern Ireland Assembly, there are concerns among stakeholders that the exclusion of Northern Ireland would result in unequal and inadequate protections for victims of domestic abuse in Northern Ireland.¹⁶⁵

The Joint Committee recommended extending the provisions of the Bill to Northern Ireland:

We consider it unacceptable that the people of Northern Ireland are denied the same level of protection in relation to domestic abuse as those elsewhere in the United Kingdom because of the lack of a Northern Ireland Executive and Assembly. We understand and respect the devolution settlement, but in the absence of an executive we recommend that the provisions of the draft Bill be extended to Northern Ireland unless and until Northern Ireland enacts its own legislation in this area. The draft Bill should be amended to include a 'sunset clause' to this effect.¹⁶⁶

The Government did not agree fully with this recommendation, considering that the measures in the Bill should not extend en bloc to Northern Ireland.¹⁶⁷ Instead, the Government proposed criminalising controlling and coercive behaviour, such as had already been proposed in the Northern Ireland consultation:

In 2016 the then Northern Ireland Minister of Justice launched a consultation on criminalising coercive and controlling behaviour. The Executive collapsed before this matter could be legislated. The

¹⁶² Written evidence submitted by the Belfast Area Domestic & Sexual Violence Partnership ([DAB0236](#)), April 2019

¹⁶³ Section 76 of the Serious Crime Act 2015 and section 1 of the Domestic Abuse (Scotland) Act 2018 criminalise controlling and coercive behaviour in England & Wales and Scotland respectively

¹⁶⁴ For example: Written evidence submitted by Professor Fiona de Londras, Birmingham Law School ([DAB0317](#)); Written evidence submitted by Dr Stella Creasy MP ([DAB0445](#))

¹⁶⁵ Letter from the Chair of the JCHR to Victoria Atkins MP, Parliamentary Under Secretary of State for Crime, Safeguarding and Vulnerability and Minister for Women, Home Office and Edward Argar MP, Parliamentary Under Secretary of State, Ministry of Justice, 10 April 2019

¹⁶⁶ Joint Committee on the Draft Domestic Abuse Bill, *Draft Domestic Abuse Bill*, First Report of Session 2017–19, HL Paper 378, HC 2075, 14 June 2019, p9

¹⁶⁷ *Government Response to the Report from the Joint Committee on the Draft Domestic Abuse Bill*, CP 137, 16 July 2019, p12

Bill therefore includes a Northern Ireland measure (including to provide that complainants in relation to such an offence are eligible for special measures), to criminalise controlling or coercive behaviour (analogous offences already being on the statute books in England and Wales and Scotland).¹⁶⁸

The response also set out the Government's intention to extend certain other measures in Bill to Northern Ireland, including the provisions on offences committed outside the UK (see below) and the prohibition of cross-examination of victims by the accused.

All these provisions extending to Northern Ireland are now set out in the Bill. They are, however, subject to separate commencement provisions, meaning they would be brought into force by means of commencement regulations made by the Department of Justice in Northern Ireland (**cause 85(4)**).

11.2 The Bill

Clause 57 would create the domestic abuse offence, providing that A commits an offence if A engages in a "course of behaviour that is abusive" to B and they are "personally connected" (defined in **clause 60**) at the time. The offence would be subject to a maximum of 14 years imprisonment (**clause 65**).

Clause 58 would define "abusive" behaviour as including violent or threatening behaviour. It could also include A's behaviour that subordinates B to A; isolates B; controls or restricts B; or makes B feel frightened, humiliated, degraded, punished or intimidated. This list is not exhaustive, thus enabling the court to find behaviour is abusive in some other way.

Clause 59 would further define "behaviour" to include, among other things, behaviour directed at a person's ability to acquire, use or maintain money, property, goods or services.

A person might be guilty of the domestic abuse offence notwithstanding the fact the behaviour occurred outside the UK (**clause 61**).

It would be an aggravating feature of the offence if the victim were under 18 (**clause 66**) or a child was otherwise involved (**clause 67**). However, the offence would not apply where A engages in abusive behaviour to B, B is under 18 and A has responsibility for B (**clause 62**); this exception is said to be necessary so as not inadvertently to criminalise normal and appropriate parental behaviour.¹⁶⁹

The accused would have a defence if a person shows that the behaviour was reasonable in the circumstances (**clause 63**). If in proceedings for the domestic abuse offence that offence is not made out, the accused might alternatively be convicted of an offence under the Protection from Harassment (Northern Ireland) Order 1997 (SI 1997/1180 (NI 9)).

¹⁶⁸ Ibid.,

¹⁶⁹ Explanatory Notes, p40

Clauses 68-74 deal with procedural and interpretative matters. These include a prohibition on the accused cross-examining the complainant and the automatic eligibility of special measures to witnesses in domestic abuse cases.

11.3 Comment

As noted above, the Joint Committee and many of its witnesses called for the creation of a domestic abuse offence in Northern Ireland. The ex-Justice Minister, Claire Sugden, praised the Government's decision to extend parts of the Bill to Northern Ireland.¹⁷⁰

¹⁷⁰ [Domestic abuse bill: Coercive control to become offence in Northern Ireland](#), *BBC News*, 17 July 2019 [accessed 29 September 2019]

12. Prohibition of cross-examination in person

Part 3 of the Bill (clause 75) would make provision for prohibiting perpetrators of abuse from cross-examining their victims in the family courts (and vice versa), in certain circumstances.

To support this, the clause would provide family courts with the power to appoint qualified legal representatives, to undertake cross-examination on a party's behalf where that party is prohibited by clause 75 from cross-examining in person.

12.1 Background

Since 2000, in the criminal courts, defendants have been prohibited from cross-examining victims in sexual offences cases. Chapter 2 of Part 2 of the Youth Justice and Criminal Evidence Act 1999 also permits the court to prohibit the accused from cross-examining particular witnesses. There is no equivalent provision in respect of family courts, a situation that has been subject to considerable criticism, including from the judiciary. In 2016 Sir James Munby, when President of the Family Division of the High Court, said:

I have expressed particular concern about the fact that alleged perpetrators are able to cross-examine their alleged victims, something that, as family judges have been pointing out for many years, would not be permitted in a criminal court. Reform is required as a matter of priority. I would welcome a bar. But the judiciary cannot provide this, because it requires primary legislation and would involve public expenditure. It is therefore a matter for ministers.¹⁷¹

The previous Conservative Government introduced provisions in the Prisons and Courts Bill 2016-17 to deal with the problem of alleged abusers being able to cross-examine their victims in the family courts. However, the Bill fell at the General Election.

The Transforming the Response to Domestic Abuse consultation document did not contain any proposals on cross-examination in the family courts, although it did ask about the effectiveness of applications in the criminal courts to prevent victims being cross-examined.¹⁷² The consultation response document noted that respondents to this question focused instead on cross-examination in the family courts:

Although we only asked about cross-examination in the criminal courts, your responses to this question overwhelmingly focused on family proceedings. You were unanimous on the need to give family courts the power to stop unrepresented perpetrators of

¹⁷¹ [Statement from the President of the Family Division, Sir James Munby: Cross-examination of vulnerable people](#), 30 December 2016

¹⁷² HM Government, [Transforming the Response to Domestic Abuse Government Consultation](#), 8 March 2018, p52

abuse directly cross-examining their victims. This was also a key issue raised with us through stakeholder events.¹⁷³

12.2 The Bill

Clause 75 would insert a new Part 4B into the Matrimonial and Family Proceedings Act 1984. The Explanatory Notes set out that the effect of this would be to:

prohibit perpetrators of abuse from cross-examining their victims in person in the family courts, and vice versa, and give such courts discretion to prevent cross-examination in person in other circumstances where it would affect the quality of the witness' evidence or cause significant distress. It also gives family courts the power to appoint a qualified legal representative to conduct cross-examination on a party's behalf where that party is prohibited or prevented from cross-examining in person.¹⁷⁴

New sections 31Q-31s, which would be inserted by new Part 4B would prohibit cross-examination in person by a party who has been convicted of or cautioned for a specified offence (to be specified via regulations). New section 31S would extend the prohibition to persons against whom protective injunctions have been made.

New section 31T would create a discretionary power for family courts to give directions prohibiting cross-examination where the quality of witness evidence is likely to be diminished by the cross-examination and the cross-examination is likely to cause significant distress.

12.3 Comment

The Joint Committee's report noted universal support for the measure among witnesses to the Committee:

The proposal to prevent the perpetrators of domestic abuse themselves from cross-examining victims in the family courts is a welcome measure and warmly supported across the board. We are pleased that it is accompanied by publicly-funded representation for perpetrators of abuse where necessary in the interests of justice.¹⁷⁵

Witnesses to the Committee did, however, argue that the proposed discretionary power would admit potential for inconsistent application.¹⁷⁶ The Committee was similarly concerned:

we are concerned at the potential for inconsistency in application because too many victims of domestic abuse will be protected only at the discretion of the court. We recommend that the mandatory ban is extended so that it applies where there are other forms of evidence of domestic abuse, as in the legal aid regime threshold.¹⁷⁷

¹⁷³ HM Government, *Transforming the Response to Domestic Abuse Consultation Response and Draft Bill*, January 2019, CP15, p57

¹⁷⁴ Explanatory Notes, p43

¹⁷⁵ Joint Committee on the Draft Domestic Abuse Bill, *Draft Domestic Abuse Bill*, First Report of Session 2017–19, HL Paper 378, HC 2075, 14 June 2019, p46

¹⁷⁶ *Ibid.*, p44

¹⁷⁷ *Ibid.*, p46

In its response, the Government said that it would consider whether any amendments needed to be made to the Bill:

The policy intention behind these provisions is that the protection afforded by the cross-examination provisions in the Bill will be accessible to every victim or witness who needs it, as was set out by Minister Argar in his oral evidence to the Committee on the 21 May.¹⁷⁶ We want to ensure that every victim attending the family courts has confidence that this will be the case, and we will be liaising closely with the judiciary around the potential operational impacts of these provisions.

We recognise that many victims are not able to, or choose not to, pursue their abuser through the justice system, and that therefore these victims may not benefit from the automatic prohibition. We have provided for this in the Bill by giving the court the power to give a binding direction, in clearly-defined circumstances, prohibiting cross-examination in person where the threshold for the automatic prohibition is not met. The court may give a direction prohibiting such cross-examination where they consider that without it the victim would likely suffer significant distress, or the quality of their evidence would likely be diminished, and that it would not be contrary to the interests of justice to give the direction. Our expectation is that this discretion will be widely used, and that every victim of domestic abuse, however it is evidenced, should benefit from the provisions.

We acknowledge the Committee's recommendation to extend the range of evidence accepted for the automatic prohibition and will consider this very carefully over the course of the summer, including whether we need to make any amendments to the Bill as introduced.¹⁷⁸

¹⁷⁸ [*Government Response to the Report from the Joint Committee on the Draft Domestic Abuse Bill*](#), CP 137, 16 July 2019, p33

13. Offences committed outside the UK

Part 4 of the Bill (clauses 76-78) would provide for extra-territorial jurisdiction over certain types of offences against the person committed by UK nationals (or those habitually resident in the UK) outside the UK.

13.1 Background

Article 44 of the Istanbul Convention requires parties to use their national law to “establish jurisdiction over any offence established in accordance with this Convention” committed extra-territorially by their nationals or residents. UK domestic law does not currently provide for this, which is one of the reasons the UK has not yet ratified the Convention.¹⁷⁹

In order to pave the way for ratification of the Convention, primary legislation is required to confer on the courts this extra-territorial jurisdiction. The measures in clauses 76-78 would do this.

As noted above, the Government is required, by the Preventing and Combating Violence Against Women and Domestic Violence Act 2017, to publish progress reports on ratification of the Convention. The most recent of these, published on October 2018, states:

A key element of the Convention is making sure that ratifying states can use their national law to prosecute offences required by the Convention when those offences are committed by their nationals or residents overseas (Article 44). The legal term for powers to allow prosecution in the UK of offences committed overseas is ‘extraterritorial jurisdiction’. Taking extraterritorial jurisdiction over offences required by the Convention that are not currently subject to such jurisdiction requires primary legislation.¹⁸⁰

13.2 The Bill

Clause 76 would extend extra-territorial jurisdiction of courts in England and Wales over certain offences against the person committed by UK nationals or those habitually resident in England and Wales. The offences include murder; manslaughter; and other offences relating to bodily harm or injury. The conduct must constitute an offence in the country in which it was committed, although the precise description of the offence in that country’s law does not need to be the same as that in domestic law (**clause 76(8)**).

Clause 77 makes analogous provision for Northern Ireland. **Clause 78** introduces **Schedule 2**, which makes detailed provision for extra-territorial jurisdiction over certain offences under the laws of England and Wales, Scotland and Northern Ireland.

¹⁷⁹ [PO 26764](#) [on implementing the Istanbul Convention], answered 22 February 2016

¹⁸⁰ Home Office, [Ratification of the Council of Europe Convention on Combating Violence Against Women and Girls and Domestic Violence \(Istanbul Convention\) – 2018 Report on Progress](#), October 2018

14. Power to issue guidance

Clause 79 would provide a power for the Home Secretary to issue guidance about domestic abuse.

The Government intends, in particular, for the guidance to underpin the new definition of domestic abuse proposed in clauses 1 and 2 of the Bill:

In the statutory guidance that will accompany the definition, we will expand further on the different types of abuse and the forms they can take. This will include types of abuse which are experienced by specific communities or groups, such as migrant women or ethnic minorities and also teenage relationship abuse. This will also recognise that victims of domestic abuse are predominantly female.

We will recognise the devastating impact that domestic abuse can have on children who are exposed to it within the statutory guidance. The guidance will be directed at all statutory and non-statutory service providers.¹⁸¹

14.1 The Bill

Under **clause 79(1)** the Home Secretary may issue guidance about the effect of certain provisions made by the Bill, and “other matters relating to domestic abuse in England and Wales” (**clause 79(1)(a)**).

The Home Secretary must issue guidance on:

- the effect of the domestic abuse definition, including the kinds of behaviour that constitute domestic abuse; and
- the effect of domestic abuse on children,

The guidance must (**clause 79(3)**):

“so far as relevant, take account of the fact that the majority of victims of domestic abuse in England and Wales are female”

A person exercising public functions to whom guidance is issued must have regard to it (**clause 79(4)**). Before publishing the guidance, the Home Secretary would be required to consult:

- the Domestic Abuse Commissioner;
- Welsh Ministers, so far as the guidance relates to a devolved Welsh authority; and
- such other persons as the Home Secretary considers appropriate.

14.2 Comment

As noted above, this clause changed from that included in the draft Bill, to reflect recommendations made by the Joint Committee. In particular, the clause was amended to include reference to the effect of domestic abuse on children, and to include a requirement for the guidance to

¹⁸¹ [*Government Response to the Report from the Joint Committee on the Draft Domestic Abuse Bill*](#), CP 137, 16 July 2019, p7

take account of the disproportionate impact of domestic abuse on females.

The Joint Committee noted that the Chair of the Home Affairs Select Committee had written to it, referencing the scope the draft Bill allowed for the guidance to be delayed:

We received a letter from the Chair of the House of Commons Home Affairs Committee, the Rt Hon Yvette Cooper, expressing concern over this provision. She noted that the Modern Slavery Act 2015 required the Home Secretary to publish statutory guidance in relation to that Act, but despite this: "On 8 November 2018, a High Court Judge drew attention to the failure of the Home Secretary, more than three years after the passing of the Modern Slavery Act, to comply with his obligations to provide guidance under s. 49 of that Act. Although the Judge noted that the Home Secretary had 'an absolute duty immediately to issue the guidance that Parliament required of him' and that 'any further delay would be completely unacceptable.'" We consider a similar delay with the statutory guidance referred to by the Minister to be particularly undesirable.¹⁸²

The Committee went on to recommend:

that the Secretary of State publish draft statutory guidance in time for the Second Reading of the Bill, and Clause 57 [now clause 79] be amended to require the final guidance to be published within six months of the Bill's enactment.¹⁸³

The Government declined to change the clause so as to introduce a six-month deadline, although did say it aimed to "publish the draft guidance in time for the House of Commons Committee stage of the Bill".¹⁸⁴

¹⁸² Joint Committee on the Draft Domestic Abuse Bill, [Draft Domestic Abuse Bill](#), First Report of Session 2017–19, HL Paper 378, HC 2075, 14 June 2019, pp19-20

¹⁸³ *Ibid.*, p20

¹⁸⁴ [Government Response to the Report from the Joint Committee on the Draft Domestic Abuse Bill](#), CP 137, 16 July 2019, p42

15. Appendix

A1: Estimated number of victims of intimate violence in the last year, by headline category, year ending March, 16-59 years old (000s)

ALL (000s)

Year	Any domestic abuse (1)	Any partner abuse (2)	Any family abuse (2)	Partner abuse (non-sexual)	Family abuse (non-sexual)	Sexual assault (any, including attempt)	Stalking
2009/10	2,119	1,650	791	1,591	700	664	1,336
2010/11	2,258	1,765	820	1,525	738	745	1,343
2011/12	2,258	1,685	866	1,754	708	777	1,389
2012/13	2,138	1,576	811	1,432	726	621	1,180
2013/14	2,126	1,608	717	1,428	640	482	1,132
2014/15	1,985	1,513	671	1,373	587	558	1,200
2015/16	1,989	1,517	682	1,342	611	645	1,210
2016/17	1,946	1,473	598	1,310	530	..	..
2017/18	2,006	1,510	743	1,518	741	..	..

A2: Estimated number of victims of intimate violence in the last year, by headline category, year ending March, 16-59 years old

MALE (000s)

Year	Any domestic abuse (1)	Any partner abuse (2)	Any family abuse (2)	Partner abuse (non-sexual)	Family abuse (non-sexual)	Sexual assault (any, including attempt)	Stalking
2009/10	655	485	284	463	256	129	612
2010/11	763	569	313	488	280	128	659
2011/12	788	564	316	611	274	96	660
2012/13	708	492	298	442	284	131	413
2013/14	737	492	300	454	281	116	406
2014/15	643	448	254	413	231	113	395
2015/16	716	489	322	451	296	111	450
2016/17	713	491	261	450	240	..	..
2017/18	695	461	332	461	321	..	..

A3: Estimated number of victims of intimate violence in the last year, by headline category, year ending March, 16-59 years old

FEMALE (000s)

Year	Any domestic abuse (1)	Any partner abuse (2)	Any family abuse (2)	Partner abuse (non-sexual)	Family abuse (non-sexual)	Sexual assault (any, including attempt)	Stalking
2009/10	1,484	1,183	509	1,153	446	539	767
2010/11	1,461	1,196	506	1,040	458	617	738
2011/12	1,469	1,117	551	1,140	433	680	780
2012/13	1,433	1,086	514	992	443	492	768
2013/14	1,389	1,115	417	973	358	366	726
2014/15	1,340	1,063	417	957	356	444	803
2015/16	1,272	1,028	360	891	315	533	759
2016/17	1,235	985	337	862	290	..	..
2017/18	1,316	1,054	411	1,054	420	..	..

Notes:

(1) partner or family non-physical abuse, threats, force, sexual assault or stalking

(2) non-physical abuse, threats, force, sexual assault or stalking

... indicates not available

Source:

ONS, *Focus on Violent crime and sexual offences*, various editions, Appendix tables (Table 4.06 & 4.07)

ONS, *Domestic abuse: findings from the Crime Survey for England and Wales: year ending March 2018*, Appendix tables 6&7, 22 November 2018

Table A4: Domestic abuse incidents and offences recorded by the police, year ending March

		2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18
England	Avon & Somerset	15,648	15,356	15,290	18,653	23,065	24,974	26,355	27,628
	Bedfordshire	9,137	8,250	8,235	7,951	10,740	11,075	10,977	12,101
	Cambridgeshire	12,830	11,249	11,286	11,760	11,144	12,680	14,371	14,114
	Cheshire	5,887	4,186	4,537	4,112	4,666	8,003	9,156	10,219
	Cleveland	15,042	14,883	12,726	11,515	15,268	15,182	15,535	16,329
	Cumbria	6,455	6,422	6,547	6,932	7,060	8,490	7,725	7,310
	Derbyshire	17,912	17,345	17,631	18,558	18,509	19,275	18,415	18,196
	Devon & Cornwall	25,846	26,238	26,516	29,624	29,424	28,200	26,939	30,012
	Dorset	6,946	7,425	8,183	8,487	9,362	11,109	10,837	11,965
	Durham	13,025	13,330	12,301	12,787	13,570	19,757	22,946	28,271
	Essex	21,385	26,876	26,917	28,181	28,009	30,667	31,376	34,550
	Gloucestershire	7,639	7,076	5,652	4,861	6,456	11,638	8,626	9,729
	Greater Manchester	54,626	47,514	47,636	50,881	48,803	65,792	67,987	73,312
	Hampshire	24,009	24,206	25,140	26,621	28,930	47,995	33,496	35,280
	Hertfordshire	12,037	12,644	12,240	13,229	15,532	20,779	22,200	27,022
	Humberside	16,409	17,049	15,020	15,884	15,749	18,780	22,808	23,711
	Kent	21,633	22,509	23,275	25,419	28,213	33,196	36,236	43,258
	Lancashire	27,615	29,465	30,505	28,903	25,939	23,890	27,347	28,585
	Leicestershire	12,492	17,172	17,806	18,283	17,206	12,414	15,970	18,316
	Lincolnshire	7,232	8,762	9,984	10,242	10,327	10,276	10,226	9,978
	London, City of	107	90	106	86	132	167	181	220
	Merseyside	31,069	32,511	33,261	32,330	31,522	30,036	28,359	27,416
	Metropolitan Police	121,314	118,079	118,391	132,941	145,230	152,823	157,754	221,830
	Norfolk	8,546	9,878	10,288	10,753	12,481	15,880	15,793	16,794
	Northamptonshire	7,504	7,336	9,513	10,209	10,200	10,754	9,994	11,917
	Northumbria	7,277	8,108	8,611	9,588	10,159	14,125	15,793	15,658
	North Yorkshire	28,167	27,406	27,096	28,927	29,962	30,534	32,030	35,887
	Nottinghamshire	17,025	20,007	21,011	20,020	18,773	14,228	17,120	16,262
	South Yorkshire	23,725	24,079	28,601	33,431	33,135	32,135	33,875	35,255
	Staffordshire	22,486	20,412	20,331	20,940	18,590	25,280	26,044	27,520
	Suffolk	7,586	7,498	7,145	7,936	8,915	8,774	9,629	10,995
	Surrey	12,731	11,755	12,485	13,931	14,389	13,179	13,048	13,724
	Sussex	17,384	16,732	17,735	20,165	23,105	23,559	23,941	26,012
	Thames Valley	32,320	32,821	34,125	37,174	41,846	26,910	29,964	27,786
	Warwickshire	7,855	7,805	7,434	7,079	7,045	9,794	11,132	11,346
	West Mercia	16,559	16,633	15,504	15,646	18,064	21,485	24,205	26,751
	West Midlands	41,494	30,137	27,853	41,886	49,047	52,042	52,363	54,583
	West Yorkshire	34,742	36,725	37,635	38,668	40,774	45,062	48,438	53,854
	Wiltshire	4,584	4,413	5,139	9,072	9,926	10,744	10,881	11,207
England Total		776,280	770,382	779,691	843,665	891,267	971,683	1,000,072	1,124,903
Wales	Dyfed-Powys	2,004	2,325	2,264	2,760	3,500	4,440	4,529	4,513
	Gwent	..	8,948	10,694	11,585	11,531	15,311	16,055	17,879
	North Wales	10,766	12,901	13,745	11,566	8,630	11,292	12,589	15,817
	South Wales	28,016	27,656	27,537	21,246	28,700	27,666	33,382	33,227
Wales Total		40,786	51,830	54,240	47,157	52,361	58,709	66,555	71,436
E&W Total 43 Forces Total		817,066	822,212	833,931	890,822	943,628	1,030,392	1,066,627	1,196,339

Notes:

(1) Police recorded crime data are not designated national statistics

(2) Domestic abuse incidents are defined as any incidence of threatening behaviour, violence or abuse (psychological, physical, sexual, financial or emotional) between adults, aged 16 and over, who are or have been intimate partners or family members, regardless of gender or sexuality

(3) Variations in figures may be due to changes in recorded practices over the time period shown

(4) Data for 2015/16 are not comparable to those published for previous years due to a change in the coverage of the data collection

(5) Does not include British Transport Police

Sources:

ONS, *Focus on Violent crime and sexual offences*, various editions, Appendix tables (Table 4.08)ONS, *Domestic abuse in England and Wales*, Appendix tables 5 & 8 combined, various editions

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