

Transforming the response to domestic abuse: consultation submission from Refuge

May 2018

Please note that Refuge has produced a key priorities paper which should be read alongside this detailed response, together they form Refuge's response to the consultation.

About Refuge

Refuge is the country's largest provider of specialist services for women and children escaping domestic violence and other forms of gender violence. Refuge opened the world's first refuge in 1971 in Chiswick, West London. 47 years later, Refuge supports more than 6,000 women and children on any given day.

The services Refuge provides include:

- A national network of 42 refuges, spread across 23 local authority areas, which provide safe accommodation and specialist support to 340 women and their children at any one time.
- 20 community outreach services and 17 independent domestic, sexual and gender-based violence advocacy services, which specialise in supporting women through the criminal and civil justice systems.
- A network of culturally specific, multilingual services, including: refuges for women and children of Asian, African and Caribbean descent; an advocacy service for clients of Eastern European descent and community outreach services for clients of Vietnamese descent.
- Specialist services for victims of modern slavery, 'honour'-based violence and FGM.
- Child support workers, who provide emotional and practical support for children and their mothers across our services, as well as organising play and educational activities.
- The Freephone, 24-Hour National Domestic Violence Helpline, run in partnership between Refuge and Women's Aid, which receives an average of 236 calls per day.

Refuge's responses to the consultation questions below and the priorities paper which accompanies this response is based on: 47 years' experience providing specialist services to survivors of domestic violence and violence against women and girls (VAWG) more broadly; extensive consultation with our expert frontline refuge workers, independent domestic violence advocates (IDVAs), outreach workers and National Domestic Violence Helpline workers and volunteers; as well as consultation with experts and partners in the VAWG sector.

1. Do you agree with the proposed approach to the statutory definition?

- **Strongly agree**
- **Agree**
- **Neither agree nor disagree**
- **Disagree**
- **Strongly disagree**
- **Please give reasons [free text]**
- **Don't know/no answer**

Domestic abuse definition

Refuge believes that both the current non-statutory definition, and the proposed statutory definition, is too broad as they encompass both intimate partner abuse and a range of abuses more accurately defined as familial abuse. Further, the definition fails to define domestic abuse as a gendered phenomenon, rooted in gender inequality and discrimination against women. If the Government proceeds with a Domestic Abuse Bill which brings together a range of abuse which takes place in a 'domestic' context, it should ensure it uses domestic abuse as an umbrella term under which the distinct forms of abuse are separately and clearly defined.

Conflating different forms of abuse and the causes of abuse

The first step in transforming the response to domestic abuse is to identify clearly who is doing what to whom. It is vital that the Government recognises and responds to different categories of victims and perpetrators in a way that reflects the causes and consequences commonly observed within each type of abuse. For example, the roots of violence against women and girls are deeply embedded within gender inequality present in society: the cause and experience of this violence is a very different phenomenon to violence perpetrated, for example, by a brother to his sibling. Without this type of explicit acknowledgement within the definition, the violence and abuse experienced by women and girls will be lost amongst the other forms of abuse which can occur between those who are known to each other and no group will receive the understanding and support they require to overcome the harms of abuse.

Each form of domestic abuse needs to be clearly set out so that the specific needs of each category of survivors can be understood and addressed. Failure to do so will result in misunderstandings amongst the public and professionals tasked with identifying domestic abuse and supporting survivors. The present non-statutory definition of domestic abuse already causes confusion and misunderstanding and as a result survivors do not get the help they need. For example, Refuge's frontline staff report inappropriate referrals made to specialist VAWG services, including children being abused by their parents being referred to refuge accommodation services due to a lack of understanding of domestic abuse amongst professionals making referrals.

Domestic abuse, in the context of intimate partner violence, is a deeply gendered crime and is the result of gender inequality in society. It happens 'because she is a woman and happens disproportionately to women.'¹ Coercive control, as a form of intimate partner violence, was initially, and correctly, conceived as a gender specific construct and viewed as an extreme manifestation of the power imbalance inherent with traditional male and female relationships. It is therefore deeply misleading and problematic to define domestic abuse as gender neutral. Acknowledging that domestic abuse is gendered and is about gender inequality is not to exclude other groups of victims, nor to minimise the impact of domestic abuse upon them. It is simply important to develop targeted policy and practice specific to each group affected.

The statutory definition of domestic abuse will have an important role in influencing the understanding of the public and relevant agencies and it is essential to get it right. Refuge therefore recommends that domestic abuse is instead used as an umbrella term, with specific forms of abuse clearly stated and defined. In particular, intimate partner violence or 'woman abuse' should be clearly and separately defined from abuse amongst family members such as sibling abuse or child-parent abuse. The definition of intimate partner violence should centre on coercive control and be explicitly defined as a gendered phenomenon. The recent report from the Office of National Statistics on women who experience partner abuse is welcome and demonstrates the importance of

¹ United Nations (UN) Declaration on the elimination of violence against women 1993.

clearly and specifically defining abuse, the survivors, and the perpetrators in order to fully understand a problem and develop appropriate strategies to respond².

Recommendation: Refuge urges the Government to define the distinct forms of abuse under the umbrella term domestic abuse. This should include a clear distinction between intimate partner violence as a gendered phenomenon, and other forms of abuse which take place in a 'domestic context'.

Violence against Women and Girls

Domestic abuse, in the context of intimate partner violence, is a form of Violence against Women and Girls (VAWG) and through our work with over 6,000 survivors every day, Refuge sees the way in which domestic abuse and other forms of VAWG like modern slavery, human trafficking, forced marriage, sexual violence, honour-based violence, and female genital mutilation overlap and are interlinked. For example, Refuge works with many women who come into its services to escape intimate-partner violence, it is only later, once expert staff have gained their trust that they disclose that they are survivors of, for example, modern slavery and we can then provide appropriate support.

The cross-Government VAWG strategy has been a major step forward in terms of understanding, preventing and responding to VAWG and it is vital that this work is developed and built upon. Refuge works with local authorities to deliver specialist VAWG services across the country. Many local authorities now have dedicated VAWG strategies and commission VAWG services, instead of domestic abuse only services. This approach is widely regarded as best practice.

Refuge calls on the Government to create a Violence against Women and Girls Bill in its own right, either instead of or as well as the Domestic Abuse Bill proposed. Two women are killed every week in this country by a current or former partner and a further three lives a week are lost as a result of suicide to escape intimate partner violence. Refuge believes that it is impossible to transform the response to domestic abuse, without transforming the response to VAWG and the gender inequality which underpins it through robust legislation. Refuge therefore urges the Government to commit to bring forward a broader piece of legislation which aims to prevent and respond to all forms of VAWG, including but not limited to, intimate partner violence.

Other countries have been successful in introducing gendered VAWG legislation in order to tackle gender-based violence and its causes. For example, Spain introduced gendered domestic abuse legislation in 2004. This law is now being extended to cover other forms of violence against women after it became apparent that the original legislation was failing women and girls who are abused in non-domestic contexts. The legislation has been credited with promoting awareness and understanding of VAWG amongst the public and professionals.

Recommendation: the Government should bring forward a Violence against Women and Girls (VAWG) Bill.

Please note that whilst Refuge recommends strongly that the Government should bring forward a VAWG Bill, for clarity throughout our consultation response we have referred to the Domestic Abuse Bill to reflect the current title and remit of the proposed legislation.

2. Will the new definition change what your organisation does?

² Office of National Statistics, Women most at risk of experiencing partner abuse in England and Wales: years ending March 2015 to 2017
<https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/articles/womenmostatriskofexperiencingpartnerabuseinenglandandwales/yearsendingmarch2015to2017#statisticians-comment>

Refuge does not believe that the proposed definition is fit for purpose, or accurately defines domestic abuse and therefore will not be basing its work on the definition.

Refuge is very concerned that the definition could increase poor commissioning practices for services for survivors, due to the misleading definition proposed. As the largest single provider of specialist VAWG services in England, Refuge reviews all contract tenders for VAWG services across the country. This gives us a unique perspective on the VAWG services being commissioned. Increasingly, we are seeing poor and sometimes dangerous, service models being proposed by commissioners which are clearly based on a misunderstanding of domestic abuse, VAWG and the dynamics of gender-based violence. For example, a recent tender for services in the south of England required that:

'The Provider/s will offer interventions for Situational Couple Violence and their whole families where the violence is chronic and severe. This will focus on working with the individual and couple to build their capacity to resolve their difficulties positively and is likely to require wider support to address underlying stresses within the relationship and develop a plan on the way forward.

The provider will ensure that resources are shifted equally to focus on interventions to reduce repeat victimisation and perpetration.

Leading on Early Help Assessments and Team Around the Family meetings where necessary.'

The example above demonstrates that the commissioners lack understanding of coercive control and the vulnerability of survivors. Taking a 'whole family' approach to 'to build their capacity to resolve their differences' not only places equal responsibility for being abused on the survivor as it does on the perpetrator, but potentially puts both survivors and frontline workers at further risk. It is also concerning that the commissioner intends to divert half of the funding for survivors of abuse to perpetrator programmes, despite a lack of evidence that they are effective³. Further, the example above requests that third sector providers take responsibility for activities which are the duties of statutory social workers, which undermines the independence of specialist services and risks limiting survivor engagement. Refuge strongly urges the government to adopt a definition of domestic abuse as outlined above in response to question 1 in order to drive understanding amongst state agencies and the public, which will in turn lead to improved service design.

3. How can we ensure that the definition is embedded in frontline practice?

Refuge does not support work to embed the proposed statutory definition in frontline practice. As highlighted in the responses to question 2 above, a misleading definition which fails to recognise the difference between intimate partner violence and other forms of abuse which take place within a domestic context leads to a lack of understanding of VAWG and results in poor frontline responses. Work to embed the definition should not take place if the definition clearly separates different forms of abuse and recognises the gendered nature of intimate partner abuse.

4. What impact do you think the changes to the age limit in the 2012 domestic abuse definition have had?

Very Positive

Positive

None

Negative

³ Refuge, Refuge briefing: domestic violence perpetrator programmes <https://www.refuge.org.uk/wp-content/uploads/2017/04/Perpetrator-programmes-position-paper-2016.pdf>

Very Negative

Please give reasons [free text]

Don't know/no answer

The changes to the age limit have been very positive. They have opened up access to a wider range of specialist services for this group. For example, the changes to the age limit have allowed cases involving survivors of this age to be raised at Multi-Agency Risk Assessment Conference (MARAC).

5. We are proposing to maintain the current age limit of 16 years in the statutory definition – do you agree with this approach?

Strongly agree

Agree

Neither agree nor disagree

Disagree

Strongly disagree

Please give reasons [free text]

Don't know/no answer

Yes, Refuge agrees with maintaining the age limit of 16 years in the definition. However, the Government should also clearly acknowledge that abuse is perpetrated by and against children under 16 and that distinct approaches are needed for children of all ages to identify, respond to and prevent this type of abuse.

Recommendation: the Government should develop specific approaches for preventing, identifying and responding to abuse by and against children under 16 as part of the VAWG strategy.

6. In addition to the changes being made to how relationship education will be taught in schools, what else can be done to help children and young people learn about positive relationships and educate them about abuse?

Refuge supports strongly the introduction of Relationships Education in schools. It is vital this does not take a gender-neutral 'healthy relationships' approach but is based on a gendered understanding of violence against women and girls and that it is embedded within a whole school approach to respectful, non-violent conflict resolution. Such programmes should operate within an ethos of equality and respect in which all forms of discrimination and abuse are eschewed and where respectful relationships are modelled by school or other staff. The Australian organisation Our Watch should be looked to as a best practice example in the way that it works to embed a programme to combat gender-based violence specifically, within a whole-school approach to respectful relationships⁴.

Refuge would encourage further development of and investment in the recent highly-quality teen abuse campaigns, which have been supported by the Home Office. Campaigns should always be accompanied with clear information about where young people who are experiencing abuse can go to for help and support.

Whilst raising awareness and educating children and young people is essential, Refuge also encourages the Government to develop campaigns specific to other age groups. For example, significant numbers of older women experience domestic violence and face barriers around recognising abuse and leaving perpetrators. Campaigns which highlight that women of all ages can be victims of domestic abuse and communicate how older women can access specialist support and services would be hugely beneficial.

⁴ Our watch <https://www.ourwatch.org.au/>

Recommendation: the Government should embed relationship education based on a gendered understanding of violence against women and girls within a whole-school approach to respectful relationships.

Recommendation: the Government should invest in and support quality campaigns aimed at particular age groups including children and young people and older women.

7. Which statutory agencies or groups do you think the UK government should focus its efforts on in order to improve the identification of domestic abuse? Please tick the top 3 from the list.

Armed forces

Children's services

Court staff

Education professionals (for example teachers, school staff)

Fire brigade

Health professionals

Housing staff

Jobcentre staff

Judges/magistrates

Police

Probation/Criminal Rehabilitation Company staff

Prosecutors

Providers of adult social care

Commissioners of adult social care services (local authorities and clinical commissioning groups)

Social workers

Other – please state

Don't know/no answer

Domestic abuse must become everyone's business. All of the statutory agencies listed need to take a greater role in not only identifying, but preventing and responding appropriately to survivors and perpetrators. Co-ordinated policies and regular specialist training is crucial to improved identification and responses to domestic abuse. Leadership is essential and all agencies should have named VAWG leads at a senior level. This must be underpinned by an understanding of the gendered nature and dynamics of domestic abuse and a commitment to tackle gender inequality and attitudes rooted in sexism and misogyny.

Recommendation: all statutory agencies listed must have VAWG strategies, named senior VAWG leads and clear lines of accountability regarding their role in ending violence against women and girls. This should be underpinned by training.

8. In addition to improving training programmes and introducing guidance, what more can the Government do to improve statutory agencies' understanding of domestic abuse?

Bringing forward a VAWG Bill and defining domestic abuse as recommended in response to questions 1 and 2 above is essential to improve statutory agencies' understanding of and response to domestic abuse.

The Government must also continue to invest in and progress the cross-Government VAWG strategy, which has a strong framework and clear aims to end violence against women and girls. As Government works to refresh the

VAWG strategy more should be done to secure 'buy-in' and engagement with the specialist VAWG sector from the departments which are currently not well engaged in the strategy.

Recommendation: Refuge urges the Government to define the distinct forms of abuse under the umbrella term domestic abuse. This should include a clear distinction between intimate partner violence as a gendered phenomenon, and other forms of abuse which take place in a 'domestic context'.

Recommendation: The Government must continue to invest in and progress the cross-Government VAWG strategy, bringing in departments which are currently less engaged.

9. What further support can we provide to the public (employers, friends, family, community figures) so they can identify abuse and refer victims to help effectively?

Refuge supports campaigns which aim to promote awareness and understanding of VAWG, reduce social tolerance of gender-based violence and promote awareness of the support available for survivors, friends, family and community members who are concerned about someone who maybe experiencing abuse.

Employers also have a key role to play in supporting survivors. Refuge is working with the Employers' Initiative on a best practice toolkit. However, use of such toolkits is entirely voluntary. The Government should therefore require all state agencies to have policies for survivors of domestic abuse and for perpetrators of domestic abuse. In addition, the Government should use its power as a purchaser and commissioner of services to require all companies delivering government contracts to have domestic abuse policies for their staff.

Recommendation: the Government should invest in quality campaigns which promote awareness and understanding of VAWG.

Recommendation: the Government should require all statutory agencies to have domestic abuse policies for staff.

Recommendation: the Government should use its power as a buyer and commissioner of services to ensure only companies with domestic abuse policies are awarded public sector contracts.

10. We are in the process of identifying priority areas for central government funding on domestic abuse. Which of the following areas do you think the UK government should prioritise?

- **Advocacy for victims to enable them to stay safely in their own home (Independent Domestic Violence Advisors or their equivalent)**
- **Therapeutic services to help victims of domestic recover from their experience**
- **Accommodation services**
- **Helpline services for those affected by domestic abuse to call for advice and support**
- **Interventions embedded in health**
- **Perpetrator programmes which aim to change offenders' behaviour and stop reoffending**
- **Rolling out of new multi-agency approaches**
- **Other (free text)**
- **Don't know/no answer**

Funding for specialist domestic abuse services has been cut and squeezed significantly over recent years. Many services have closed and others have had to reduce substantially their budgets, meaning essential frontline posts have been cut. Refuge has had to endure funding cuts to 80 percent of its services over recent years and is far from alone in the sector.

The impact of these cuts on already underfunded and under pressure services, has been significant. Vital frontline services and posts have been lost whilst demand has soared. This has increased the pressure and demands on the staff who remain. This is dangerous for staff and survivors; frontline staff play a vital safeguarding role. Having too few trained workers for survivors to turn to, risks undermining the quality of service and potentially the safety of women and children. Furthermore, many of the women and children accessing specialist services are traumatised by the abuse they have suffered and therefore staff need time to work with them to build up trust and respond appropriately to their needs. Temporary funding initiatives by the Home Office and Ministry for Housing Communities and Local Government (MHCLG), whilst welcome, are no substitute for sustainable funding models which meet the costs of quality specialist services

Refuge urges the Government to accompany the Domestic Abuse Bill and refreshed VAWG strategy with a serious long term commitment to funding the specialist services and support survivors need. This should include specialist IDVA, ISVA, outreach, refuges and a range of services for children. If the Bill is to achieve its ambitions, more survivors will come forward for help. It is crucial that the services and support they need are there for them the moment they decide seek help.

Refuge is seriously concerned that the positive proposals contained in the consultation will be undermined if the plans to change short-term supported housing funding go ahead. Refuge has been clear with the Government that the Ministry of Housing, Communities and Local Government's (MHCLG) short-term supported housing funding proposals will force refuges to close and women and children's lives will be put at risk. Refuge is currently working with the MHCLG on its review of domestic abuse services and with Women's Aid on its exploration of alternative funding models. However, Refuge urges the Government to take the current proposals off the table and make a clear commitment to work with Refuge and the rest of the specialist sector to develop a sustainable model of funding for a range of specialist services to meet the needs of survivors, including refuges.

Recommendation: to meet its objectives, the legislation and non-legislative package must be accompanied by a serious commitment to fund the specialist services needed to prevent abuse and support survivors, including refuges.

Recommendation: the proposed changes to refuge funding should be immediately taken off the table and the Government should publicly commit to working with Refuge and the rest of the sector to develop a sustainable funding model for specialist refuges.

11. What more can the Government do to encourage and support effective multi agency working, in order to provide victims with full support and protection?

- *Guidance*
- *Incentives through funding*
- *Sharing effective practice*
- **Training**
- **Other (free text)**
- *None of the above*
- *Don't know/No answer*

Training is essential both in terms of increasing knowledge and skills of agency staff and also building referral pathways between agencies and specialist support services. There is a huge variance of understanding and practice in relation to domestic abuse and VAWG training across the country. Some local authorities are excellent at commissioning specialist, quality training to a whole range of agencies. For example, in

Warwickshire, Refuge acts as a training provider on behalf of the local authority, and as part of this we deliver courses on:

- Understanding domestic violence and abuse
- Coercive control
- Risk identification and assessment
- Harmful practices
- Adult safeguarding and domestic violence
- Domestic violence and financial abuse for housing professionals

This is specialist training delivered by qualified and experienced trainers, and is regularly evaluated by the local authority on its effectiveness.

In order to be effective, training must be good quality and adequately resourced and should always be much more than a one-off session of awareness-raising by a front-line practitioner.

In our experience once agencies become more aware of the dynamics of domestic violence they can be more supportive of survivors and better meet their needs. Too often, there is a tendency for some agencies to victim blame and put the onus on women to leave their partner rather than to address the behaviour of the perpetrator (for further detail on working with perpetrators, please see our response to question 55 below).

Recommendation: programmes of specialist training delivered by qualified trainers should be rolled out in order to improve multi-agency working.

In addition, Refuge is concerned about the culture that has built up around the CAADA DASH risk assessment method and the way in which Multi Agency Risk Assessment Conferences (MARAC) and other specialist help is rationed. Currently only victims who score 14 or over on the CAADA-DASH assessment are referred to MARAC. The different risks listed on the CAADA-DASH are not weighted, and a score of 14 represents an extreme level of exposure to multiple dangers. The practice of only referring those assessed as 'high risk' to MARAC excludes many survivors who require multi-agency support.

Risk is a dynamic concept, and the tools for assessment are inherently imperfect. Refuge has played a key role in many Domestic Homicide Reviews. As a result we have observed that many domestic homicides are victims who were not deemed to be high risk and therefore did not have access to multi-agency support. Further, we consider that many high risk survivors are currently categorised as standard risk only because they have been inappropriately risk assessed, often by someone lacking sufficient domestic abuse training. Eligibility for MARAC and other multi-agency services must be broader than high risk assessments alone.

Recommendation: the Government should commission a review of risk assessment methods and the rationing of multi-agency services with the aim of ensuring that all survivors can access the services they need.

Further, the Government should ensure that there is sustained resourcing of statutory and voluntary agencies to ensure continuity of professionals engaged in multi-agency working. Funding must be adequate to protect best practice staff-client ratios and strong local service management to ensure effective multi-agency working (see response to question 12).

12. What more can the Government do to better support victims who face multiple barriers to accessing support.

Specialist VAWG services are the most effective intervention for survivors of abuse and have a long history of providing tailored expert support to women who face multiple barriers. Refuge supports women who face multiple barriers and have multiple needs across all of our specialist services. Key to Refuge's success in supporting women who face multiple barriers is the way in which we prioritise best practice staff-client ratios and strong leadership and management to provide specialist support and professional development for our staff. It is essential that all specialist services are resourced sufficiently so that they are able to work with a wide range of survivors all facing different problems and with multiple needs. As a minimum, specialist services should be resourced so that they are able to:

- Meet demand and have enough resource in place to respond effectively without compromising staff-client ratios
- Carry out effective outreach in their local authorities
- Create effective, quality referral pathways from public and voluntary agencies and improve joint working practices with agencies to ensure that no matter where and when someone discloses abuse there is a clear referral pathway to specialist support
- Purchase appropriate aids and adaptations on an ongoing basis to ensure the services anticipate and are able to swiftly respond to the needs of women and children with disabilities
- Work with a range of agencies and professionals to improve confidence in making appropriate referrals to specialist services

Recommendation: specialist services should be sufficiently resourced so that they can meet demand without compromising quality of service delivered and are able to work with a range of survivors with multiple needs.

Co-location of specialist services in mainstream settings such as hospitals, maternity units, GP surgeries, police stations, courts and mental health services is important in reaching out to and improving reaching out to survivors and in turn their access to services. Agencies should be encouraged and incentivised to do more to support and facilitate co-location wherever possible.

For example, Refuge co-locates many of its IDVA services in police stations, hospitals, sexual health services, specialist disability services, mental health services, substance misuse services and carers' services. In 2011 Refuge opened a ground-breaking independent domestic and sexual violence advocacy (IDSVA) service located within the maternity unit of a hospital in the London Borough of Barking and Dagenham – the first of its kind in the country. During the time it was open the service provided specialist domestic violence training to more than 300 midwives and other health professionals in the local health trust including in accident and emergency and sexual health GUM clinics. This was a successful and effective model which unfortunately lost its funding due to an NHS restructure.

Recommendation: the Government should use funding incentives to increase the number of specialist co-located VAWG services.

Furthermore, it's important to ensure that there are as few barriers as possible to accessing support, and that pathways to specialist services are as streamlined as possible. Refuge is concerned about the development of victim hub triage services, which in our experience creates additional layers for people to navigate when they disclose abuse. Survivors will always receive a better response if they are able to access specialist services directly rather than being signposted to a victim's hub before they can be then sign-posted to specialist support. Further, some of the hub services developed by statutory agencies require women to be referred to social services before they can access specialist support. This poses a further barrier as many women avoid contact with social services and police due to low trust.

Recommendation: the Government should use funding disincentives to end the practice of creating additional barriers to support through bureaucratic ‘hub’ models.

13. How can we work better with female offenders and vulnerable women at risk of offending to identify their domestic abuse earlier?

- **Criminal justice agencies to adopt appropriate enquiries into history of abuse at each stage of the criminal justice process**
- **Dedicated support and/or IDVAs in women’s services**
- **Encourage the use of schemes which divert vulnerable women out of the criminal justice system (where appropriate) and into services**
- **Improve availability of support for domestic abuse victims in prisons**
- **Support signposting into appropriate services for women who come into contact with the police**
- **Other (free text)**
- **Don’t know/no answer**

It is clear that a radical change in approach in how we respond to women who are being abused or have a history of being abused who come into contact with the criminal justice system as suspected offenders is needed.

Recent research by the Prison Reform Trust has found that at least 57 per cent of women in prison have been victims of domestic abuse⁵. This is highly likely to be an underestimate as many women feel unable to disclose to authorities, particularly criminal justice authorities. The charity, Women in Prison, has reported that at least 80 per cent of its clients have been victims of domestic and sexual abuse⁶. It is well known that domestic abuse is the direct cause of a substantial amount of offending by women, for instance 42 per cent of women in prison reported that they had committed offences to support another person’s drug use⁷. The Howard League for Penal Reform has found women coerced into committing offences or forced to claim that they had committed offences they didn’t commit due by an abusive partner⁸.

In Refuge’s experience, perpetrators often manipulate the criminal justice system to abuse survivors. For example, Refuge has worked with women who have been arrested for attempting to defend themselves. In our experience perpetrators frequently call the police to attempt to have survivors arrested for resisting the abuse they are perpetrating.

Academic research shows that despite comprising the overwhelming majority of victims and survivors, women are more likely to be arrested than men following an allegation of domestic abuse. For example, research by Professor Marianne Hester found that women were three times as likely as men to be arrested following a report of domestic violence⁹. In Refuge’s experience, police are often not appropriately applying guidance regarding determining a primary aggressor of violence or abuse and women are penalised as a result.

⁵ Prison Reform Trust, “There’s a reason we’re in trouble” - Domestic abuse as a driver to women’s offending http://www.prisonreformtrust.org.uk/Portals/0/Documents/Domestic_abuse_report_final_lo.pdf

⁶ Women in Prison, Key facts <http://www.womeninprison.org.uk/research/key-facts.php>

⁷ Prison Reform Trust, “There’s a reason we’re in trouble” - Domestic abuse as a driver to women’s offending http://www.prisonreformtrust.org.uk/Portals/0/Documents/Domestic_abuse_report_final_lo.pdf

⁸ APPG for Women in the Penal System, Report on the Inquiry into Preventing Unnecessary Criminalisation of Women https://howardleague.org/wp-content/uploads/2016/02/APPG_final.pdf

⁹ Hester, Marianne, Portrayal of Women as Intimate Partner Domestic Violence Perpetrators <http://journals.sagepub.com/doi/pdf/10.1177/1077801212461428>

Whilst appropriate services, once a woman has been convicted, are important, it is vital that government does not wait until women have been arrested to try and provide support. Ensuring specialist domestic violence organisations and statutory agencies working with women and girls have sufficient resources to reach out to women who have multiple and complex needs and are set up and funded to be able to work with women for long term periods, both before and after women have had contact with the criminal justice system, is essential to providing the right support for survivors of abuse.

Recommendation: specialist domestic abuse services should be resourced sufficiently so they can meet demand and work with survivors with convictions or at risk of involvement in the criminal justice system.

Police officers in particular, but also other criminal justice professionals including probation officers, Community Rehabilitation Company (CRC) staff and prison officers need dedicated training on how to appropriately ask women about abuse. Furthermore, criminal justice professionals must understand their role in risk assessment so they can more effectively identify current risk levels and can also work with women to help them identify what behaviours are abusive, many of which will have become 'normal' everyday life for a survivor. Police officers and others working in the criminal justice system will often have been in a privileged position as they will be able to speak to a woman on her own, in contrast to other state agencies when perpetrators will often ensure they accompany women at any appointment. They should take advantage of this opportunity to appropriately identify abuse and risk to help secure the support a woman needs. Criminal justice professionals require much more extensive training on the dynamics of domestic abuse in order to achieve this.

Recommendation: criminal justice professionals should receive specific training on how to appropriately ask women about current or past experiences of abuse and respond to disclosures of abuse.

Criminal justice policy must aim to ensure it doesn't punish women for the abuse that they have suffered. In all situations in which a woman comes into contact with the criminal justice system with a history of abuse, it must be carefully considered whether women should be diverted away from the criminal justice system and into the specialist support services she needs. Further, Refuge would welcome a detailed review of whether the current legal defenses available are sufficient for women who have been coerced into committing offences due to gender-based violence.

Recommendation: survivors of abuse should be diverted away from the criminal justice system in all appropriate cases.

Recommendation: the Government should commission a review into the legal defenses available for women who are coerced into committing offences due to domestic abuse.

When survivors are convicted and sentenced for criminal offences, they must not stop being viewed as survivors who are entitled to help and support. Criminal justice agencies in particular generally struggle with accepting that women can both have committed a criminal offence, but also be a victim of violence and abuse. It is vital that this is challenged. The proportion of women in the justice system who are survivors of abuse is so great, that the default approach should be that the women will need specialist support to recover.

Case study: Refuge's Derby female offender service

Refuge is the leading national provider of specialist gender-based violence services and has developed expertise in working with women with multiple complex needs, including women who have offended. We

have taken this learning to develop a specialist project to work with women in Derby who have experienced domestic violence and have entered the criminal justice system.

The project aims to tackle many of the root causes of offending. We make a significant difference to women offenders affected by domestic violence, by helping them to overcome their experience of violence, developing an understanding of the dynamics of domestic violence and coercive control and supporting them to make informed decisions about their lives so they can live independently and free from abuse. Our trauma-informed support is individually tailored and needs-led and so outcomes are different for each woman and child. We work collaboratively with a whole range of agencies to provide support to address financial abuse, housing needs, health needs; including support around drug and alcohol use and we consider routes to education and employment. The service includes specialist drop-in services in a women's prison. Without this service, women serving custodial sentences would not be able to access any specialist support. The service is designed to be flexible and led by the woman aiming to build a longer term trusting relationship.

14. How can we make greater use of women-specific services to deliver interventions in safe, women-only environments?

- Availability of a GP at women-only services
- Availability of a nurse at women-only services
- Child contact sessions so that women who are not living with their children can have supervised access to their child
- Delivery of health interventions such as mental health and substance misuse treatment at women-only services
- **IDVAs located or linked to women-only services**
- Improving access to benefits, finance and accommodation advisors at women-only services
- Provision of employer interventions at women-only services to help individuals become work ready, including offering work experience and/or mentoring
- **Other (free text)**
- Don't know/no answer

Women-only services are crucial for significant number of survivors of abuse and must be safeguarded. As highlighted above in response to the questions 1 and 2, gender neutral definitions of gendered issues lead to widespread misunderstanding and can result in the provision of inappropriate or less effective services.

In Refuge's experience co-location of services, particularly in services where women might be less likely to be accompanied by perpetrators, are highly effective. Please see the example of the Barking and Dagenham project above in response to question 12 and the recommendation that funding incentives are put in place to encourage the co-location of specialist domestic abuse services.

Recommendation: the Government should use funding incentives to encourage the co-location of specialist domestic abuse services in women-only or women-majority services.

15. In addition to reviewing who may be eligible for the Destitute Domestic Violence Concession, what other considerations could the Government make in respect of protecting domestic abuse victims with no recourse to public funds?

Refuge is strongly of the view that if the Government is to achieve its laudable aim of transforming the response to domestic abuse, radical change to the way in which survivors of abuse with no recourse to public funds

(NRPF) can access services is needed. The Domestic Abuse Bill and non-legislative package must be for all survivors of domestic abuse, not only those with a particular immigration status.

Refuge consulted widely with its expert frontline staff working in refuges, as IDVAs, outreach workers and on the National Domestic Violence Helpline in order to respond to the consultation. Refuge's frontline staff highlighted the lack of provision for women with NRPF as one of the biggest issues they face when trying to help women stay safe and rebuild their lives.

It is crucial that the forthcoming Domestic Abuse Bill and refreshed VAWG strategy work to prevent abuse and protect all women, regardless of their immigration status. In order to achieve this, Refuge recommends that the Government expand eligibility for the Destitute Domestic Violence Concession (DDVC) to all people, regardless of visa type or immigration status. This should include EEA citizens. Entitlement to State support under the DDVC should be for a period of 12 months or until a woman's immigration status is settled, whichever is the longest period of time.

Recommendation: the DDVC should be extended to all visa types, including EU and EEA nationals and provide a minimum of 12 months' state support.

The current DDV concession does not take into account the dynamics of domestic violence, particularly that women will sometimes return to perpetrators before leaving again. Under the current system, a woman can only apply for a DDVC once in a 12 month period, so if she returns to the perpetrator and then leaves again, she is unable to access support and risks losing her immigration status altogether. The system needs to be amended to take this into account and allow a woman to apply as many times as she needs to in order to be safe.

Recommendation: the one application for the DDVC per 12 months should be removed to reflect that women may often return to perpetrators several times in the process of leaving.

Furthermore, the Government must ensure that legal aid is available for women applying for a DDVC and/or in relation to other immigration issues which arise when fleeing gender-based violence. Survivors who have their applications for indefinite leave to remain rejected must also be guaranteed a right of appeal, again supported by legal aid.

Recommendation: survivors should have access to legal aid for the DDVC and any subsequent immigration applications.

In the interim, the Government should extend immediately the fund for women with no recourse who are not on a spousal visa. Currently support through this fund is available for 12 weeks only, which does not reflect the time period survivors need to help them stay safe and begin to rebuild their lives. Refuge recommends a minimum period of 12 months.

Recommendation: the Government should immediately extend the fund for women with no recourse not on a spousal visa and should provide support for a minimum period of 12 months.

Refuge is concerned that the 'hostile environment' is preventing survivors with NRPF from leaving abusers and accessing the services they need. In our experience, requiring health agencies and housing agencies, as well as others, to check immigration status is a major barrier to accessing services and puts some survivors at risk. Refuge welcomes strongly the recent Government announcement which suggests that the NHS will only be required to share immigration data when a person has committed a serious criminal offence. Refuge urges the Government to take further steps to ensure that survivors of gender-based violence are always treated as survivors first and foremost, and do not have to fear the services they need to access will pass on details about their immigration status.

Recommendation: the Government should establish a ‘firewall’ separating immigration control from public services that women come into contact with when experiencing domestic abuse, and ensure safe, confidential reporting systems for survivors to provide confidence that immigration status will not be investigated.

16. Do you agree that the proposed Domestic Abuse Protection Notice issued by the police should operate in broadly the same way as the existing notice (except that it would also be able to be issued in cases of abuse which do not involve violence or the threat of violence)?

Yes

No

Please give reasons (free text)

Don't know/no answer

Broadening the new DAPN so it can be used in cases which do not involve physical violence is a positive step. However, there are significant problems with how the current notice system works which must be resolved in order for the new notice to be an effective tool in protecting survivors.

In Refuge's experience, the notices currently available to police are infrequently used. It appears that this is in part due to poor knowledge and understanding of the orders in some police forces and in part due to the costs police forces must meet when they apply for a notice or order. The costs of applying for a notice or an order and who is responsible for meeting these costs need to be transparent and the implications for use of orders addressed.

When a notice is put in place by the police, its effectiveness is undermined by the lack of consequences for perpetrators who breach the order. Refuge's frontline staff have highlighted that breaches of notices are rarely met with any consequences for the perpetrator. In a very small number of cases the perpetrator will be brought to court and issued with a small fine.

If the DAPN is to be effective, police must have the training, guidance and resources needed to use the notices in appropriate cases, monitor compliance and respond to all breaches as serious threats to the safety of survivors.

Recommendation: the DAPN must be met with training, guidance and resources for all police forces to ensure appropriate use and the monitoring and enforcement of all notices.

17. Which of the following individuals/organisations should be able to apply for a Domestic Abuse Protection Order?

- **The victim**
- **Certain persons associated with the victim (for example certain family members) on behalf of the victim**
- **The police (following the issue of a Domestic Abuse Protection Notice or at any other time)**
- **Relevant third parties, who would be specified by regulations, on behalf of victims (see Question 18 for further details)**
- **With permission of the court, any other person or organisation**
- **Other (free text)**
- **Please give reasons (free text)**
- **Don't know/no answer**

Refuge broadly welcomes the proposals around the DAPO. If implemented with the right safeguards, training and resources, the DAPO could be a much stronger tool in helping protect survivors than the current orders available.

However, Refuge is clear that survivor choice and consent must be at the centre of decision making around orders and notices wherever possible. Ability to make orders without consent of the survivor should not be expanded to a wide variety of agencies and individuals.

Much more detail is required about how orders would be applied for, how different agencies would need to engage with survivors before making an order, and who would bear the costs of applying for the order. Refuge would welcome the opportunity to consult specifically on the detail around DAPOs at a later date.

When developing the new protection order, the Government should take steps to increase the availability of advocacy for survivors. It is well established that survivors who have the support of an IDVA achieve much better outcomes and are more satisfied with their experience of the courts.

Recommendation: the Government should increase the number of IDVAs in order improve survivors' experience of the justice system and effectiveness of DAPOs.

Recommendation: the costs of applying for an order, which organisations will bear the costs of an order and the implications of which organisations bear costs should be transparent and consulted on separately.

18. Which persons or bodies should be specified by regulations as 'relevant third parties' who can apply for a Domestic Abuse Protection Order on a victim's behalf?

- Local authority safeguarding or social care professionals
- Providers of probation services
- Specialist domestic abuse advisers/Independent Domestic Violence Advisers (IDVAs)
- Specialist non-statutory support services (for example refuge support staff)
- Other (free text)
- None of the above
- Please give reasons (free text)
- Don't know/no answer

Refuge's view on who should be deemed a 'relevant third party' is dependent on under what circumstances they would be permitted to apply, what consultation they would be required to have with the survivor and what specialist domestic abuse training would be required by those permitted to apply. As stated in the response to question 17, it is crucial that survivor choice and consent is not eroded by the DAPO. As the single largest provider of specialist services for victims of VAWG, Refuge would support refuge workers, IDVAs, ISVAs, IRIS workers and outreach workers being able to apply for an order on a survivor's behalf if they receive prior consent from the survivor.

19. We propose that there should be multiple routes via which an application for a Domestic Abuse Protection Order can be made, including: • at a magistrates' court by the police following the issue of a Domestic Abuse Protection Notice or at any other time • as a standalone application by, for example, the victim or a person or organisation on the victim's behalf to a family court • by a party during the course of any family, civil or criminal proceedings. Do you agree?

Yes

No

Please give reasons (free text)

Don't know/no answer

Yes, Refuge agrees that there should be multiple routes to applying for a DAPO in order to offer the best protection to survivors.

Key to the success of the proposed DAPO is a clear understanding of the order across all courts and relevant agencies as well as effective communication across jurisdictions. This challenge should not be underestimated, as currently there is little effective communication and understanding between criminal and family courts in particular. Careful planning and resources must be dedicated to ensuring that the DAPO is understood and used across the whole system.

In Refuge's experience, there is little consistency in the application of the orders currently available in cases concerning VAWG. Frontline staff report that some courts almost always apply a restraining order against perpetrators in relevant cases, whereas in others it is extremely rare. One potential benefit of the proposed DAPO is that it reduces the onus on victims to apply for protection orders of their own accord. In order for this to be achieved, judges and magistrates should have a duty to consider whether a DAPO or other relevant order should be applied in all cases concerning VAWG and judges and magistrates should receive specific training.

Recommendation: leadership, training and guidance across criminal and civil jurisdictions must be in place to ensure the systems 'talk to each other' and there is consistency in how DAPOs are used.

Recommendation: judges and magistrates should have a duty to consider whether a DAPO is appropriate in all cases concerning domestic abuse or alleged domestic abuse.

20. Do you agree that family, civil, and criminal courts should be able to make a Domestic Abuse Protection Order of their own volition during the course of any proceedings?

Yes

No

Please give reasons (free text)

Don't know/no answer

There is a difficult balance to be struck between protecting and enhancing survivor choice, and placing the entire onus on protecting herself on the survivor. Therefore in principle, Refuge supports family, civil and criminal courts being able to make DAPOs of their own volition. However, wherever possible the survivor should be consulted about the imposition of any order. Again, the importance of survivors having the ability to access an IDVA to advocate for and guide them through the process cannot be underestimated both in terms of the best interest for other survivor and in terms of achieving positive criminal justice outcomes.

Refuge would also welcome clear guidance to accompany the DAPO on the length of orders. Refuge is of the view that DAPOs, and other protection orders, should be made indefinitely or 'until further order', unless there is a clear reason not to do so. In Refuge's experience, too often survivors go to enormous lengths to secure some form of protection order from the courts, and then find themselves only protected for a few months. The guidance should be clear that the threat posed by domestic abuse is severe and long-term and that survivors will often need protecting indefinitely.

Recommendation: all DAPOs should be indefinite, or 'until further order' unless there is a strong reason to apply one for a shorter period.

21. Do you agree that courts should be able to impose positive requirements as well as prohibitions as part of the conditions attached to the proposed order?

Yes

No

Please give reasons (free text)

Don't know/no answer

Refuge is in favour of further steps being taken to control and disrupt the abusive behaviour of perpetrators and positive requirements attached to DAPOs could be a useful tool in achieving this. However, Refuge has some concerns about positive requirements and would welcome further detail and the opportunity to consult further with the Government on this issue.

Refuge is concerned that the use of positive requirements could send dangerous and misleading messages about the causes of abuse. The consultation document references 'drug and alcohol treatment programmes' as examples of positive requirements. However, drugs and alcohol do not cause domestic abuse, gender inequality and sexist attitudes are the root cause. There is a real danger that requiring perpetrators to undertake drug or alcohol treatment programmes excuses their abusive behaviour, and assumes that once a programme is completed, or drug or alcohol misuse is overcome, then the domestic abuse will stop; this is not the case. Refuge is also concerned that once a positive requirement has been completed by a perpetrator the risk to the survivor or her children will be deemed to no longer exist and the order will be lifted. There must be very clear guidance to ensure positive requirements are not used in this manner.

Recommendation: clear guidance should accompany the DAPO which states that the completion of drug and alcohol programmes does not mean that domestic abuse will cease and that a survivor will not be made safer by the perpetrator addressing any drug or alcohol misuse alone.

Refuge is concerned about the potential use of 'perpetrator programmes and parenting programmes' as positive requirements of a DAPO. There is no evidence that perpetrator programmes are successful in ending all violence and abuse¹⁰. In addition, parenting programmes are an inappropriate response to domestic abuse. Whilst perpetrators should be educated about and take responsibility for the enormous detrimental impact their abuse has on children, this is not the same as a parenting programme. It is essential that any parenting programme for perpetrators challenges sexist and abusive attitudes to women. It should also address coercive control and the specific demeaning and undermining behaviours that individual perpetrators display to their partners. Programmes should be clear that the perpetrator is responsible for the abuse and the negative impact on children.

Recommendation: clear guidance should accompany the DAPO stating that the completion of a perpetrator or parenting programme does not mean that domestic abuse will cease or that a survivor will be made safer.

In light of the risks highlighted above, judges and magistrates need to undergo much more extensive training on the dynamics of domestic abuse, the causes of domestic abuse and the appropriate use of positive requirements. Training perpetrators simply in 'healthy relationships' or 'brighter futures' without challenging them to take responsibility for their use of violence and coercive control is not helpful. Refuge has concerns about the quantity and quality of current judicial training on VAWG. The number of mandatory hours training on domestic abuse and VAWG for judges and magistrates should be increased.

Recommendation: judges and magistrates must receive mandatory training on domestic abuse and the appropriate use of positive requirements.

¹⁰ Refuge, Refuge briefing: domestic violence perpetrator programmes <https://www.refuge.org.uk/wp-content/uploads/2017/04/Perpetrator-programmes-position-paper-2016.pdf>

Refuge is also concerned about how the use of positive requirements interacts with the length of DAPOs. As stated above in response to question 20, in order to best protect survivors, orders made should apply indefinitely or until a further order is made, unless there is a clear reason for them to be shorter in duration. Refuge is unsure if a positive requirement, for example to attend a drug treatment programme for 12 weeks, could be part of a DAPO which is applied indefinitely. Refuge would welcome further detail on this.

Recommendation: positive requirements should not restrict the length of a DAPO, which should be put in place for an indefinite duration unless there is a strong reason to limit the duration of an order.

Robust guidance and training is needed to ensure DAPOs are not used to abuse and control survivors. Some perpetrators will make counter-allegations of abuse and attempt to have an order taken out against a survivor. Police, judges, magistrates and all other relevant agencies must be trained in how to accurately identify attempts to use the justice system to further abuse survivors and reject such applications for orders.

Recommendation: all relevant agencies should be alert (either through training or guidance) to the potential of perpetrators making spurious allegations about survivors to secure a DAPO against them.

22. Do you agree that courts should be able to require individuals subject to a Domestic Abuse Protection Order to notify personal details to the police?

Yes, judges and magistrates should have the option to require people subject to a DAPO to notify personal details to the police when this could play a role in keeping a survivor safe. Judges, magistrates and the police should be trained on how to use these appropriately.

Recommendation: judges and magistrates must receive training on the appropriate use of requirements for perpetrators of abuse to notify personal details to the police.

23. If so, what personal details should the courts be able to require individuals to provide to the police?

This should be dependent on each case and what is needed to protect the survivor's safety.

24. Do you agree that breach of the proposed order should be a criminal offence?

Yes, Refuge agrees that breach of a DAPO should be a criminal offence. This is important in increasing the likelihood that perpetrators will abide by the terms of the order and that there will be consequences for breach. Making breach a criminal offence should also go some way to communicating to the public and agencies involved that DAPOs are there to protect the safety of survivors and that breaching an order is a serious matter.

The range of sentences available for breach of a DAPO should at least mirror those for breach of restraining or non-molestation orders, with a prison sentence an option for breach. Part of the problem with the current DVPO is that the penalties for breach are much less serious than the other orders available. This creates an inequality and hierarchy of orders, which are ineffective for protection victims. The Government should ensure that the DAPO carries penalties for breach which are no less than the other orders available.

Furthermore, it is essential that the DAPO is able to contribute to protecting survivors from tech abuse. Refuge is currently running an innovative new project on tackling tech abuse, funded by Google, Comic Relief and Tampon Tax funding. A significant proportion of the women we work with have suffered tech abuse and it is a growing problem. In order to be effective the DAPO should, at a minimum, be able to require that perpetrators make no

online contact with a survivor, do not use tracking or surveillance software or log-in or interfere with any online accounts. Any contact or intimidation made via technology must be deemed a breach of the order and therefore constitute a criminal offence.

Making breach of a DAPO a criminal offence will not in and of itself result in the order being a robust tool to help protect survivors and hold perpetrators to account. It should be noted that the current system of orders and notices are severely underused, in part due to poor awareness and training amongst police, and in part due to the cost and time of securing them. This, combined with poor monitoring of compliance and consequences for breach, have created widespread lack of faith in the orders system. If the DAPO is to have a positive impact on protecting survivors, all the bodies tasked with applying for, securing and monitoring DAPOs must have the leadership, training and resources to make the DAPO an effective tool. This is essential to the success of the DAPO.

Recommendation: the sentences available for breaching a DAPO should mirror those available for breach of a non-molestation order and restraining order.

Recommendation: the DAPO should be designed to ensure it is able to prevent and respond to tech abuse.

Recommendation: training and resources for all relevant agencies must accompany the introduction of the DAPO if it is to be effective.

25. If you do agree that breach of the proposed order should be a criminal offence, should it be possible for breach to alternatively be punished as a contempt of court?

No, Refuge is of the view, that in order to send a clear message that breach of a DAPO is a serious issue and to minimise confusion around breach of a DAPO, breach should always be a criminal offence.

As stated above in response to question 24, key to the effectiveness of the proposed order will be how robustly it is enforced. Police must have the necessary leadership, training and resources to make the DAPO and the other domestic abuse orders effective.

Recommendation: breach of a DAPO should always be a criminal offence.

26. Do you agree that courts should be given an express power to impose electronic monitoring as a condition of a Domestic Abuse Protection Order?

Refuge agrees that electronic monitoring should be an option available to judges when setting the conditions of a DAPO. However, Refuge would welcome more research in this area to establish the effectiveness of electronic monitoring in domestic abuse cases. Refuge is concerned that unless used appropriately and robustly monitored, electronic monitoring could give survivors a false sense of security.

Recommendation: the Government should commission research into the effectiveness of electronic monitoring in cases regarding domestic abuse.

27. Which particular statutory safeguards relating to the use of electronic monitoring with Domestic Abuse Protection Orders should be put in place?

No answer - this is not Refuge's area of expertise.

28. How much easier do you think it will be for domestic abuse victims to register to vote anonymously, once the changes summarised above happen?

Much easier

Easier

Somewhat easier

Slightly easier

Not easier

Don't know/no answer

Refuge welcomes the changes made to the rules on registering to vote anonymously in order to make it easier for survivors of VAWG. It is important that survivors do not have to make a choice between staying safe and exercising their democratic rights.

The main flaw in the new system is that survivors will have to re-register for anonymous voting every year. This does not reflect the reality of abuse and risk for survivors in refuges. It is highly unlikely that a survivor who would be put at risk by being on the electoral register one year, will no longer be at risk the year after. For many survivors, the risk of abuse from their perpetrator will be long-term, if not life-long, and the system for anonymous registration should reflect this with survivors required to re-register much less frequently.

Recommendation: the period of time after which survivors have to re-register to vote anonymously should be extended beyond a period of 12 months.

29. What further support could survivors receive to prove their safety would be at risk if their name and address appeared on the electoral register? Please put forward one suggestion

Recommendation: IDVAs, ISVAs and IRIS workers should be permitted to certify that a survivor would be put at risk if they appeared on the electoral register.

30. Do you have any further comments or suggestions on how to make it easier for domestic abuse survivors to anonymously register to vote?

Refuge would welcome further detail on what information is held by the Electoral Commission when a survivor applies to register anonymously, how this information is stored, how robust the cyber security is from hacking, measures in place to detect perpetrators claiming to be officials, and who can access the register and under which circumstances. Clear information about data retention and protection would assist frontline staff in supporting survivors who want to register to vote anonymously to do so.

Recommendation: the Electoral Commission should publish clear guidance on the data retained when a survivor registers to vote anonymously, and how that data is used and protected from hacking.

31. Aside from anonymous registration, how else can we keep victims' addresses safe?

The Government should work with public and private sector agencies, including the Department for Work and Pensions, utility companies, mobile phone companies, banks and building societies to develop robust systems to prevent survivors' addresses being shared.

Refuge frontline staff report frequently that survivors' addresses and locations are disclosed by carelessness on the part of various agencies and companies often resulting in women and children having to flee again and obtain new safe emergency accommodation. Examples include banks sending change of address details to the perpetrator's address and the Department for Work and Pensions disclosing new living locations to perpetrators.

Clear leadership from the Government that all relevant public, private and voluntary organisations should have effective and robust systems to flag when location and address data must not be shared would be a positive step forward. Systems also need to be protected from hacking and attempts by perpetrators to impersonate officials.

Recommendation: the Government should work with state agencies and relevant private companies to develop robust systems to prevent survivors' address and location details being shared.

32. Before reading this consultation, were you aware of the Domestic Violence Disclosure Scheme (Clare's Law)?

Yes

33. Do you agree the guidance underpinning the DVDS should be placed on a statutory footing?

The DVDS scheme is currently underused and there are large regional discrepancies in the use of the scheme and the proportion of requests for information that are refused. Refuge would support the DVDS scheme being placed on a statutory footing in order to encourage more widespread and consistent use in appropriate cases. However, more work is also needed to understand why requests for information are turned down and design police training to reduce this. Further, all police forces need consistent policies on safely disclosing information and working appropriately with specialists to do this.

Recommendation: the Government should commission a review into the regional discrepancies in the use of the DVDS and the proportion of applications which are approved.

34. How do you think we can best promote awareness of the Domestic Violence Disclosure scheme amongst the public?

- Marketing materials (for example posters, leaflets)
- TV & radio
- Media (for example newspapers, magazines)
- Social media (for example Facebook, YouTube, WhatsApp, Twitter, Instagram)
- Online through search engine
- Don't know/no answer
- Other - please explain

Refuge supports public awareness campaigns which aim to educate the public and further reduce the social tolerance of domestic abuse. The availability of the Domestic Violence Disclosure Scheme should be highlighted appropriately in such campaigns. When promoting the scheme it is also important that women are given information about what they can do to seek support or assistance if their partner has a history of violence and abuse.

Recommendation: promotion of the DVDS should be accompanied by information on support services which can assist those who discover their partner has a criminal record relating to abuse.

35. What practical barriers do domestic abuse victims face in escaping or recovering from economic abuse and how could these be overcome?

Refuge welcomes the focus on economic abuse in the consultation and supports the inclusion of economic abuse in the definition of domestic abuse.

In 2015, in partnership with the Cooperative Bank, Refuge published 'MoneyMatters', the largest study into economic abuse in the UK¹¹. The study found that one in five women and one in seven men have experienced financial abuse in either a current or past relationship. It also found that economic abuse rarely occurs in isolation; the vast majority of financial abuse victims (82 per cent) also experience other forms of abuse in their relationship.

Significant gender differences were also highlighted, with women more likely to experience financial abuse as part of an ongoing pattern of intimate partner violence, in multiple relationships, for longer periods of time and post-separation. In contrast, the experience of men was more likely to be single, exploitative incidents taking place within fewer relationships over a much shorter duration. Further, the study found that demanding total control of household finances was a common method of economic abuse, which often led to women reporting that they were left without enough money for food, without enough money to provide for their children and without enough money for basic necessities¹².

Economic abuse and the benefit system

Key to preventing economic abuse and helping women recover is protecting women's independent income as much as possible. Refuge has serious concerns that the design of Universal Credit, which will pay the majority of benefits to one person in a household in a single monthly payment will help facilitate economic abuse and create additional barriers for women who want to leave abusers. The current system whereby a split payment can be made only if a survivor discloses and can evidence abuse to the DWP is extremely dangerous for survivors. Universal Credit is yet to fully roll out across the country, but Refuge frontline staff have already highlighted multiple cases in which Universal Credit is facilitating economic abuse and creating additional barriers for survivors fleeing abuse¹³. Refuge recommends strongly that Universal Credit payments are split by default for all couples, as will be the case in Scotland.

Recommendation: Universal Credit payments should be split for all couples by default to prevent the unintentional facilitation of economic abuse.

Refuge is strongly opposed to sections 13 and 14 of the Welfare Reform and Work Act (2016), which limit entitlement to the child element of Child Tax Credit and Universal Credit to a maximum of two children. This two-child limit will have a disproportionate impact on women, reducing their income and exacerbating poverty. The exception which allows social security support for a third or subsequent child if they are born as a result of rape forces women to disclose sexual violence and abuse to the Department of Work and Pension and is highly likely to be traumatising for women. Refuge urges to remove the two-child limit.

¹¹ The Co-operative bank and Refuge, Money Matters <https://www.co-operativebank.co.uk/assets/pdf/bank/aboutus/ethicalpolicy/financialabuse/moneymattersreport.pdf>

¹² The Co-operative bank and Refuge, Money Matters <https://www.co-operativebank.co.uk/assets/pdf/bank/aboutus/ethicalpolicy/financialabuse/moneymattersreport.pdf>

¹³ Refuge, Evidence to the Work and Pensions Select Committee on Universal Credit and Domestic Abuse <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/work-and-pensions-committee/universal-credit-rollout/written/82588.html>

Recommendation: the Government should remove urgently the two-child limit to Child Tax Credit and Universal Credit.

More broadly, Refuge is concerned about the cumulative impact of welfare reform on survivors of VAWG and supports calls made by Women's Aid, and others, for an inquiry into the ways in which changes to social security policies have impacted survivors of VAWG and their ability to leave abusers.

Recommendation: the Government should launch an inquiry into the cumulative impact of welfare reforms on survivors of VAWG.

For many survivors of abuse, a lack of economic resources and a fear of how they will support themselves and their children if they leave an abuser is a major barrier to women leaving their abusers. There is much more the Government could do to mitigate this including: fast-tracking benefit applications for women who flee abuse; not requiring repayment of any advance payments made to survivors of abuse in recognition of the difficult financial situation survivors are faced with when they leave; and creating a fund to assist with the costs women incur when they attempt to escape abuse. This should include a rent deposit scheme and assistance furnishing a new home.

Recommendation: the economic challenges of leaving an abusive partner should be mitigated by fast-tracking benefit applications for women who flee abuse, not requiring repayment of any advance benefit payments made to survivors of abuse, and creating a fund to assist with the costs women incur when they attempt to escape abuse.

Economic abuse and legal aid

Economic abuse and the significant economic strain placed on women when fleeing abusers needs to be tackled by coordinated policies across government. Difficulties accessing legal aid are a major economic barrier to many women fleeing abuse. Refuge recommends that legal aid is available to all cases linked to VAWG in the criminal, civil, family and immigration courts and not subject to a capital means test which takes into account assets owned jointly with a perpetrator. The income means test should also be reviewed to ensure survivors on modest incomes can access legal representation. This would have a significant impact on enabling women to access their legal rights and secure the best interests of themselves and their children when leaving an abuser.

Recommendation: the Government should remove the capital means test and revise the income means test for legal aid for all survivors of VAWG.

Economic abuse and housing

The increasing difficulties women face in accessing appropriate housing after leaving an abuser must be tackled. Refuge frontline staff are spending increasing proportions of their working hours helping survivors secure access to the permanent housing they and their children need to rebuild their lives. This work is becoming increasingly difficult.

Far too often, women and children are delayed in leaving refuges because appropriate accommodation cannot be found. Many women who flee abuse are forced to move frequently to multiple temporary accommodation properties which are inappropriate for them and their children, creating a 'Cathy Come Home' situation.

Much more needs to be done to improve the housing offer for survivors of domestic abuse. For too many women and children, fleeing abuse comes at a cost of inadequate and insecure housing. Refuge strongly recommends that the Government clarify in law that survivors of domestic abuse qualify for priority need for accommodation, without having to prove additional vulnerabilities. Further, the Government should commit to working closely with

the specialist sector and housing providers to ensure survivors have access to the housing they need to recover and rebuild their lives.

Recommendation: the law should be clarified to ensure survivors of domestic abuse qualify as in priority need for housing.

Recommendation: the Government must take steps to address the shortage of permanent housing and prioritise access to this housing to survivors of VAWG.

For many of the women Refuge works with, economic abuse has led them to develop rent arrears. Women in rent arrears face enormous challenges accessing housing, as they are excluded from almost all private rented and housing association properties. This is a significant issue for many of Refuge's clients and has a serious impact on delaying women leaving refuge when they are ready to move on. Refuge strongly urges the Government to act so that survivors in rent arrears are not excluded from housing.

Recommendation: the Government should work with housing providers to ensure survivors with rent arrears are not excluded from housing.

Furthermore, please see Refuge's response to question 15 regarding survivors with no recourse to public funds (NRPF) in the context of economic abuse. Women with NRPF are the most economically vulnerable group of survivors due to their ineligibility for state funding. Reforming policy around NRPF as per Refuge's recommendations above is essential in order to prevent and adequately respond to survivors of VAWG.

36. What more can we do to tackle domestic abuse which is perpetrated online, or through control of technology?

Appropriate reporting categories on social media platforms and signposting victims to off-platform support, such as helplines

Clear guidance from social media companies on privacy settings for users at risk or victims of domestic abuse on online domestic abuse

Effective use and handling of evidence from social media within the investigation and prosecution processes

Government/charities and others promoting awareness of online and technology risks in relation to domestic abuse, such as through advertising

Government raising awareness of the use of spyware or GPS locators on phone or computers by perpetrators

Retailers, applications and the wider technology industry raising awareness of the use of spyware or GPS locators on phone or computers by perpetrators

Other – please state

Don't know/no answer

In October 2017, Refuge launched its innovative tech abuse project, with funding from Google, Comic Relief and the Government, via the Tampon Tax. Tech abuse is a major and growing issue for survivors. Tech abuse not only causes extreme distress and harm, but can force survivors offline, compounding their isolation and making daily life more difficult. There is a huge amount of work to be done by Government, statutory agencies and tech companies to prevent tech abuse, support survivors who experience it, respond to perpetrators and enable women to stay online safely.

In Refuge's view all of the suggestions put forward by Government are required; however, we would urge caution around promoting awareness. It is crucial that methods with which to monitor and control people are not inadvertently shared and promoted to perpetrators and potential perpetrators.

Reporting

The ways to report tech abuse to media companies need to be much more consistent and clear across social media platforms. Refuge's tech team have worked with women who have given up reporting abuse because the process is unclear. Furthermore, when women do report abuse too often they feel ignored and dismissed. All media companies should have specialist tech abuse teams who can fully investigate and respond to abuse. In addition to reporting, media companies should take proactive steps enable their users to feel confident and knowledgeable about how to protect themselves from abuse on their platforms and feel confident that the company will take any abuse perpetrated through its platform seriously.

Recommendation: all social media companies should be proactive in advising users how they can protect themselves from abuse on their platforms.

Recommendation: all social media companies should establish dedicated tech abuse teams to respond to reports of tech abuse.

Privacy and security settings

Much like reporting processes, privacy settings are inconsistent across platforms and can be difficult to navigate and understand. Social media companies are experts in their own products and therefore must provide clear directions on how the platform can be used to abuse and how women can ensure the privacy and security settings can protect them as far as possible. Social media companies should engage with specialist organisations and survivors to develop security settings which help increase protection.

Recommendation: social media companies should work with specialist organisations and survivors to develop clear and easy to use security and privacy settings to prevent tech abuse.

Evidence

There is currently little clarity from criminal justice agencies on the collecting and handling of social media evidence. Clear guidance on how survivors can collect evidence of tech abuse safely should also be created. Greater transparency and clarity is needed on the evidence police can obtain from social media companies. Social media companies and police forces should be encouraged to work together where possible to develop best practice in storing and obtaining evidence when somebody reports online abuse.

Recommendation: social media companies and criminal justice agencies ought to publish clear guidance on the collection and handling of social media evidence.

Raising awareness

Government has an important role to play in raising awareness of what tech abuse is and why it is a criminal act, whilst promoting the message that everyone deserves to be safe online. However, Refuge would urge caution regarding the potential unintended consequences of promoting how easy it can be to track and monitor people.

Refuge supports awareness raising of technology like spyware and trackers, but for targeted audiences only, for example criminal justice agencies.

Recommendation: the Government should raise awareness of the damage caused by tech abuse.

Recommendation: the Government should develop targeted awareness raising around spyware and GPS locators for specialist audiences.

Spyware and GPS locators

The wider technology industry has a role to play in protecting the safety of people subject to their products. There needs to be much more clarity about exactly what data different spyware products and GPS locators are able to collect and clear instructions in how to disable products if you have not consented to their use.

Recommendation: manufacturers of spyware products and GPS locators should publish clear instructions on how to disable products.

Legal protection

Early work from Refuge's tech team has found the law not to be fit for purpose in responding to tech abuse. Many of the relevant laws were not designed with tech abuse in mind and do not appear to provide survivors with adequate protection. Refuge welcomes the Law Commission's ongoing review into offensive online communications, but would like to see this expanded to explicitly include tech abuse.

Recommendation: the Law Commission's work on offensive online communications should be expanded to explicitly include tech abuse.

Ensuring survivors of tech abuse can access justice is essential. Lack of access to legal aid is a major barrier to redress for survivors. Legal aid is not applicable for many of the civil law remedies for tech abuse, for example, legal aid is highly restricted regarding the Protection from Harassment Act. Means tests are a further barrier. The Government should ensure that all survivors are able to access legal aid to help protect them against tech abuse and hold perpetrators to account.

Recommendation: eligibility for legal aid for survivors should be extended to cover all civil legislation which can be used to respond to tech abuse, the capital means-test should be removed and income means-test revised.

Tech abuse is committed on a mass scale and poses a major challenge to law enforcement. Careful consideration of the training and resources the police and CPS require in order to be able to respond to tech abuse is therefore needed.

Recommendation: the Home Office and Ministry of Justice should launch a review of the training and resources required by police and the CPS to improve the criminal justice response to tech abuse.

37. How can we continue to encourage and support improvements in the policing response to domestic abuse across all forces and improve outcomes for victims?

Whilst there has been some improvement in the policing of domestic abuse in recent years, there is still much further to go to increase the confidence of survivors to report to the police and reduce the thousands of survivors every year who receive a dismissive or poor response to reports of abuse.

Refuge is concerned that already we are seeing the police response to domestic abuse go backwards. In a recent report by Her Majesty's Inspectorate of Constabulary, Fire and Rescue Services (HMICFRS), it was highlighted that the number of alleged perpetrators of domestic abuse referred to the CPS by the police has fallen in the last two consecutive years. There is also a huge variance in arrest rates between police forces, latest figures shows that the City of London police have a domestic abuse arrest rate of over 80 per cent, whilst in Hampshire it is only 25 per cent. 16 forces have an arrest rate lower than 50 per cent¹⁴. Further, HMICFRS found that seven police forces are a cause for concern in their response to domestic abuse and a further 33 have areas of improvement in relation to domestic abuse¹⁵.

The fall in arrests and referrals to the CPS suggests that police are still failing to respond to domestic abuse with the seriousness and priority the issue deserves and that culture change is still required. Refuge has long been an advocate of mandatory arrest and charge policies for domestic abuse, as are in place in Canada and many states in the US. Refuge recommends that the Home Office set up a mandatory arrest and charge pilot programme to explore this further.

In addition, increasing the number of IDVAs and ensuring more co-location of IDVA services in police stations is crucial in increasing knowledge of domestic abuse and VAWG amongst police and it is essential to drive the culture change needed.

Recommendation: the Home Office should pilot mandatory arrest and charge in cases of domestic abuse to drive culture change in police forces.

Recommendation: the Government should invest in increasing the number of specialist IDVAs and encourage co-location of IDVA services in police stations.

There needs to be an assessment of the resources police need to respond to reports of VAWG. Recent statistics show that the number of domestic abuse crimes reported to the police increased by 61 percent between 2013 and 2016. For the 12 months to 30 June 2016, domestic abuse-related crime made up just over 11 percent of all recorded crime and represented 33 percent of all recorded crimes that involved assault with injury¹⁶. Whilst some of this rise might be down to better recording practices, there does appear to be a rise in reports of abuse. Refuge is concerned that there appears to be no increase in resources to match the rise in demand.

Further, if the Government's work in this area and the ambitions set out in this consultation document are achieved, more survivors will come forward. It is essential that the police have the capacity to respond appropriately to all survivors.

Recommendation: the Government ought to review whether the police have sufficient resources to respond to domestic abuse in light of the increase in reports and increased demand the Domestic Abuse Bill will drive.

¹⁴ HMICFRS, A progress report on the police response to domestic abuse
<https://www.justiceinspectorates.gov.uk/hmicfrs/wp-content/uploads/progress-report-on-the-police-response-to-domestic-abuse.pdf>

¹⁵ HMICFRS, A progress report on the police response to domestic abuse
<https://www.justiceinspectorates.gov.uk/hmicfrs/wp-content/uploads/progress-report-on-the-police-response-to-domestic-abuse.pdf>

¹⁶ HMICFRS, A progress report on the police response to domestic abuse
<https://www.justiceinspectorates.gov.uk/hmicfrs/wp-content/uploads/progress-report-on-the-police-response-to-domestic-abuse.pdf>

Much more attention and effort needs to be placed on building an evidence-led case for prosecution for every survivor. The difficulties, challenges and risks posed to survivors in giving evidence against perpetrators are well known, yet in many cases if the survivor cannot give evidence the case against the perpetrator collapses. Police forces need to do much more to gather evidence in every domestic abuse case. Current practice means that responsibility on whether the case is prosecuted is often placed entirely on the survivor. This allows perpetrators to abuse and manipulate their way out of criminal charges. Culture change is needed to ensure every police officer builds an evidence-led case for every survivor. This requires training, leadership and supervision.

Recommendation: training, leadership and supervision should be developed and implemented so that police build an evidence-led case for every survivor.

Much of the recent improvement in policing has been down to positive leadership and focus by HMICFRS, supported by strategic engagement with the specialist VAWG sector at a senior level through the National Oversight Group. The high priority given to these issues by HMICFRS in recent years must be maintained and developed in order to drive improvement and prevent further slippage in the police response to VAWG.

Recommendation: the National Oversight Group, chaired by the Home Secretary, should be maintained.

Recommendation: HMICFRS should continue to prioritise the police response to domestic abuse and continue to regularly inspect and report against police performance regarding domestic abuse.

38. Do you think creating a legislative assumption that all domestic abuse victims are to be treated as eligible for assistance on the grounds of fear and distress (if the victim wants such assistance), will support more victims to give evidence?

Refuge would welcome a legislative assumption that all domestic abuse victims are treated as eligible for assistance on the grounds of fear and distress. This is likely to give survivors increased confidence that they will be believed and be granted special measures if they are requested.

39. Is there more this government could do to explain the range and remit of existing measures for victims to help support them in the criminal justice process?

Yes, the full range of special measures that are available should be offered to all survivors. Too often survivors are only offered to give their evidence behind a screen. Pre-recorded cross-examination and giving evidence via video link (as well as with a screen, if needed) should be offered routinely and all courts should be equipped so that survivors can take up whichever special measures they need to give their best evidence.

Recommendation: the full range of special measures should be offered to all survivors as a matter of course.

Recommendation: all courts must have the facilities to enable survivors to access the full range of special measures available.

Information on the range of special measures available should be shared with all survivors. Increasing the number of IDVAs so that more survivors have access to this specialist support would also lead to more survivors understanding the options they have around special measures.

Recommendation: the Government should invest in IDVAs in order to increase the number of survivors who understand and can access special measures.

Recommendation: information on special measures should be shared with all survivors of VAWG.

40. Do you know of instances in criminal proceedings when an application to prevent cross-examination of a victim by an unrepresented defendant has been denied in a domestic abuse case? Where possible, please provide evidence or details of the experience to support your answer.

No, Refuge is not aware of a recent case in which a perpetrator has been permitted to cross examine a survivor in a criminal case.

However, this is commonplace in the family courts. Refuge recommends that the Government urgently bring forward the legislation already drafted on banning the horrific practice of cross-examination by perpetrators or alleged perpetrators in the family and civil courts.

Recommendation: the Government should prohibit the cross-examination of survivors by perpetrators or alleged perpetrators in the family and civil courts as part of the Domestic Abuse Bill.

41. Do you think extending the prohibition on cross-examination in criminal proceedings would support more domestic abuse victims to give evidence?

Yes. Even though in Refuge's experience the practice is not commonplace, legislation should ensure that it is never allowed in any circumstances. Survivors often feel very nervous and worried about the prospect of being cross-examined. Even if there is a remote possibility that they will be cross-examined by a perpetrator in a criminal court, it can often lead to them disengaging from the process.

Recommendation: the Government should extend the prohibition on cross-examination in criminal proceedings as part of the Domestic Abuse Bill.

42. Do you have suggestions for how we can better support prosecutions through to conclusion, including providing better support for witnesses who currently disengage from the process? Where possible, please provide evidence or details of the experience to support your answer.

The power of independent advocacy cannot be underestimated. Research shows that survivors are much more likely to achieve better outcomes from the justice system when supported by an IDVA¹⁷. IDVAs are essential to improving the number of prosecutions.

Refuge welcomes the development of the best practice components which have come out of the recent CPS domestic abuse 'deep dive' which will be rolled out to magistrates' courts nationally over the coming months. This will include better training for court staff as well as an emphasis on better multi-agency working within courts. We think this could go some way to improving prosecutions. However, in order to be successful, it has to be accompanied by sufficient IDVA provision to support survivors and enhance the court and criminal justice process.

¹⁷ Centre for Justice Innovation, Better courts: A snapshot of domestic violence courts in 2013 https://b3cdn.net/nefoundation/667bd380bdc5bac599_e4m6b0z7o.pdf and Safelives, 2016 survey of Independent Domestic Violence Advisor provision in England & Wales <http://www.safelives.org.uk/sites/default/files/resources/SafeLives%20Idva%20survey%20report%202016.pdf>

Recommendation: the Government should invest in IDVAs with the aim of ensuring every survivor of VAWG who would like to access an IDVA is able to do so.

Another key issue is the tabling system. Survivors are subject to further and unnecessarily distress by the frequent delays, cancellations and adjournments of court cases. Survivors often feel extremely nervous and frightened in the lead up to going to court. When the case is then delayed or adjourned this lets survivors down and can lead them to disengage from the process entirely.

Refuge is particularly opposed to the use of 'warned lists', where survivors are told that they could be required at court at any point over a one or two week period. This creates a huge amount of anxiety and distress, often means that an IDVA or other advocate cannot accompany a survivor (due to diary clash) and raises challenging practical issues around employment, travel and childcare.

Recommendation: Her Majesty's Courts and Tribunals Service (HMCTS) should prohibit the use of 'warned-lists' for VAWG cases.

Recommendation: HMCTS should reform the tabling system with the aim of improving the predictability of cases for survivors of VAWG.

As stated above in response to question 37, the police must build an evidence-led case for every survivor. Far too much pressure is placed on survivors to cooperate with police and give evidence, despite the well-known risks that survivors can face if they do give evidence. Refuge IDVA staff report anecdotally that in some of the areas in which they work they have never experienced a domestic abuse prosecution which went ahead without the evidence of a survivor. The police and the CPS are not sufficiently prioritising developed evidence-led cases that can progress when a survivor does not feel that they can engage with the criminal justice process.

Recommendation: training, leadership and supervision is developed and implemented so that police build an evidence-based case for every survivor.

43. What more can police, witness care units and the Crown Prosecution Service do to support victims through the justice process from the point of report onwards? Where possible, please provide evidence or details of the experience to support your answer.

As set out in the response to question 42 above:

Recommendation: training, leadership and supervision should be developed and implemented so that police build an evidence-based case for every survivor.

Recommendation: the Government should invest in IDVA services with the aim of ensuring every survivor of VAWG who would like to access an IDVA is able to do so.

Further, Refuge is concerned that which agency or agencies are responsible for keeping in touch with survivors and updating them on the progress of their case is muddled, lacks clarity and is not treated with the importance and priority it deserves. All too often, survivors do not receive any updates from criminal justice agencies at all. This is not only distressing, but dangerous, particularly when perpetrators are discharged or bailed by police and this is not communicated to survivors.

In Refuge's experience, more work is needed to ensure that the Victim's Code is fully understood and adhered to by the relevant agencies. Refuge supports placing the Victim's Code on a statutory footing, alongside developing measures to hold agencies to account for communicating and updating survivors.

Recommendation: The Victim's Code should be placed on a statutory footing and measures should be developed to hold agencies to account for updating survivors from the point of report onwards.

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

Yes. The family courts are lagging far behind the criminal court in terms of best practice in the treatment of survivors of VAWG.

The cross-examination by perpetrators or alleged-perpetrators of survivors must end. The Government should introduce this prohibition as soon as possible. Refuge would welcome it as part of the Domestic Abuse Bill if earlier legislative time cannot be secured.

Recommendation: the Government should bring forward plans to prohibit cross-examination of survivors by perpetrators in the family courts as part of the Domestic Abuse Bill.

Much better links and communication between the family courts and criminal courts should be developed to improve the extent to which the courts 'talk to each other.' A priority should be developing a shared understanding of risk regarding domestic abuse.

In Refuge's experience, there is a poor understanding of the dynamics of domestic abuse in many family courts. For example, Refuge's expert IDVA staff frequently report that perpetrators are awarded unsupervised contact with children even when they have been convicted of domestic abuse related offences in the criminal courts. There appears to be very little understanding of the impact of domestic abuse on children, or the way in which perpetrators commonly use child contact arrangements to continue abuse and control of survivors. Refuge staff have also highlighted dangerous contact arrangements, for example, unsupervised contact with children whilst a criminal case regarding domestic abuse is ongoing.

Recommendation: judges, magistrates and all agencies working in the family courts should receive training on the dynamics of domestic abuse and the impact of domestic abuse on children.

Recommendation: clear guidance on child contact arrangements in cases regarding or potentially regarding domestic abuse should be issued. This should clearly state that in the context of domestic abuse it will often not be in a child's best interest to have contact with an abusive parent and that no contact orders should be considered.

Recommendation: unsupervised contact between alleged perpetrators and their children should never be ordered when criminal investigations into domestic abuse are ongoing.

All family courts should be able to offer a range of special measures to survivors. This should include separate entrances and exits for survivors and separate, safe waiting areas. This will require some funding investment as many courts do not have the infrastructure to offer these at present. It is also essential that survivors are offered special measures in the family courts as a matter of course.

Recommendation: all family courts should have the infrastructure needed to offer survivors special measures and special measures should be offered as a matter of course to all survivors.

Refuge frontline staff frequently report that perpetrators exploit and manipulate the family courts system to continue to abuse and control survivors. An example of this is repeated applications for child contact, which bring the survivor back to court to be cross-examined by the perpetrator time and time again and force the survivor to

incur significant financial costs, particularly if they have no access to legal aid. It must be recognised that some perpetrators use the system to abuse and control survivors and judges must be given the powers needed to identify and strike out cases which are being taken for the purposes of abuse and control.

Recommendation: it should be explicitly recognised that some perpetrators use the family courts to abuse and control survivors.

Recommendation: judges must have the powers needed to strike out repeated and vexatious claims brought to court for the primary purpose of abusing and controlling survivors.

It is vital that survivors are able to access legal aid for representation in the family courts. Whilst Refuge welcomes the relaxation on some of the evidence restrictions regarding domestic abuse and legal aid implemented earlier this year, these do not go far enough to ensure survivors never have to face perpetrators without legal representation. The means-test for legal aid is far too restrictive, and in practice means survivors cannot access legal aid if they own joint assets with the perpetrators, even if they have no control over the use of those assets. Further, the means test excludes survivors on modest incomes, who are already attempting to retain employment whilst dealing with the significant challenges of leaving an abuser, leaving them with no access to justice.

Recommendation: the capital means-test for legal aid should be removed and the income means-test reviewed to ensure that no survivor is forced to face a perpetrator without legal representation.

45. Do you think there is further action the Government could take to strengthen the effectiveness of the controlling or coercive behaviour offence?

Yes. In Refuge's experience police still lack awareness and understanding of controlling and coercive behaviour and require further training. Refuge frontline staff report anecdotally that they have seen very few standalone prosecutions of controlling or coercive behaviour, rather the offence is only used as an additional charge to when prosecuting physical assaults. This is troubling as the coercive control offence was specifically designed to recognise the criminality of the non-physical forms of domestic abuse and therefore needs to be routinely used in cases which do not involve the prosecution of physical violence as well.

Recommendation: the Government should review and improve the extent to which controlling or coercive behaviour is being prosecuted as a standalone offence.

Recommendation: all police officers should receive mandatory training on controlling or coercive behaviour.

Tech abuse is pervasive and the impact on women and girls can be severe. It is essential that the offence is fit for purpose for criminalising coercive control perpetrated through technology. Refuge recommends the controlling or coercive behaviour offence forms part of the Law Commission's work on online abuse (see response to question 36).

During the passage of the controlling and coercive behaviour legislation, Refuge raised concerns about the offence applying only to people currently in a relationship, with harassment and stalking legislation being applied for people who were formerly partners. We know from working with victims of domestic violence that separation is the most dangerous time for a woman and is when most homicides occur, and that violence and abuse can continue long after a relationship is over. We raised concerns that the distinction between current and former partners could create confusion for front line officers as they try to quickly ascertain what is happening in a situation, which can lead to women subject to controlling and coercive behaviour following or during a separation

receiving less protection. Refuge remains concerned about the distinction and recommends the Government review whether the legislation ought to be expanded to former partners as well.

Recommendation: the Government should review whether the controlling or coercive behaviour offence should be expanded to former partners.

Refuge is concerned that the way in which the coercive control offence is drafted places insufficient attention on the psychological impact of perpetrator behaviour on survivors. The focus upon the actions of the perpetrator rather than the impact upon the survivor seem inadequate to capture the psychological injury at the heart of non-physical domestic abuse. It is not the type or nature of a particular act of abuse that makes it psychologically harmful, it is the meaning the abuse holds for the survivor. It is the slow and cumulative effect of multiple acts of humiliation and subtle undermining, which alone might be regarded as minor, but together cause the greatest harm. The impact of such behaviour upon the survivor, and the duration for which she has suffered this abuse, must be considered when determining psychological injury.

The failure of the criminal justice system to address the psychological injury inflicted upon survivors of abuse is a much broader issue than the coercive control offence is designed to capture. To ensure that all psychological injury is criminalised, Refuge recommends expansion of the definition of actual bodily harm so that it includes psychological injury, as well as psychiatric injury.

Recommendation: the Government should review the controlling or coercive behaviour offence to better take into account the psychological injury inflicted upon a survivor.

Recommendation: the Government should expand the definition of actual bodily harm to include psychological injury, as well as psychiatric injury.

46. Do you think the current approach of using sentencing guidelines, as per guidelines issued in February 2018 is effective in ensuring sentences imposed reflect the seriousness of domestic abuse when it involves children?

Refuge worked closely with the Sentencing Council in the development of the new guideline and supports the new approach in the 2018 guideline that states that domestic abuse should be regarded as more serious than abuse in a non-domestic context. Refuge supports the sentencing guideline in regard to sentencing when abuse was committed around children.

Increased awareness that domestic abuse has a hugely detrimental impact on children, whether or not they are also directly abused, is needed. Judges should receive training on this to ensure that they understand the impact on children when applying the new guidelines and passing sentence.

Recommendation: all judges and magistrates should be receiving training on the impact of domestic abuse on children.

As the guideline is so new, Refuge would like to see what impact the guideline has on sentencing in cases which involve children before it passes assessment of whether it is effective or not.

Services for children

Refuge welcomes the Government's focus on the seriousness of domestic abuse when it involves children in this consultation. However, we are disappointed that the only policy response is to look at criminal sentencing, which will apply to a very small number of perpetrators.

The current provision of specialist services for children who have experienced domestic violence in their household/s is nothing short of scandalous. Around half of the people living in our refuges at any one time are children, yet Refuge increasingly comes across local authority contracts for refuge services which include no funding for children specific services. Refuge instead often funds children's workers through voluntary funding sources.

Refuge recommends that the Government develop a specific strategy for responding to children who have witnessed, experienced or lived with domestic abuse. At a minimum, all domestic violence services working with children should be funded to provide specialist staff and trauma-informed services for children. A new funding commitment should recognise that a mix of specialist staff is needed to work with children. At a minimum, child support workers should be an integral component of all specialist VAWG services working with children. The Government should also invest in the highly trained specialists that many children will need.

Recommendation: the Government should develop a specific strategy, with funding, for specialist services for children of all ages affected by domestic abuse.

Refuge frontline staff report huge waiting lists for specialist mental health services especially in relation to support for the children with whom they work. Yet more troublingly is that our staff frequently report that the traumatised children they are working with do not meet the threshold for Child and Adolescent Mental Health Services (CAMHS). This is despite the fact that the children have had to flee their homes due to abuse and displaying clear signs of being distressed and traumatised. Refuge recommends that all children with experience of domestic abuse are fast-tracked through mental health services where appropriate and are always provided with therapeutic support services.

Recommendation: all children who have been affected by domestic abuse should receive fast-tracked access to specialist mental health and/or therapeutic services.

47. Is a statutory aggravating factor needed in order for the court to reflect the seriousness of offences involving domestic abuse and children in sentencing?

Refuge would support a statutory aggravating factor to reflect the seriousness of offences involving domestic abuse and children. However, as stated above, Refuge does not think that this should be neither the priority nor the limit of the Government's ambition in this area. Specialist services and rapid access to mental health and therapeutic support services urgently need improvement (see response to 46 above).

48. Please share any other views on how to ensure domestic abuse and its impact on children are taken into account in sentencing?

In regard to children, rather than focus on criminal courts, Refuge would urge the Government to focus on the family courts (see response to question 46 above). In our experience many professionals working in the family courts, including the judiciary, CAFCASS and social services are not sufficiently aware of the enormous and potentially life long detrimental impact any exposure to domestic abuse can have on children or the dynamics of domestic abuse.

Refuge staff supporting survivors in the courts highlight that perpetrators are almost always granted contact with their children, even when they have been convicted of serious offences in the criminal courts. There appears to be a lack of understanding that in cases concerning domestic abuse, no contact or only supervised contact with the perpetrator could be in a child's best interests and should be seriously explored.

Refuge staff have highlighted worrying examples, including when a man disclosed his history of perpetrating abuse, but was still allowed contact with his child as it was deemed that he had displayed an understanding and awareness of his abuse. As stated above, Refuge staff frequently encounter dangerous misconceptions in family courts, including an assumption that when a couple have split due to domestic abuse this means that the abuse has stopped and children are no longer at risk. This is despite evidence showing that a huge number of survivors continue to be abused after separation, including through child contact¹⁸.

Recommendation: judges, magistrates and all agencies working in the family courts should receive training on the dynamics of domestic abuse and the long term impact of domestic abuse on children.

Recommendation: clear guidance on child contact arrangements in cases regarding or potentially regarding domestic abuse should be issued. This should state that in the context of domestic abuse it will often not be in a child's best interest to have contact with an abusive parent and that no contact should be considered.

Recommendation: unsupervised contact between alleged perpetrators and their children should never be ordered when criminal investigations into or cases regarding domestic abuse are ongoing.

49. Do you agree that taking extraterritorial jurisdiction over these offences is sufficient to satisfy the requirements of the Convention?

No

50. If not, what additional offences do you think we should take extraterritorial jurisdiction over and why?

Refuge endorses the End Violence Against Women and Girls Coalition (EVAW) response to this question that:

It is not clear that introducing extraterritorial jurisdiction over these offences will be in any way sufficient to satisfy the requirements of the Istanbul Convention.

Article 1a of the Istanbul Convention requires that states “protect women against all forms of violence, and prevent, prosecute and eliminate violence against women and domestic violence”. It is not enough to simply have laws in place outlawing violence against women and girls; those laws have to work in practice. But, it is clear that in many areas of law, the criminal and civil justice systems in the UK do not work for many women. For example, there is currently a crisis in prosecuting rape in England and Wales; detection and prosecution rates are very low, and ongoing discussions about disclosure of evidence mean that many rapes and serious sexual assaults can, in effect, not be prosecuted. There is nothing in this Bill to address this very serious problem, and no recognisable Government attempt to improve justice for rape.

19 Article 1c of the Istanbul Convention requires that States “design a comprehensive framework, policies and measures for the protection of and assistance to all victims of violence against women and domestic violence”. The postcode lottery faced by women accessing services, the closure in particular of specialist services for BME women, and the restrictions on access to justice and advocacy, make it impossible to suggest that the UK is meeting this requirement. In particular, women in the UK who have insecure immigration status routinely feel unable to access support or assistance to escape violence because of the perceived or actual risk of being referred to immigration authorities and detained or deported. The provision of adequate per capita support services, including advice and advocacy, and assurance that a women's immigration status will not effect her

¹⁸ Ofsted, CQC, HMIP, HMICFRS, Joint inspections of the response to children living with domestic abuse <https://www.gov.uk/government/publications/joint-inspections-of-the-response-to-children-living-with-domestic-abuse>

access to justice and support, need to be included in this Bill if the UK is to meet the requirements for ratifying the Istanbul Convention.

Article 1e of the Istanbul Convention requires that states “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”. Ongoing police failure to provide adequate protection of women from domestic and sexual violence (detailed in previous answers and as recently recognised at the Supreme Court), and the multiple statutory agencies’ failings to protect children from domestic violence as detailed in the Ofsted-led joint inspectorates report (September 2017) demonstrate a failure to comply with the Istanbul standards.

Further, Refuge has concerns about whether survivors of tech abuse perpetrated through IP addresses which mask the location of the perpetrator would be protected through extraterritorial jurisdiction arrangements. Refuge would welcome further detail on this issue and the opportunity to discuss this matter further with Government.

Recommendation: the Government should explore the arrangements for responding to tech abuse when the jurisdiction from which the abuse was perpetrated is unknown.

In addition, as the Government works towards ratification of the Istanbul Convention, Refuge strongly recommends that it act to remedy the ways in which women coming to the UK to flee domestic abuse can be criminalised and can face extradition under the Hague convention and extradition proceedings.

For example, Refuge has been involved in several cases in which a woman has fled to the UK to escape abuse, only to then be returned to the country of habitual residence in order to establish the grave risk of harm the alleged perpetrator presents to the child.

International kidnapping cases have also been brought against abused women, even after children have become adults and express no wish to see their father. The case of Eileen Clark is particularly concerning and illustrates how protocols for extradition between the US and the UK, developed post 9/11 with the purpose of facilitating transfer of alleged terrorists, can be used to remove a vulnerable and traumatised victim of abuse¹⁹.

Extradition to custody for abused woman accused of crimes in other jurisdictions is also of concern. The courts should have regard to the vulnerability of abuse victims when deciding whether to relocate them to custody before trial in the country seeking their return. In many circumstances such women have been coerced into criminality under threat of serious harm whilst others have been manipulated through grooming and abuse over time. This evidence should be heard and considered in the country to which they have fled.

Recommendation: the Government should bring forward changes to extradition laws and agreements in order to prevent women who have crossed international borders to flee abuse being returned to the country of habitual residence.

51. Do you agree that relying on the civil law remedy in the Protection from Harassment Act 1997 is sufficient to satisfy the sexual harassment requirements of the Convention?

No

52. If not, what do you think is necessary to satisfy those requirements?

Refuge endorses EVAW's response to this question that:

¹⁹BBC News, 'Kidnap' mother Eileen Clark extradited to the US' <http://www.bbc.co.uk/news/uk-england-oxfordshire-28155072>

The Protection from Harassment Act 1997 is inadequate here as it enshrines in law the principal that there must be a course of conduct perpetrated against one victim by one offender. This denies the reality of sexual harassment which for many women is experienced as 'street harassment' i.e. multiple incidents each perpetrated by a different offender e.g. cat-calling. This can be summarised as one 'victim' - multiple offenders, one offender - multiple 'victims'. The impact on the victim is no less than if these multiple incidents were being perpetrated by a single offender but there is currently no redress. As this behaviour is so widespread and every day we do not think that criminalising it would necessarily be the most effective approach.

To satisfy the convention, this behaviour needs to be addressed either through legislation or other societal approaches/interventions for example education and culture change programmes. In examples of harassment that do meet the legislative framework, women may struggle to access the civil remedy. Costs and limited access to legal aid may be prohibitive in terms of securing legal representation and the civil court system is hard to navigate as a litigant in person.

53. Do you agree we should explore (with the Crown Prosecution Service) further controlled and monitored use of conditional cautions with rehabilitation programmes than is currently permitted for lower-level, normally first time domestic abuse incidents?

- a. If yes, please explain your answer, suggesting what procedures should be in place to ensure a conditional caution would only be given in appropriate cases with appropriate conditions attached**
- b. If no, please explain your answer**

No.

Refuge is very concerned by the approach taken around use of conditional cautions. It should be acknowledged that very few first-time domestic abuse perpetrators will come to the attention of the police. Most women will never contact the police regarding the abuse being perpetrated against them so police data gives an inherently distorted picture. Those women who do contact the police are highly likely to have suffered abuse for a significant period of time before coming forward. Research suggests that on average, survivors experience 50 incidents of abuse before receiving effective help.²⁰ It will therefore only be on rare occasions that an assessment of a perpetrator as a low-risk, first time offender will be accurate.

Despite some improvements to the policing of domestic violence over recent years, much more progress is urgently needed. Recent reports by HMICFRS found seven out of 43 forces in England and Wales to have a 'cause of concern' in relation to their response to domestic abuse and found a total of 33 forces out of 43 which had 'areas for improvement' in relation to domestic abuse. There is huge variance in arrest rates for domestic abuse offences amongst forces, and 16 forces have an arrest rate of less than 50 percent²¹. Inspectors highlighted an alarming fall in the number of alleged perpetrators of domestic abuse referred to the CPS and raised concerns that some officers still hold views on domestic abuse that are judgmental and unsympathetic. Against this backdrop, Refuge is concerned that increasing the use of conditional cautions for perpetrators of domestic abuse sends the wrong message about the seriousness of domestic abuse and the courage it takes for survivors to contact to the police.

²⁰ Walby, S. and Allen, J, Domestic violence, sexual assault and stalking: Findings from the British Crime Survey. [http://www.research.lancs.ac.uk/portal/en/publications/domestic-violence-sexual-assault-and-stalking\(3f12e822-723a-4f01-aa30-061f3222f343\).html](http://www.research.lancs.ac.uk/portal/en/publications/domestic-violence-sexual-assault-and-stalking(3f12e822-723a-4f01-aa30-061f3222f343).html)

²¹ HMICFRS, A progress report on the police response to domestic abuse

<https://www.justiceinspectorates.gov.uk/hmicfrs/wp-content/uploads/progress-report-on-the-police-response-to-domestic-abuse.pdf>

Recommendation: conditional cautions should not be encouraged as a response to domestic abuse, focus should instead be on increasing the number of arrests and prosecutions for offences relating to domestic abuse

Furthermore, Refuge is concerned about the measures of success used in the project CARA referenced in the consultation and the evaluation method (see response to question 54 below).

54. Do you have any additional evidence on current conditional caution practice which we should consider in relation to this issue

Refuge has a number of concerns about the CARA project:

- a) The pilot chose 'first offence' as one of its criteria for perpetrator suitability. However, there is no mention of consulting with survivors to confirm this was a perpetrator's first act of domestic abuse
- b) There is no risk assessment discussion with survivors to establish the actual level of risk vs the DASH rating of 'low risk' given by police officers selecting perpetrators for the cohort
- c) There is no report of discussions with survivors one year after conditional cautions were given to measure reduction in harm based on what those who live with these offenders were actually experiencing. Instead, the measure of harm used by the CARA pilot is based on the Crime Harm Index, which is an inferior measure compared to survivors' views

Recommendation: if the Government proceeds with piloting of conditional cautions with a positive requirement this should involve consultation with survivors about the actual history of domestic abuse. Prior to any mandated intervention, the actual risk of harm prior to and following intervention, and whether the actual changes made by the perpetrators as a result of intervention had any actual positive impact on reducing or ending domestic abuse needs to be evaluated.

55. What changes to current policies or procedures would help police and other agencies to better manage serial and repeat abusers, in particular those who are not subject to a sentence of the court. This can include how best to:

- risk assess an abuser and plan for risk reduction
- engage an abuser in order to encourage compliance with control measures

Significant change to the way in which statutory agencies engage with and risk assess perpetrators, alleged perpetrators or suspected perpetrators of abuse is needed. Whilst the police have an important role to play, it should be acknowledged that they come into contact with a small minority of perpetrators. Preventing and responding to domestic abuse must become 'everyone's business' - work should therefore focus on making risk assessing and planning for risk reduction a key part of the role of all agencies working with perpetrators or alleged perpetrators. Mental health professionals, health professionals, housing agencies and social workers, amongst others, have frequent opportunities to risk assess abusers and plan for risk reduction. A much stronger multi-agency approach to risk assessing and constraining the abusive behaviour of perpetrators in order to reduce domestic abuse must be developed.

In regards to assessing risk, all agencies in contact with perpetrators or alleged perpetrators, must understand and approach their roles on the basis that perpetrators are often the only source of risk information regarding domestic abuse, which may be unknown to victims themselves or professionals, such as their hidden or concealed:

- Resentments and rage about separation/ child contact
- Intent to abduct their children
- Homicidal thoughts or plans to kill victim

- Suicidal thoughts linked to homicide
- History of abusing other partners in previous relationships
- History of violence in other settings
- Access or preoccupation with weapons, or skills in lethal martial arts
- Covert stalking, by perpetrator himself or by third parties enlisted by perpetrator
- Plans to avenge the so-called shame or dishonour caused by the victim
- Chronic financial difficulties or despair linked to mounting debts
- Use/abuse of sex workers
- Secretive access and preoccupation with violent pornography
- Drug/ alcohol problems and associated rage at partner/family who challenge this

Refuge recommends the following practice in order to risk assess perpetrators and plan for risk reduction:

- **The domestic abuse risk assessment process must be undertaken systematically with all perpetrators by professionals across all agencies, with guidance and training (see below for an example of such training developed and delivered by Refuge).**
- **The combined risk assessment tool used must be based on best evidence from the established UK risk checklists and sources of information: DASH, Stalking (Paladin), SARA (Probation), Serious Case Reviews, Domestic Homicide Reviews, etc.**
- **Professionals assessing risk with perpetrators must work closely and share information with those who support survivors**
- **Risk reduction and management plans must be put in place with perpetrators based on best UK evidence of what works.**
- **All levels of risk must be identified, not solely those labelled as 'high risk' in a resources-driven process.**
- **Combination of risk factors must be assessed as aggravating and indicating higher risk.**

Managing repeat offenders

The definition of 'repeat' offender as an individual who comes to the attention of criminal justice agencies on more than one occasion is unhelpful to survivors, inaccurate in terms of prevalence, and therefore ineffective in tackling domestic violence. Most domestic violence perpetrators are repeat abusers, whether known or not to criminal justice agencies.

Refuge recommends the following practice regarding management of repeat offenders:

- **Defining an individual as a 'repeat domestic abuse perpetrator' should be based instead on a complete and accurate multi-agency and survivor-informed picture obtained through:**
 - **Information provided by the survivor in the case, elicited during a safe and empowering conversation about her lived experiences**
 - **Information gathered from multiple agency sources about this particular perpetrator's behaviour in his relationship with this particular survivor, or others previously or concurrently**
- **Repeat perpetrators should be given clear, unambiguous and systematic messages from all professionals they come in contact with that:**
 - **Domestic abuse is unacceptable, criminal, and there are no excuses for it**
 - **Their behaviour/thinking is the primary problem**
 - **They need to address their domestic abuse immediately**

- They need to move out/ stay away temporarily or permanently from the survivor(s), whilst they address their problem, and for as long as the survivors believe is necessary to be safe
- There will be consequences for further repeat domestic abuse
- They need to evidence change to professionals within an agreed period and overtime

Managing serial offenders

The definition of 'serial' offender as an individual whose history of domestic abuse across a number of relationships is known to criminal justice agencies is also inaccurate in terms of prevalence and unhelpful to survivors. Many more domestic violence perpetrators are serial abusers beyond those known to criminal justice agencies.

Refuge recommends the following regarding working with serial perpetrators of domestic abuse:

- Defining an individual as a '*serial domestic abuse perpetrator*' should be based instead on a complete and accurate multi-agency and survivor-informed picture obtained through:
 - Information provided by the survivor in the case, elicited during a safe and empowering conversation about her knowledge of what the perpetrator himself has revealed or what she has found out from previous victims of the same perpetrator.
 - Information gathered from multiple agency sources about this particular perpetrator's behaviour in other relationships, either previously or concurrently.
- Serial perpetrators should be given clear, unambiguous and systematic messages from all professionals they come in contact with that:
 - They are unsuitable to be in intimate partner relationships and should refrain from such until they have addressed their domestic abuse (*although very few professionals currently take such a stance with perpetrators, many of the survivors we work with who have been abused by multiple perpetrators are frequently told by various professionals that they are inadequate/deficient/need educating/should avoid entering into new intimate relationships for the sake of their children. Professionals across a range of agencies need to shift from a victim-blaming approach to challenging perpetrators*)
 - They need to acknowledge and provide information about all their previous and current victims and any children involved
 - Domestic abuse is unacceptable, criminal, and there are no excuses for it
 - Their behaviour/thinking is the primary problem
 - They need to address their full history of domestic abuse immediately and across relationships
 - They need to move out/ stay away temporarily or permanently from the current survivor(s), whilst they address their problem, and for as long as all their victims believe is necessary to be safe
 - There will be consequences for further repeat domestic abuse
 - They need to evidence change to professionals within an agreed period and overtime

Refuge's Athena service, in Lewisham, has pioneered an innovative approach in increasing engagement and improving the practice of a variety of agencies with cases involving perpetrators of abuse to ensure that their domestic abuse is not ignored and either implicitly condoned or blamed on the survivor.

Case study: Refuge's Athena project

The Athena project offers opportunities to all safeguarding professionals in Lewisham through a programme of training and seminars to increase their understanding of the key lessons in relation to domestic abuse perpetrators from both Serious Case Reviews (SCRs) and Domestic Homicide Reviews (DHRs).

Athena enhances staff skills in implementing the specific SCRs and DHRs recommendations identified for each sector and professional role in order to:

- ***Hold perpetrators to account so as to better protect victims and survivors and children***
- ***Develop a deeper understanding of the dynamics of domestic violence and of how perpetrators may control, victims, children and professional systems***
- ***Work in partnership with criminal justice agencies to support interventions and prosecutions, including working closely with the police to gather evidence/intelligence about perpetrators***
- ***Ensure that victims are offered a safe environment away from perpetrators to speak about abuse they have suffered and to make effective safety plans for themselves and their children by accessing all the relevant Athena services as well as the MARAC process when needed.***

As a result of Athena project training, safeguarding professionals have said that:

- ***They had increased their knowledge and confidence in engaging with domestic violence perpetrators***
- ***They were intending to implement in their practice with families where domestic violence is either clearly established suspected, or unclear, the range of 'tools', guidance and checklists provided on the training***

56. What more could be done to work with perpetrators in prisons, particularly offenders who receive a sentence of less than 12 months and do not have sufficient time to complete a domestic abuse programme in custody? We are interested to hear of particular examples of practice which have been successful.

Refuge is aware that conditions in the prison system mean that few perpetrators who are sentenced to short periods of imprisonment of 12 months or less undertake much, if any, offence-focused work in custody. In light of this, Refuge recommends that at a minimum, the Ministry of Justice and Her Majesty's Prison and Probation service should take further steps to ensure that all perpetrators of abuse have access to and are expected to engage with materials regarding the impact of their abuse.

Refuge recommends that this should include:

- **Written (and video, where resources and facilities allow) educational materials should be provided to perpetrators in prison about domestic abuse, its nature, its causes, its impact and its alternatives**
- **Such materials should be used on a self-help basis if no facilitated interventions are available**
- **Perpetrators should be expected to engage with these materials to increase their understanding, insights, and provide them with clear examples of what appropriate, non-abusive behaviour based on respect and equality will be expected of them when they are released**
- **Intimate partners or family members should also be provided with information about the domestic abuse materials perpetrators are offered whilst in prison**

- Perpetrators should report to the relevant probation officer, Community Rehabilitation Company (CRC) staff member or 'through the gate' worker prior to release to provide evidence of their engagement with the educational materials provided, including by way of a completed Action Plan for Accountability and Domestic Abuse Prevention, that includes goals and specific steps they need to take to address their domestic abuse/violence
- The risk posed by these perpetrators to intimate partners or family members should also be assessed prior to release and their Action Plan revised if needed
- Perpetrators be provided with a copy of all the domestic abuse materials they were provided during their sentence on release
- Perpetrators should be directed to community-based services to continue to address their domestic abuse upon release and addressing domestic violence and keeping survivors safe should be a priority for work with CRC or probation officers following release

57. What more could be done to work with perpetrators in the community (convicted or non-convicted) to change their behaviour? We are interested to hear of particular examples of practice which have been successful.

Please see Refuge's response to question 55 above regarding making domestic abuse 'everyone's business'. In addition, Refuge recommends that:

- Both groups of perpetrators (*convicted or non-convicted*) need to receive consistent messages about domestic abuse and be systematically and pro-actively challenged by a wide range of key professionals who are likely to engage with them: primary care health, mental health, safeguarding children and adults, drug and alcohol, counselling and psychotherapy, sports coaches, employers, amongst others
- All the professionals listed above must increase their knowledge and competence to achieve these outcomes of holding perpetrators accountable and increasing safety for survivors and children, through focused training and access to specific 'tools'
- Models to train and equip agencies working with perpetrators, such as Refuge's Athena service, should be rolled out more widely

58. Please select which of the following you believe should be priorities for improving data collection.

Improving the collection and reporting of data on when domestic abuse is a feature of a case/intervention

Improving collection and reporting of data relating to the gender and relationship of the perpetrator and victim

Improving data to enable better tracking of outcomes in domestic abuse cases/intervention

Linking data to enable better tracking of interventions and reoffending

Linking data to enable better understanding of the interactions/relationships between domestic abuse and other types of offending

Other (free text)

None of the above

Don't know/ No answer

The largest challenge around data is the misleading picture of the prevalence of domestic abuse presented by the Office of National Statistics (ONS) and Crime Survey for England and Wales (CSEW) methodology. Statistics

from the ONS and CSEW that one in four women and one in six men will experience domestic violence have led to a belief amongst many, including the general public and the commissioners of services, that men and women will need support at roughly equal levels. Yet the ONS and CSEW data frames domestic abuse in terms of people who have ever experienced a single incident of physical violence from an intimate partner or family member. This is problematic regarding coercive control and domestic abuse as a pattern of behaviour, rather than a series of single incidents.

Further, the broad definition applied to domestic abuse, which includes family violence, adds to the misleading picture presented. For example, under the ONS methodology, brothers who occasionally have physical fights, are counted in the same manner as a woman who is being abused and controlled by her partner on a daily basis (please see the response to question 1 above regarding Refuge's concerns about a similar definition of abuse to that used by the ONS being placed on a statutory footing). However, Refuge welcomes the recent publication by the ONS on women who experience partner abuse, and recommends that this approach of clearly defining and separately distinct forms of abuse continues²².

For years, ONS and CSEW data has also artificially capped the number of violence offences that can be recorded for each person at five. This means that even if a woman experienced 100 incidents of domestic violence, only five would make it into the official data. This gives a distorted picture of the prevalence of physical abuse. Research led by Professor Sylvia Walby shows that the cap to be removed, the number of incidents of domestic violence would increase by 60%²³.

The ONS and CSEW statistics therefore do not provide data on the number of people experiencing a pattern of abuse, the level of seriousness of abuse or how many people are living in fear of their partners. Refuge welcomes that the ONS have begun to engage with the specialist sector around this issue. However, a through redesign of the methodology used for domestic abuse and coercive control is required.

Recommendation: the ONS, in consultation with the specialist VAWG sector, must redesign the methodology used to assess the prevalence of domestic abuse, including coercive control.

Recommendation: definitions of domestic abuse should not include various forms of familial abuse due to the misleading picture this presents of the prevalence of domestic abuse.

59. Do you agree with the proposed model for a Domestic Abuse Commissioner outlined above?

No. Refuge recommends that the Government create the role of a Violence Against Women and Girls Commissioner in recognition that forms of VAWG are overlapping and interlinked and that the best services and responses to VAWG are those which are coordinated. The VAWG Commissioner should sit under the cross-government VAWG strategy.

Recommendation: the new commissioner role should be a VAWG commissioner.

²² Office of National Statistics, Women most at risk of experiencing partner abuse in England and Wales: years ending March 2015 to 2017
<https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/articles/womenmostatriskofexperiencingpartnerabuseinenglandandwales/yearsendingmarch2015to2017#statisticians-comment>

²³ Walby, Sylvia, Official statistics mask extent of domestic violence in the UK
<http://www.lancaster.ac.uk/sociology/news-and-events/blog/sylvia-walby/official-statistics-mask-extent-of-domestic-violence-in-britain/>

If equipped with sufficient resources and fully independent, a VAWG Commissioner could play an important role in taking a holistic approach to the needs of survivors of VAWG, holding agencies to account and driving forward improvements in the prevention of and response to all forms of VAWG.

In order to be successful and effective it is crucial that the VAWG Commissioner be fully independent and transparently appointed. The Government ought to commit to an open application procedure and appointment should be confirmed by a relevant select committee, rather than an individual Secretary of State or Minister.

The independence and experience of the Commissioner will be essential in ensuring credibility and confidence in the role. As minimum requirements: the Commissioner should take a gendered approach to VAWG; be politically independent; have experience of frontline work with survivors of abuse; and report to and be held accountable by a relevant select committee.

Recommendation: the VAWG Commissioner should be transparently appointed by a relevant select committee and be accountable to that select committee.

Recommendation: as minimum requirements, the VAWG Commissioner must be politically independent, have experience of providing frontline services and take a gendered approach to VAWG.

It is crucial that the Commissioner has sufficient powers and resources to deliver on her or his mandate. For example, the Commissioner must have powers of data collection and relevant agencies ought to have a duty to engage with the Commissioner's work. Furthermore, the resources available to the Commissioner must be commensurate with the scale of VAWG in this country. Refuge is of the view that the £1 million budget indicated for the Office of the Commission is insufficient to achieve the aims and ambitions of the Commissioner and in light of the prevalence of gender-based violence.

Recommendation: the VAWG Commissioner must have the powers and resources to deliver on his or her mandate, including the power to collect data and require statutory agencies to engage in its work.

Recommendation: the VAWG Commissioner must have a budget and resources which are commensurate with the prevalence of VAWG and the aims and ambition of the role.

60. Of the proposed powers and resources, which do you consider to be the most important for a Domestic Abuse Commissioner?

- Map and monitor provision of domestic abuse services against the National Statement of Expectations, and publish this information to showcase and share best practice, as well as to highlight where local provision falls short of what is expected
- Oversee compliance with the Specialist Domestic Abuse Courts Manual
- Oversee the Domestic Homicide Review Quality Assurance process, including any potential changes implemented following this consultation, feeding lessons learned into their recommendations
- Provide recommendations to both national and local government to improve the response to domestic abuse, accompanied with a duty on the responsible person/organisation to respond to these recommendations
- Publish findings in reports, which will be laid before Parliament
- Require local statutory agencies to cooperate and provide information
- Other (please state other functions the commissioner should fulfil)
- None of the above
- Don't know/no answer

As stated above in the response to question 60, Refuge recommends strongly that the Commissioner should be a VAWG Commissioner, sitting under the VAWG strategy, with a remit to champion the interests of survivors of VAWG.

Refuge does not think that the Government ought to be overly prescriptive about the duties that the Commissioner should undertake; rather the Commissioner should be required to consult with survivors and specialist VAWG agencies in order to determine priorities and a programme of work.

Recommendation: the VAWG Commissioner should be required to consult with survivors of VAWG and specialist VAWG agencies in order to develop priorities and a programme of work.

61. Question for public bodies only: What would be the practical implications of complying with the proposed Domestic Abuse Commissioner's powers?

Non-applicable

62. One proposal is that the Domestic Abuse Commissioner could routinely collate, quality assure and share lessons learnt from DHRs. What more could be done to increase awareness of the learning from DHRs?

There is a huge amount to be done to increase awareness of the learnings from DHRs. Refuge recommends that DHRs are re-termed Domestic Fatality Reviews and are expanded to include women who have died by suicide due to domestic abuse.

Refuge and the University of Warwick have conducted the largest study of suicidality amongst survivors of abuse in the UK and found that: almost a quarter (24 percent) of Refuge's clients had felt suicidal at one time or another; 18 percent had made plans to end their life; and 3.1 percent had made at least one suicide attempt. It is vital that suicides linked to domestic abuse are reviewed in the same way as homicides in order to prevent these deaths²⁴.

Recommendation: DHRs should be re-termed as Domestic Fatality Reviews and expanded to include suicides linked to domestic abuse.

National comprehensive studies are needed, which look at overarching themes around key lessons, risks of homicide and how these can be incorporated into risk assessment and risk management tools in order to prevent further deaths. Linked to this, a mechanism to disseminate these studies nationally should be developed.

Recommendation: national comprehensive studies of DHRs should be conducted and published.

It is vital that DHRs are collated and easily available to the public in one place. The current system of publishing reviews, sometimes only temporarily, on Community Safety Partnership websites is ineffective. Ensuring DHRs are permanently available on a single website would also aid research and evaluation of DHRs, leading to further learning.

Recommendation: all DHRs should be permanently available on a single website.

²⁴ Ruth Aitken and Vanessa Munro, Domestic abuse and suicide: Exploring the links with Refuge's client base and workforce (forthcoming)

Learning from DHRs should be incorporated into national and local training packages for all statutory or voluntary agencies and organisations working with survivors, their children or perpetrators of abuse.

Recommendation: learning from DHRs should inform training for all agencies working with survivors, their children and perpetrators of abuse

An ongoing programme of local and national events to share learning, including with frontline professionals should be developed.

Recommendation: the Government should provide funding for a programme of events to share learning from DHRs with relevant professionals.

Lastly, input from domestic abuse organisations and other agency specialists should always form part of the quality assurance process. This is an area that is currently working fairly well and ought to continue.

Recommendation: specialist organisations should always form part of the quality assurance process for all DHRs.

63. How can areas best hold their own local agencies to account in terms of monitoring delivery against DHR action plans?

Local authorities should convene regular task and finish groups with the relevant local agencies in order to hold agencies to account and monitor delivery against DHR action plans. Task and finish groups should also have a role in reporting on progress of DHR action plans, which should be publicly available. In addition, progress reports on action plans should always be made available to families of victims in an accessible format, so they are aware of any changes that have been made as a result of the DHR.

Recommendation: local authorities should convene task and finish groups to monitor against delivery on DHR action plans, report on progress of DHR action plans and provide the families of victims with updates.

64. How can the Government better share and promote effective practice on domestic abuse across all public services both in regard to commissioning and delivery of services?

Improving the collection and reporting of data on when domestic abuse is a feature of a case/intervention

Improving collection and reporting of data relating to the gender and relationship of the perpetrator and victim

Improving data to enable better tracking of outcomes in domestic abuse cases/ intervention

Linking data to enable better tracking of interventions and reoffending

Linking data to enable better understanding of the interactions/relationships between domestic abuse and other types of offending

Other (free text)

None of the above

Don't know/ No answer

In order to better share and promote effective practice in regard to the commissioning and delivery of services, there needs to be much stronger mechanisms of accountability at both a local and national level.

At a local level, the understanding and awareness of VAWG, as well as best practice on how to respond to VAWG, varies enormously. Refuge, as the single largest provider of specialist services, monitors every tender for VAWG services across the country. Overall the quality of tenders is poor, with contract values which do not allow the required service specifications to be met. For example, approximately one quarter of the tenders we reviewed in the last twelve months did not have enough money attached to enable an organisation to deliver a safe service. Other tenders were for dangerous service models, such as the same service working with both victims and perpetrators.

In addition, over the last decade, huge cuts have been made to budgets for VAWG services. Some areas have stopped commissioning specialist services altogether, others have cut budgets by over 50 per cent, meaning services have reduced in size, expert frontline posts have been removed and caseloads have been increased. A deficit in accountability for providing quality services for survivors of VAWG has allowed this practice to go almost unchecked.

To rectify this Refuge recommends the following:

- **There should be a named elected member of each local council who has overall responsibility for local VAWG and domestic abuse strategies and the provision of commensurate services. This elected member should have overall responsibility for monitoring adherence to the Government's National Statement of Expectations**
- **Every local authority should develop a strategic advisory and feedback group of local specialist services and survivors to offer expertise and guidance on strategies, which must be placed within a gendered VAWG framework, awareness raising programmes and provision of services**
- **Every local authority should be required to have a VAWG strategy developed in consultation with local specialist services and survivors. The local authority should be required to report to MHCLG on progress against their VAWG strategy on an annual basis. The VAWG strategy and progress reports ought to be publicly available**
- **Local authorities should not be able to decommission or reduce substantially the budgets of VAWG services without prior approval from the Home Office or MHCLG**

There has been an absence of national oversight of local decision making regarding VAWG, which has facilitated the decommissioning of services and significant budget cuts to services across the country.

Refuge recommends that national oversight and accountability is strengthened by:

- **Sustainable high-profile leadership from the Home Secretary, Secretary of State for Housing, Communities and Local Government and the Minister for Women and Equalities on the importance of a range of quality services for survivors of VAWG in every area**
- **A clear structure of national accountability overseeing local provision of independent and specialist domestic abuse services, adherence to the National Statement of Expectations and the quality of local VAWG or domestic abuse strategies**
- **A national oversight group, such as that set up for the police response, to oversee the local response to domestic abuse and challenge areas that are not performing.**
- **The ability to set out the key framework for local VAWG or domestic abuse strategies and data collection, a robust way to monitor local areas and how their strategies are implemented and a mechanism to challenge areas that are not performing**

65. What role should local areas play in sharing good practice?

Local authorities should be encouraged to share good practice which has delivered positive outcomes for survivors of gender based violence. However, it is crucial that what is considered 'best practice' is only that which has been independently and robustly evaluated and has achieved positive outcomes. In Refuge's experience, sometimes very poor practice is promoted, for example 'whole family approaches' to domestic abuse, which do not meet the needs of survivors and can put them at further risk.

In addition, it should be noted that what works in one area, might not always work in another. Whilst evidence-based best practice should be widely promoted and shared, it should not always be assumed that the same results will be generated in different areas if not tailored to the particular needs of survivors in the local area.

Recommendation: local areas should be encouraged to share examples of good practice which have been subject to thorough evaluation.

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