



Sentencing Council: Intimidatory Offences and Domestic Abuse Guidelines June 2017

Introduction

Refuge welcomes the opportunity to revisit the sentencing guidelines for what is now termed 'domestic abuse' and to engage with Government to protect victims and bring perpetrators to justice.

Refuge acknowledges that since the last consultation on the subject in 2006, there has been some progress towards improving the police and wider criminal justice system response to domestic abuse, but we believe there is still much to do. We believe, in particular, that the State should do all it can to ensure perpetrators are deterred from committing such crimes and that victims are supported to recover from any impacts. The criminal justice system has a central role to play in the former; in relation to the latter it should, at the very least, ensure it causes no further harm to victims through inadvertent retraumatisation.

Background

Eleven years on from the last sentencing guidelines consultation, domestic abuse remains an insidious and persistent blight on our society, as well as a deeply damaging experience for those who are its victims. Women are killed by domestic perpetrators at the same rate and women take their own lives in similar numbers, whilst the percentage of perpetrators convicted has increased by only the tiniest of margins¹.

A recent review of Refuge's unique IMPACT data base indicates that during the period April 2016 to end of March 2017, 2140 clients (2085 women 55 men) suffered a life threatening assault prior to their involvement with Refuge's services, thirteen of whom approached the police for protection. Yet analysis indicates that the perpetrators of only seven clients were convicted of GBH and only one was convicted of attempted murder.

During this same time period, less than half of Refuge's clients reported a domestic violence related offence to the police, but of those who did (n1664), only 22% of clients told us that the perpetrator received a guilty verdict. We have not yet seen any convictions for the new offence of coercive control amongst our clients. Restraining orders, fines, community orders and suspended sentences are the most common penalty for the perpetrators of our clients (in 43%, 32%, 26.4% and 19.4% of cases respectively) with custodial sentences of more than 12 months seen in 10% of cases, and less than 12 months seen in 19% of cases. Independent domestic violence advocates (IDVAs) tell us that when perpetrators receive custodial sentences, these are usually for short durations of only a few weeks and are rarely accompanied

¹ In 2006, the CPS conviction rate for domestic violence crimes was 66% and if fell to 60% in 2007/8; 2008/9 it jumped to 72.2%; 2009/10 it was 72%; 2010/11 it was 71.9%; 2011/12 it was 73.3%; 2012/13 it was 74.3%. Source: http://www.cps.gov.uk/news/latest_news/dpp_announces_new_conviction_rate_in Rape_and_domestic_violence_cases/ 2013/14 it was 74.6%; 2014/15 it fell to 73.9% but rose in 2015/16 to 75.4%. For analysis of conviction rates over a 10 year period see https://www.cps.gov.uk/publications/docs/cps_vawg_report_2015_amended_september_2015_v2.pdf

by the addition of essential safeguarding measures such as monitoring of the offender, or communication with the victim in relation to his release from custody.

Refuge continues to be dismayed at the poor response abused women receive in many areas of the criminal justice system, particularly the lenient sentences given to perpetrators in the face of life threatening assaults such as strangulation. It takes enormous courage for a victim of domestic abuse to support a case against the perpetrator and so suspended sentences, community orders and diversion to a 'better relationships' or perpetrator programme does not feel like justice; it feels like minimisation and denial of all she has suffered.² Indeed this response can mirror the pattern of abuse many women experienced from the perpetrator and it may cause further harm, or even retraumatise the victim, when they experience it again in the courts. We therefore welcome the acknowledgment within the guideline, that domestic abuse offences will be regarded as particularly serious³. However, we would go further and suggest that the abuse of trust inherent within a domestic context makes it *more* serious than crimes committed against strangers, especially when the victim is female.

We are aware that the government has created the unduly lenient sentence scheme⁴ to challenge sentences that victims deem to be very low; unfortunately this scheme does not include the offences commonly brought by domestically abused victims. It is worthy of note that crimes committed because of a victim's race or religion are included, so called hate crimes, but gender is not. We recommend an urgent review of this scheme.

The importance of gender

Of Refuge clients who reported their perpetrator to the police and where the verdict is known, 97% (n1613) were women and 3% (n51) were men. Data from the Crime Survey for England and Wales for 2015-16 also confirms that domestic abuse affects women disproportionately, with 83% of victims being female and only 17% male; it also confirms that the majority of perpetrators are male, representing 92% of domestic abuse perpetrators for this time period⁵. In line with guidance provided by the CPS⁶, Refuge suggests that any guidance on the sentencing for domestic abuse offences should also articulate these facts. Furthermore, we recommend that the following sentence is either amended to reflect this perspective, or removed, "*This section also notes that domestic abuse occurs amongst men and women, all ethnicities, sexualities, ages, religion, beliefs, etc., and that care should be taken to avoid stereotypical assumptions regarding domestic abuse*".⁷

² See case studies attached to this document in appendices for examples of how women feel about sentencing

³ "Domestic abuse offences are regarded as particularly serious within the criminal justice system." P8 of the consultation

⁴ <https://www.gov.uk/government/news/unduly-lenient-sentence-scheme-ensuring-justice-for-victims-of-crime-and-their-families--2> "You can ask for someone's Crown Court sentence to be reviewed if you think it's too low.

The Attorney General's Office can review very low sentences given by the Crown Court in England and Wales if they're asked to.

Only certain types of case can be reviewed, including: murder; rape; robbery; some child sex crimes and child cruelty; some serious fraud; some serious drug crimes; crimes committed because of the victim's race or religion"

⁵ The vast majority of defendants (92%) of domestic abuse-related prosecutions were men (Figure 11) 2. In contrast, victims were female in 69% of domestic abuse-related prosecutions and 14% were male. The sex of the victim was not recorded in 17% of prosecutions³ (if this category was excluded from the analysis, the proportion of female victims would be 83% and male victims would be 17%).

<https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/bulletins/domesticabuseinenglandandwales/yearendinmarch2016/pdf#page6>

⁶ The CPS addresses these issues within the overarching cross government strategic framework of VAWG, recognising that victims of this group of crimes are disproportionately female. The approach acknowledges VAWG as a fundamental issue of human rights and women's rights. http://www.cps.gov.uk/publications/docs/cps_vawg_report_2016.pdf

⁷ P8 of the consultation

We believe strongly that assumptions of gender symmetry in cases involving domestic abuse (where incidence, prevalence and impact are considered equivalent for males and females) should be avoided. Decades of experience, and evidence from research, shows very clearly that women are abused more severely, with more serious physical consequences (including being killed in greater numbers) than men who are abused by women. Within a gender neutral legislative framework, it is vital that this disparity is both explained and explicit within the guidance.

Consultation questions

- 1. Please tell us your views on the decision to provide a standalone guideline, which will be cross referenced digitally to all relevant guidelines. Do you agree? If not, tell us why and suggest an alternative approach.**

Refuge agrees with the decision to create a standalone guide for domestic abuse. We hope the fact that the guide includes the overlapping forms of physical, psychological and sexual abuse often experienced by abused women, will help improve understanding across the CJS that crimes of domestic abuse extend well beyond a single incident requiring sentence. Rather, we hope it might help the courts to perceive such incidents within a context of ongoing violence, abuse and intimidation and then judge accordingly.

- 2. Please tell us your views on the scope of the guideline section - is there any other information that you think should be removed or added.**

Refuge believes the section on coercive control requires more explanation and greater detail as how seriousness and severity of psychological harm might be determined.

- 3. Please tell us your views on the assessing seriousness section - is there any information that you think should be removed or added?**

We are very pleased that the Council regards abuse within a domestic context as *particularly* serious and we recognise this as an important improvement on what went before. However, *particularly* serious does not necessarily equate to *more* serious. Refuge's position remains unchanged from 2006 in that we believe that abuse which takes place within a domestic context should be regarded as more serious than similar abuse committed against a stranger. It is the abuse of trust and the chronic nature of such experiences over time that have the potential to affect victims beyond the impact of the often, single incident, which has brought the victim into the CJS and this must be acknowledged explicitly. It is, therefore, positive that we now have legislation that recognises the damaging effect of non-physical abuses, such as persistent coercion and control, to help bring the wider harm suffered by domestic abuse victims into the consideration of the courts. We suggest that a proper assessment of seriousness should take a holistic perspective of the abuse an individual has experienced, including chronic psychological abuse, when a history of domestic abuse is alleged by a victim.

- 4. Do you agree with the proposed list of aggravating factors? Are there any that should be removed or added?**

Whilst the list presented appears fairly comprehensive, Refuge IDVAs report that aggravating factors are rarely mentioned during sentencing. Reasons for this are that:

- It is rare that the same judge will preside over a case from first hearing, to trial, guilty plea and finally, sentencing. This can mean that important information about the victim, such as any vulnerabilities or the impact of the crime(s) upon her, are not taken into account at sentencing
- Pre-sentencing reports are often of poor quality

- Victim impact statements are not always taken or where they exist, presented to the sentencing judge. This may be because the police did not tell the victim they could make such a statement, or if they did, the statement was not passed to the CPS; it may be that the CPS lawyer did not review the impact statement in time for the trial. Whatever the reason, the result is the same: important information about the impact of the crime(s) or the particular vulnerability of the victim, is not conveyed to the sentencing judge

These weaknesses in the system can mean that a sentencing judge may not possess all the relevant facts to make an accurate assessment of the aggravating factors present in the case.

5. Do you agree with the proposed list of mitigating factors? In particular, what is your view of the mitigating factor relating to provocation?

Refuge has concerns about the mitigating factors presented, including:

- The new addition of ‘self referral for help, treatment or counselling’. Refuge IDVAs state that quite often perpetrators will present such spurious evidence for the first time to a sentencing judge, which is then accepted without challenge. This is particularly problematic when the sentencing judge has not also heard the trial, or when the perpetrator has pleaded guilty and denied the victim her chance to put her case to the judge. We are also extremely sceptical about the scope of perpetrator programmes or counselling to end all abusive behaviour towards their victims⁸. In brief, there is an absence of compelling evidence to show that perpetrator programmes, in particular, lead to a cessation of all violence and abuse; the idea that a reduction in abuse may be regarded as a satisfactory outcome is unacceptable. On the contrary, we need to ensure that victims know that it isn't acceptable to be abused less often or less severely, that respect and inequality is theirs by right and the first place they should expect to find this is within an intimate or close relationship
- Not only do we believe that the use of violence and abuse in a domestic context is incompatible with ‘good character’, we continue to have concerns about its use in mitigation where there is a ‘proven pattern of domestic abuse behaviour’. Refuge knows well that women are assaulted many times before calling the police (if they ever do) and few have formal records to ‘prove’ that abuse occurred, particularly over extended periods of time. It is important to recognise that the single acts of violence that come before the courts are rarely isolated incidents but most often, represent the tip of an iceberg, where a victim has been subjected to many other forms of serious abuse. Furthermore, domestic violence usually escalates in frequency and severity over time and being abused once is a strong indicator that more abuse will follow
- As in 2006, Refuge is extremely concerned about the Council’s suggestion that the provocative conduct of the victim might be presented as just mitigation in relation to a domestic violence offence. Denying responsibility and blaming the victim is one of the main vehicles by which an abuser maintains psychological power over the abused. Research indicates that only 17% of abused women view their experiences as criminal and around a third agree they are victims of domestic violence⁹. Refuge’s own experience confirms the extent to which abusers are successful in this respect, with many of our clients manipulated into blaming themselves for the abuse they have suffered and spending years trying to change their own behaviour in order to avoid being hit or humiliated. It would be of grave concern if the criminal justice system reinforced the negative messages of the abuser and blamed the victim for provoking the violence she has suffered. Aside from the harm this might cause to individual victims, this approach has the potential to perpetuate abuse more generally through a failure to recognise the problem - a form of social denial

⁸ Refuge’s position paper on perpetrator programmes is attached to this submission in appendices

⁹ Jaffe, P, Lemon, N, Poisson, (2003) Child Custody & Domestic Violence: A Call for Safety and Accountability

6. Do you have any comments on the other factors influencing sentence section?

7. Do you have any comments on the factors to take into consideration section?

Restraining orders - victims tell our IDVA team that although restraining orders are one of the most important elements in the sentence given to their perpetrator, they are not being used effectively or routinely. As is clear from our own data, only 43.39% of guilty verdicts include a restraining order to protect the victim and any children. This does not make sense when one considers the high number of Refuge clients who told us they suffered life-threatening abuse from the perpetrator. Restraining orders can be particularly important in terms of safeguarding victims from further harm (when implemented properly), especially when one considers the very low sentences most perpetrators are given. We believe that in cases of domestic abuse, there should be an assumption that a 'restraining order until further notice' is routinely made and the onus should be on the defence to present evidence as to why an order for a shorter duration is appropriate. Unfortunately, the current reality is very different: our IDVAs describe cases where prosecutors forget to ask for restraining orders, where judges give short orders rather than 'until further notice orders', where the conditions are vague or unenforceable and where the onus is on the victim to return to court to change or extend the order. This is all totally unacceptable and it could be so easily rectified.

Victim impact statements - are very useful vehicles by which a victim can convey important information about the impact of domestic abuse upon her, and about any vulnerabilities that might exacerbate these impacts. As with restraining orders, it is a pity that they are not employed effectively and routinely by the CJS. Refuge recommends that unless there are exceptional reasons, victims should always be encouraged to complete an impact statement, ideally with the support of an IDVA or other appropriately trained professional.

Consistency of judge for trial and sentencing

Trauma support or psycho-education/domestic abuse work for victims - Refuge is aware that perpetrators are increasingly referred to perpetrator or 'building better relationships' programmes by the courts in an attempt to protect future victims. We also know that domestic abuse can be an extremely traumatising experience for victims; unfortunately appropriate and timely psychological support is difficult to obtain without payment. At Refuge, we believe that victims deserve equal access to interventions that promote recovery from abuse. We therefore propose that court fines obtained from domestic abuse defendants are placed in a fund for trauma support or psycho-education/domestic abuse work for domestic abuse victims.

8. Overall, do you feel the level of information provided in the guideline is right? Is there any information not included that you think should be? Or is there any information that you think should be removed?

9. Are there any equality or diversity matters that the Council should consider for this guideline? Please provide evidence of any issues where possible.

Coercive control

28. Do you agree with the proposed culpability factors? If not, please tell us why.

Refuge recognises the inherent difficulty in identifying specific behaviours one might cite with regard to more or less serious coercive control. However, we believe it is that it is not the *extreme nature of a particular act* of abuse that makes it harmful or serious, it is *the meaning* it holds for the victim - the *impact*. In our experience, it is the slow drip, drip effect of apparently minor acts of humiliation, control and

subtle undermining that cause greatest harm, such that reality is distorted and the victim does not recognise the abuse for many years or hold the perpetrator responsible. It is the **impact** of such behaviour upon on the victim and the **duration** she has suffered this abuse that should be considered in terms of culpability and the severity of harm.

29. Do you agree with the proposed approach and factors included in the assessment of harm? If not, please tell us why.

It is difficult to respond to this question as a definition of very serious psychological harm is not given and it is not clear whether the psychological harm is to be directly assessed, or assumed. It is of course possible to identify acts of control and coercion, as well as other common acts of psychological abuse and assume a corresponding level of harm, particularly if this can be bolstered by evidence from professionals; but one can never be sure, without a direct assessment of the impact of abuse upon the victim herself, the degree of psychological harm the abuse has caused. Refuge believes there is more work to do on this offence, including its current scope which does not include individuals who are no longer living together¹⁰: this condition excludes a large number of women who continue to be controlled and abused by their ex partners after their relationships has ended. Such behaviour is particularly prevalent during the process of contact and residence.

30. Do you agree with the proposed sentence levels? If not, please tell us why.

31. Do you agree that the proposed aggravating and mitigating factors cover the most likely factors that would apply to these offences? If not, please tell us why.

32. Do you have any comments on using the guideline through case study D?

Coercive control, as a human rights abuse, was initially conceived by Evan Stark as a gendered concept¹¹. Similarly to Refuge, Stark views coercive control as an extreme manifestation of the male dominance over females which is entrenched in society, rather than a form of deviance. Bearing this in mind (and given the risk of reinforcing the myth that domestic abuse is often a consequence of mental illness), it might be better if the case study used did not associate the perpetrator of this crime with an 'underlying dissocial personality disorder', regardless of whether it ultimately had any bearing on the case.

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[Ends]

¹⁰ An offence is committed by A if:

- A repeatedly or continuously engages in behaviour towards another person, B, that is controlling or coercive; and
- At time of the behaviour, A and B are personally connected; and
- The behaviour has a serious effect on B; and
- A knows or ought to know that the behaviour will have a serious effect on B.

A and B are 'personally connected' if:

- They are in an intimate personal relationship; or
- They live together and are either members of the same family; or
- They live together and have previously been in an intimate personal relationship with each other.

http://www.cps.gov.uk/legal/a_to_c/controlling_or_coercive_behaviour/

¹¹ Stark, E (2012) Re-presenting Battered Women: Coercive Control and the Defense of Liberty.

http://www.stopvaw.org/uploads/evan_stark_article_final_100812.pdf



3rd July 2017

CASE STUDY 1: Melanie's story

Melanie's perpetrator was convicted of ABH in 2013 at a magistrates' court, following an incident in which he strangled Melanie while she was five months pregnant.

"I met Tom* when I was just 14. He was controlling from the very beginning. He was constantly suspicious and didn't like me to have friends. He hated it when I spoke to other men: we couldn't even go into a shop without him starting an argument with any male shop staff who so much as looked at me.

"It was only a few months into our relationship that he first abused me physically: I was trying to leave the house and he pushed me onto the sofa, screaming in my face. **After that, he would frequently push me around. He would rip my hair out, slap and kick me, strangle me, and slam my head into the wall.** He would always try to make up by apologising profusely, saying he didn't mean it and that he loved me. My scalp and hair follicles have suffered permanent damage.

"The abuse continued for more than a decade. One night, things got particularly bad. **Tom choked me from behind and wouldn't let go for ages.** I remember falling to my knees, his hands wrapped around my neck. **I was five months pregnant at the time. I remember thinking: this is the moment I am going to die. He had threatened to kill me before,** and I thought this was it. I could feel myself losing the will to fight.

"Somehow, I managed to escape. I ran out of the house and called the police. He was **arrested and charged with Actual Bodily Harm.**

"I was determined to protect myself and my children and see him sent to prison for his crime, so I decided to testify at court despite being eight months pregnant.

"**But when I got there, I was worried about going into too much detail about what he had put me through all those years.** I thought maybe I would be blamed for what had happened, and for not removing my kids from the situation. I was eight months pregnant in the witness box – terrified of him getting away with it and coming after me and my kids, terrified of what would happen if I told the whole story. **I was even asked why I was carrying his child, if things were that bad** – as if what I was saying was less valid because we had been in a relationship.

"**Looking back, it doesn't seem fair that that was my only chance to tell the court my side.** If the court is supposed to take into account the man's 'good character' and previous incidents, **there should be a better way to find out that information. It should all be checked.**

"In the end, Tom was sentenced to 12-month suspended sentence and was ordered to attend a 36-day domestic abuse programme. **I was pretty shocked: he had almost killed me and my unborn baby, but he had escaped going to prison.** The punishment did not fit the crime.

~~It was also on me to request a restraining order, but I didn't~~
It was also on me to request a restraining order, but I didn't really know what I should be asking for. The one they gave him didn't include his family, so they would follow me around and shout abuse at me. Then he breached restraining by turning up at my new partner's house. I told the police, but nothing happened to him.

"In the end, I had to move home and change all my contact details. My experience told me he wouldn't give up – I had left him before but could never get away from him, because everywhere I turned he would be there. **The courts hadn't given me enough protection, so I had to take steps to protect my family myself."**

ENDS

*Name has been changed to protect anonymity



3rd July 2017

CASE STUDY 2: Ashley's* story

Ashley's ex-partner was convicted of ABH at a crown court in 2016. Ashley has been supported by one of Refuge's outreach services.

"My ex, Darrell*, became physically abusive about four months into our relationship. He was angry that he couldn't get through to my phone, and **put my hands around my throat**. Darrell was always calling me names – whore, a slag and a bitch – and accusing me of seeing other men. He was extremely jealous and controlling; **he would follow me to work, ring me constantly, and even sit in his car watching my house**.

"He would threaten me, too. He used to say that if he couldn't have me, nobody else could. During the incident after which I called the police, **he said he would kill me. He straddled me and beat my face black and blue, fracturing my eye-socket. He even pressed a knife to my throat, cutting my hands as I tried to defend myself. I feared for my life.** I managed to flee the house and call 999. He was gone by the time the police turned up, but he was later arrested and eventually charged with Actual Bodily Harm.

"When it came to the court case, **I feel like he was able to play the system. He was in control the whole time:** he was denying the assault and I had built myself up to give my evidence, but then **he pleaded guilty right at the last moment** so I never got the chance.

"He also said he had no previous involvement with the police, whereas I knew he had abused other women. **He also said he couldn't go to prison because he was a full-time carer to his elderly father. This was rubbish** – how could he be a full-time carer when he was also working full-time? **It was like the court just accepted what he said, without doing any checks.**

"When it came to his sentence, he got a nine months suspended for two years. He was ordered to attend a building better relationships programme and pay court costs and £1000 compensation to me. He also received an indefinite restraining order, but I had no say on the terms – it just said he couldn't contact me or enter my street. **I remember, the recorder even said: "I have no doubt you're a man who believes he has a right to hit women". Yet he escaped jail.**

"**I find it ironic that part of his sentence was going on what is effectively a counselling programme. I had to pay for my counselling** – I had to, to keep me functioning and able to hold down my job. It's almost like he was given help and support, whilst my punishment continues. **My sentence is looking over my shoulder for the rest of my life. He walked free, whilst I was left with deep physical and psychological scars.** I felt unsafe in my own home; I had to move out of my city in order to try and move on.

“What makes it worse is that I know the kind of man he is. It wasn’t just ‘one off’, physical violence – he stalked and harassed and controlled me, never giving up. I know that – had I not taken my own steps to stay safe – it would have carried on. And sadly, I have no doubt he will do it again to another woman.
Why wouldn’t he, when he has got away with it so far?”

ENDS

*Names have been changed to protect anonymity



3rd July 2017

CASE STUDY 3: Euleen's story

Euleen's ex-partner was convicted of GBH in 2015, following an incident in which he threw a chair at her, causing life-threatening injuries. Euleen was supported by Refuge, and now volunteers at Refuge as a peer mentor.

"I was with my ex-partner for 10 years. The violence started with him burning me with a cigarette butt. At the time I thought it might be a one off and he was very apologetic, but gradually **he became more and more physically abusive. He poured boiling water over me, and he would beat me with a belt.**

"One time, he threw a chair at my leg and cut me really badly. **I ended up in hospital because it got infected. The doctors told me I might have to have it amputated, and that if I hadn't come to them I might have died.** At that point, I had to tell my sister what had been going on – she supported me to report him to the police and he was arrested.

"Deciding to support the prosecution and give evidence was so hard. I told myself I was doing it for my family and for the other women I knew he had abused. At the beginning of our relationship, he used to paint his exes as the ones in the wrong. But now I know better. **He used to say to me: 'you're the one who will get me put in prison, Euleen'. I was determined to try.**

"When it came to the court case, **I had the opportunity to write a victim impact statement. I remember drafting something myself, and my solicitor saying it wouldn't work; in the end, we sat down and wrote it together.** I think the statement made a difference to the sentence, but not everybody gets the chance to write one. If they do, they might not have guidance on how to do it like I did. I think victim impact statements should be offered to all women. **There should be some sort of system for making sure it happens rather than it being left to chance.**

"I remember one point where the judge said he had to stay away from me, **but that he could go to my flat accompanied by police officers to pick up his stuff. I couldn't believe it.** I shouted in fear, begging the court not to let him anywhere near my property. Of course, I wasn't supposed to shout out in court, but I think that made the judge understand better. It is not just a case of providing a police escort – the psychological impact of having that man in my home again would have been devastating. **But I could easily have been too intimidated by the court to say anything, then he would have been permitted to come over. Again, it feels like chance that things happened the way they did, and that's not right.**

“I also feel quite fortunate to have had the same judge listen to my whole case and do the sentencing. I think it helped that the judge had heard my story and seen the fear in my eyes. From my work volunteering with Refuge, I have learnt that this often doesn’t happen – what about the women who get a different judge for sentencing? **They might feel like their voices are lost.**”

“In the end, he was convicted of GBH and three counts of common assault. He got sentenced to three years in jail, but he only served half because of time spent on remand. **I had only been able to breathe for a few months; suddenly he was due for release. I never had the time to fully process what I had been through. I had to fast-track my recovery.**”

“When it came to his release, I was terrified. **There was going to be a restraining order, but it only included the address of my flat.** I live on an estate, so he needed to be banned from the whole place – otherwise I knew it wouldn’t be safe. I was supported by my family to think about where else I might want the Order to include; my sister did so much research, she was able to say to me ‘what about where you go shopping, and what about banning him from contacting the kids?’ **There is no way I could have done it without support. What about the women who don’t have friends or family there, fighting their corner?**”

“My experience has shown me that, too often, it is down to the woman. **It should not be the woman’s responsibility to think about how to protect herself – the court should do that.**”

ENDS



Refuge briefing: domestic violence perpetrator programmes (1/2 papers)
July 2016

Refuge's view

Refuge does not believe that perpetrator programmes are an effective or appropriate way of reducing domestic violence.

This is because:

- There is still **no compelling evidence** that they are successful in ending **all** violence and abuse towards women. The most recent UK research on perpetrator programmes, Project Mirabal (see below), showed that even when physical violence is reduced, other forms of non-physical abuse often continue. This is concerning because:
 - Women tell us consistently that non-physical harm, such as psychological abuse, is harder to identify and recover from than other types of abuse
 - When Refuge conducted its own small survey on what women in its services would count as a successful perpetrator programme, 100% of the 30 women surveyed said only an end to all physical and verbal abuse, controlling behaviour, jealousy and possessiveness would count as success to them
 - **Anything less than a total end to all forms of abuse puts women and children at further risk**
 - It also sends a message to women that reductions in violence are 'good enough' and that they should tolerate 'some' domestic violence
 - This sends a message to perpetrators that some domestic violence is tolerable
 - As one woman told Refuge: "My ex-husband was put on a perpetrator programme as part of his community service after assaulting me. He appeared to change but used it to manipulate me and I ended up in a far worse situation."
- Perpetrator programmes **neglect to address the real cause of domestic violence:**
 - There is considerable and long held support for the view, well described in academic literature and international instruments¹, that violence against women and girls is a global problem, rooted in and arising from, gender inequality

¹ At the world conference on human rights held in Vienna 1993, the General Assembly of the United Nations made a Declaration on the Elimination of Violence against Women. At the core of this resolve is the firm belief that "*violence against women is a manifestation of historically unequal power relations between men and women which have led to the domination*

- Rather than tackling this deeply-rooted gender inequality, perpetrator programmes simply support a handful of men with their individual issues, be that substance abuse, lack of employment or ‘anger problems’
- **Perpetrator programmes exacerbate myths around domestic violence** by attributing it to external circumstances:
 - Personal distress or social disadvantage do not cause violence against women - gender inequality does. **Ignoring this root cause allows violence against women to continue and gives perpetrators the excuse they need to minimise their actions**
 - Focus on individual perpetrators is misplaced – at the end of any programme, men resume their lives and relationships in an ‘unchanged society’, still rife with misogyny
- Frontline services for women experiencing domestic violence are being lost on a daily basis – one in three women are turned away from refuges due to lack of space² and Refuge has experienced cuts to 80% of its services since 2011. **How can the state justify diverting precious resources to supporting perpetrators when the women they abuse are unable to access the help they need?**
- Domestic violence is a crime – and must be treated as such. A strong criminal justice system response is necessary. If the police and courts do not show men that domestic violence will have serious consequences for the perpetrator, it will not be reduced. Refuge recommends that the scant resources available for survivors of domestic violence are channeled towards training the police and making a positive impact in this arena, rather than investment in perpetrator programmes which do not stop women from experiencing violence and abuse

The current picture

Refuge is concerned that it has seen an increase in the number of local commissioners who insist that perpetrator programmes form part of any service offer.

Refuge is also concerned that there has been a shift in how the success of perpetrator programmes is measured. Rather than ‘success’ being a complete end to all abuse, there is now a widely held assumption that reductions in violence and positive shifts in attitudes are acceptable outcomes for perpetrator programmes.

It is vital that an end to all forms of abuse should be a required outcome for any perpetrator programme.

The Drive Project

Pilot programme to be trialled across three local authority areas will work with some of the most dangerous perpetrators on a one-to-one basis to reduce their abusive behaviour.

and discrimination against women by men and which have prevented women's full advancement. Violence against women is one of the crucial social mechanisms by which women are forced into a subordinate position compared to men" (p.6)

² Since 2010, this country has lost 17% of specialist refuges in England and third of all referrals to refuges are turned away, normally due to a lack of available space – Women’s Aid, Save our Services report <https://www.womensaid.org.uk/sos/>

Launched in February 2015 by Respect, SafeLives and Social Finance, working together with Police and Crime Commissioners (PCC) and Local Authorities in Sussex, Essex and South Wales and the Lloyds Bank Foundation

- Expected that 900 offenders will be asked to take part in the Drive programme over the next three years
- Response from Sandra Horley CBE, chief executive of Refuge:
<http://www.refuge.org.uk/2016/02/17/refuge-responds-to-drive-perpetrator-programme/>
 - Local authority and PCC support – at whose expense is this money being spent?
 - See above for Refuge’s view on why perpetrator programmes are ineffective

Project Mirabal

[Project Mirabal](#) is the most recent UK research (2015) on the outcomes achieved by perpetrator programmes, and its final report³ often cited as evidence that they are effective. Refuge does not believe Project Mirabal provides sufficient evidence that perpetrator programmes work. This is because:

Methodology

- The research sample size is small – just 36 men and 26 women completed the second interview – and there are high rates of attrition throughout the 15 months of the study. This means it is difficult to form generalisations from the findings, particularly as these are restricted to descriptive reporting only
- There is a lack of demographic information about the perpetrators – we do not know their assessed risk, criminal history, their substance misuse, mental health or employment status, or whether they were agency or self-referred. In short, we do not know if the sample contained only men who were selected for their capacity to change and/or whether more high risk, resistant men were excluded

Outcomes

- **Although there were some reductions in violence, unacceptable levels remained.** After 12 months of programme attendance:
 - 23% of perpetrators continued to punch or kick walls or furniture, slam doors, smash things or stamp
 - 7% slapped, pushed or threw something at their (ex)partners
 - 10% threatened to kill their (ex)partners or someone close to them
- **It is clear that levels of psychological abuse remained high.** After 12 months of programme attendance:
 - 41% of women said the perpetrator still did things that made them scared or intimidated

³ Kelly, L., Westmarland, N (2015) Domestic Violence Perpetrator Programmes: Steps Towards Change
<https://www.dur.ac.uk/resources/criva/ProjectMirabalfinalreport.pdf>

- 48% said the perpetrator still insulted them or made them feel bad about themselves
- 48% said that the perpetrator still insisted on knowing where she is or what she is doing
- 75% said they would still have to be very careful around their perpetrator if he was in a bad mood
- **Only a three percent reduction (to 47%) in levels of financial abuse after 12 months**
- **Positive outcomes for children were minimal:**
 - Percentage who reported their children as nervous and clingy (54% at baseline) remained unchanged after 12 months
 - 35% were still frightened of the perpetrator (54% at baseline)
 - 37% continued to worry about their mother's safety (64% at baseline)
- **Majority of perpetrators still failed to accept responsibility for their abuse.** At baseline 91% of women said that the perpetrator justified or made excuses for his behavior – this had only fallen to 71% 12 months later. 61% of women said that the perpetrator blamed her for his abusive behavior, down from 84% at baseline

What is the alternative?

Refuge believes that addressing domestic violence requires the provision of high quality, specialist services for victims, a robust criminal justice response to perpetrators, with an equal focus on preventative efforts such as empowering women, combating sexism and creating enduring social change.

Unlike for perpetrator programmes, there is a wealth of evidence that specialist support from Refuge and similar organisations increases women's safety. Through our range of specialist services, Refuge supports 3,800 women and children on any given day. Our bespoke case management system, IMPACT, means we also have 45,000 cases to draw upon for evidence of what works. In 2015-16, 96% of women exiting our services reported feeling safer and 92% said their quality of life had improved.

How can we prevent domestic violence in the future?

- Police and prosecutors need to send a strong message to perpetrators: domestic violence is a crime and you will be arrested and charged
- Rather than supporting a handful of men who have already broken the law and abused their partners, Refuge advocates a preventative approach based on empowering women, combating sexism and creating enduring social change
- Resources and time should instead be focused on engaging boys and men in widespread social change, challenging their attitudes/behaviour towards women and girls from a young age

Ends

For more information, please see the attached paper, 'Refuge research paper: perpetrator programmes, October 2015', or contact press@refuge.org.uk



Refuge research paper: domestic violence perpetrator programmes (2/2 papers)
October 2015

Refuge first raised concerns about the effectiveness of perpetrator programmes almost thirty years ago¹ and today these concerns remain unchanged. This is because, despite decades of opportunity to make perpetrator programmes 'work', there is *still* no compelling evidence that they are successful in ending *all* violence and abuse towards the women whose partners attend - even when physical abuse is reduced, other forms of non-physical abuse often continue. Not only is an expectation of *reduced* violence inadequate as a programme outcome, women tell us consistently that non-physical harm, such as psychological abuse, is harder to identify and recover from than other types of abuse. **We therefore believe it is vital, that an end to *all* forms abuse should be a required outcome for any perpetrator programme.**

Historically, the cessation of or reduction in violence and abuse were considered to be primary indicators that a perpetrator programme 'worked'. More recently the utility of these programmes appears to have been influenced by a re-evaluation of what 'counts as success'², with some suggesting we should shift our focus away from whether the perpetrator's behaviour has changed and towards exploration of 'factors that promote change in men who abuse'³ and/or increase women's and children's safety⁴.

At Refuge, we continue to believe that achieving safety for women and children and promoting recovery from experiences of abuse requires the provision of high-quality, specialist services for victims and a robust criminal justice response to perpetrators, with an equal focus on preventative efforts such as empowering women, combating sexism and creating enduring social change.

We do not believe perpetrator programmes form part of the solution for most abused women, though we do believe it is vital to engage men and boys in widespread social change by challenging traditional perceptions of masculinity and attitudes/behaviour towards women and girls. A focus on changing the attitudes/behaviour of a few perpetrators, rather than *all* men and boys, does not make sense if our goal is to eradicate violence against women in general. To achieve this we must change all men *and* also raise the consciousness of women and girls so that they are aware of their equality, rights and entitlement to a life free from abuse of *any* kind. It is only when we achieve real equality between the sexes that we will end violence and abuse towards women and girls.

There is considerable and long held support for the view, well described in academic literature and international instruments⁵, that violence against women and girls is a global problem, rooted in and arising

¹ Horley, S (1990) Responding to Male Violence Against Women, *Probation Journal* December 1990

² Westmarland, N., Kelly, L., Chalder-Mills, J. (2010) Domestic violence perpetrator programmes: What counts as success?

³ AVERT Family violence (2010) Prevention Strategies: Involving and Engaging Perpetrators http://www.avertfamilyviolence.com.au/wp-content/uploads/sites/4/2013/06/Prevention_Strategies.pdf

⁴ Kelly, L., Westmarland, N (2015) Domestic Violence Perpetrator Programmes: Steps Towards Change, Project Mirabal Final Report

⁵ At the world conference on human rights held in Vienna 1993, the General Assembly of the United Nations made a Declaration on the Elimination of Violence against Women. At the core of this resolve is the firm belief that "violence against women is a manifestation of historically unequal power relations between men and women which have led to the domination and discrimination against women by men and which have prevented women's full advancement. Violence against women is one of the crucial social mechanisms by which women are forced into a subordinate position compared to men" (p.6)

from, gender inequality. And so it is puzzling when we hear that the causes of violence against women are complex, that perpetrators frequently struggle with their own psychological difficulties or social disadvantage - that these problems may lie at the root of their abusive behaviour and a therapeutic or compassionate approach to intervention is appropriate to effect change⁶. Work with men on their own experiences of abuse is important, but we believe it is vital not to collude with men's victimhood or allow this work to become the priority when addressing their abuse towards women. It is not that the perpetrator's own personal difficulties do not matter or deserve a social and individual response, simply that fixing them will not end violence against women. Personal distress or social disadvantage does not cause gender based violence against women - gender inequality does: ignoring this cause allows violence against women to continue.

Unfortunately, the merging of a mental health perspective with the traditional psycho-educational feminist approach to perpetrator work, seems to have led to confusion about the main driver for male violence against women - which is gender inequality, male dominance or patriarchy and traditional ideas about masculinity.

This merging has created a dangerous shift, with some programme advocates asserting facilitators must be "*careful not to be too direct or challenging in naming violent or abusive behaviours*" "*that participants want a counsellor or friend, who is knowledgeable about family violence and non-judgemental* (Campbell et al.

2010)"⁷. This is a far cry from the psycho-educational groups established by feminist pioneers such as Ellen Pence in the 1980s. Pence's groups did not allow men to hide behind excuses such as social disadvantage or childhood abuse; they held men accountable, named their violence, challenged their denial and, most importantly, challenged the sexist attitudes and inequality at the root of violence against women.

As mentioned above, the concept of perpetrator programme 'success'⁸ has been redefined to include the progress a perpetrator makes towards 'change': so rather than requiring a total cessation of abuse, evidence for cognitive insights and shifts towards a more equitable, non-abusive relationship are now regarded as indicators of success. On the face of it this seems reasonable and in most other circumstances it would be, but the consequences for women and children if *all* abuse does not cease, is often a continuation of psychological abuse, anxiety and fear. Defining the success of a perpetrator programme in this way also sends a message to women that reductions in violence or the continuation of non-physical forms of abuse should be acceptable to them, and that they and their children do not deserve more, are not *worth* more - this is not 'success' by any standard.

Driven by the desire to allow abused women to determine *their own criteria* for the success of a perpetrator programme, Refuge carried out a small pilot survey with its clients in July 2015; this included both women living in the community and refuge residents. One hundred percent of the 30 women who completed the survey said that only an end to *all* physical and verbal abuse, controlling behaviour, jealousy and possessiveness would meet their criteria for programme 'success'; 96.6% of these women included an end to all financial abuse in this list.

Nevertheless, Refuge has seen an increase in the number of local commissioners who insist that perpetrator programmes form part of any service offer. The assumption that reductions in violence and positive shifts in attitudes towards abuse are acceptable outcomes for such programmes, is widely held. Few commissioners appear to have explored the academic literature in detail, so are not aware that the most recent UK research⁹,

⁶ "The education model discourages facilitators in discussing or demonstrating empathy concerning the men's own experiences of injustice from poverty, childhood violence and so forth [...] in contrast narrative therapy seeks to explore these stories in ways that highlight men's experiences of naming and countering injustices." Jenkins (1998) cited in Augusta-Scott T., Dankwort, J (2002) Partner Abuse Group Intervention: Lessons from education and narrative approaches, *Journal of Interpersonal Violence* Vol 17, 783-805

⁷ AVERT Family violence (2010) Prevention Strategies: Involving and Engaging Perpetrators http://www.avertfamilyviolence.com.au/wp-content/uploads/sites/4/2013/06/Prevention_Strategies.pdf

⁸ Hellman, C. Johnson, C. & Dobson, T (2010) Taking Action to Stop Violence: A Study on Readiness to Change Among Male Batterers, *Journal of Family Violence* (2010) 25:431-438.

⁹ Kelly, L and Westmarland N (2015) *ibid*

Project Mirabal – which is currently cited in support of perpetrator programmes – is based on a small sample of men¹⁰ about which we know little¹¹, who after 12 months of programme attendance:

- Continued to punch or kick walls or furniture, slam doors, smash things or stamp - 23%
- Slapped, pushed or threw something at their (ex)partners - 7%
- Threatened to kill their (ex)partners - 10%

And that:

- 65% of women said they would still be afraid of the perpetrator's reaction if they had got a new partner
- 41% of women said the perpetrator still did things that made them scared or intimidated
- 48% said the perpetrator still insulted them or made them feel bad about themselves
- 28% continued to be harassed
- 27% said the perpetrator continued to belittle or humiliate them in front of others
- 48% said that the perpetrator still insisted on knowing where she is or what she is doing
- 75% said they would still have to be very careful if the perpetrator was in a bad mood
- 47% of women (a fall from 50% at baseline) reported that he still *tries to use money/finances to control me*.

Improving women and children's safety is one of the key outcomes for perpetrators programmes, yet after 12 months of their partner attending a programme, only 51% of women who participated in the Mirabal research said they felt very safe. For the 49% who did not feel very safe, 6% said they did not feel not safe at all, 13% felt a little unsafe and 30% felt somewhat safe. The percentage of children (whose fathers were in the programme) and reported as nervous and clingy at baseline, remained unchanged after 12 months at 54%. Thirty five percent were still frightened of the perpetrator (54% at baseline) with 37% continuing to worry about their mothers safety (64% at baseline). Almost half the women (49%) were frightened to leave their children with the perpetrator at baseline. This figured remained unchanged after 12 months of intervention. There was minimal change for children on the remaining measures.¹²

Perhaps most concerning was the finding that the majority of perpetrators failed to accept responsibility for their abuse. At baseline 91% of women said that that the perpetrator justified or made excuses for his behaviour. This had only fallen to 71% 12 months later. Eighty four percent of women at baseline said that the perpetrator blamed her for his abusive behavior; this had only fallen to 61% 12 months later.

The same research claims that change was observed for some men (and women) in their understanding of 'gender' and its role in their relationship¹³. However, the finding that many men and women had not considered

¹⁰The research sample size is small, particularly for interviews (only 36 men and 26 women completed the second interview), with high rates of attrition throughout the 15 months of the study; this creates difficulties in forming generalisations from the findings, particularly as these are restricted to descriptive reporting only

¹¹ One of the key issues in determining whether perpetrator programmes 'work' is to determine 'what kind of intervention' works for 'what kind of perpetrator' - a 'one size fits all' approach is rarely of use to anyone, regardless of the intervention. Thus one of the weaknesses of Project Mirabal is its lack of demographic information about the perpetrators. We are not told who the male research participants are, their assessed risk, criminal history, their substance misuse, mental health or employment status, whether they were agency or self-referred, their age, ethnicity etc. In short, we do not know if the sample contained only men who were selected for their capacity to change and or whether more high risk, resistant men were excluded, though reference to attempted murder and life threatening injuries are mentioned with regard to interviews with perpetrators. We do know that in general referral from criminal justice system agencies is very low but we do not know why

¹² Kelly, L and Westmarland N (2015) *ibid* "The survey had eight indicators to assess change on this measure - for children, safer, healthier childhoods in which they feel heard and cared about. All but two showed improvements and change was minimal for several. The indicator where children were faring worse was 'do any of your children have problems making and maintaining friendships(increased from 22% at baseline to 26% 12 months on). Greater improvements were seen in the decrease in children worrying about their mother's safety and being frightened of the perpetrator." p.30

¹³ *Ibid*. "Contemporary gender theory is far more sophisticated, exploring how we embody and 'do' gender in our everyday activities and social relations. This type of gender theory sits underneath Evan Stark's (2007) concept of coercive control, and Eva Lundgren (2004) argues that men are creating a particular masculinity through their use of violence whilst attempting to enforce their view of what a woman should be. Both suggest that tensions about how men and women should be in a heterosexual relationship and as parents sit at the heart of much violence and abuse. The data in our measures of success and the reflections of women and men support this perspective." p.34

'how gender shaped their lives' or believed 'gender inequality was considered a thing of the past' is unsurprising. We know that many individuals believe, erroneously, that women and men are equal. The idea that men abuse women because they hold traditional views about what it means to be male and thus feel entitled to do so, is an important area to target for change. However, a focus on change at the level of individual perpetrators seems misplaced, if at the end of an expensive year long programme, these men resume their lives and relationships in an 'unchanged society'¹⁴.

Thankfully, there appears to be a growing awareness that in order to eradicate violence against women we need to change the societies in which it occurs. Katz makes the case well when he writes *"In recent years the increased popularity of the social-ecological model in the gender violence prevention field (Heise 1998) and a long-term shift away from the idea of fixing "broken" individuals and toward a more comprehensive public health approach, are evidence that a consensus is growing that preventing men's violence means thinking less individualistically and more systematically."*¹⁵ Katz recognises that violence perpetrated by individuals is informed by *'social norms, cultural practices, and ideologies, that are themselves rooted in larger systems of gender equality. Individual change and accountability are necessary. But lasting change is impossible unless the inequitable systems themselves are transformed - social and systemic change that requires substantially more than the best violence prevention programs and public service campaigns can provide'*.

And it is not just men who need to change, there is also an urgent need to empower women, economically and *"socially and individually, and to raise their consciousness to enable critical thought on women's own role in male gender socialisation and the maintenance of gender power hierarchies so they demand more equitable relationships"*¹⁶. We need to ensure women and girls know that it is not acceptable to abuse them less often or less severely; that respect and inequality is theirs by right and the first place they should expect to find this is within an intimate relationship.

It seems we have reached a critical point in the way we choose to respond to violence against women and girls - we can either continue to ignore the fact that gender inequality is the cause and define, record and respond to 'domestic violence' in a gender neutral fashion that renders the extent of women's abuse invisible or we can accept the difficult truth that sexism and gender inequality continues to affect *all* women *everywhere*, regardless of ethnicity, socioeconomic status, religion, disability or any other factor *and* it is the cause of the abuse they suffer from men. It is time to 'stop tinkering around the edges'¹⁷ of the problem and take determined action to end violence against women once and for all.

Ends

Contact press@refuge.org.uk for more information on this issue

¹⁴ Horley, S (1990)

¹⁵ Katz, J 'Engaging men in prevention of violence against women' in Johnson, H., Fisher, B.S., Jaquier, V. Eds. (2014) Critical issues on violence against women: International perspectives and promising strategies.

¹⁶ Jewkes, R., Flood, M., Lang, J. (2014) Violence against women and girls 3: From work with men and boys to changes of social norms and reduction of inequities in gender relations: a conceptual shift in prevention of violence against women and girls

¹⁷ Johnson, H., Fisher, B.S., Jaquier, V (2014) Critical issues on violence against women: International perspectives and promising strategies. *"Violence against women is a global problem and although it may take subtly different forms, the root causes are remarkably similar at individual and societal levels. We also know that despite the wealth of knowledge that has been amassed and the inspiring action at all levels to prevent this violence and provide redress to its victims, it continues unabated. The pervasiveness, assumed inevitability and refusal of State actors to seriously commit to the structural changes needed to eradicate the root cause -gender inequality- speak to its function as a mechanism of male power and social control over women. It is clear that tinkering around the margins with policies that neatly fit into existing power structures and fail to seriously challenge dominant assumptions is no longer good enough for lasting change to occur"*.

