

**Refuge briefing: Domestic Abuse Bill 2020 second reading, Refuge priorities April 2020**

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**About Refuge**

Refuge is the largest specialist provider of gender-based violence services in the country supporting over 6,500 women and children on any given day. Refuge opened the world's first refuge in 1971 in Chiswick, and 49 years later, provides: a national network of 47 refuges, community outreach services, child support services, and acts as independent advocates for those experiencing domestic, sexual, and gender-based violence. We also run specialist services for survivors of modern slavery, 'honour'-based violence, and female genital mutilation. Refuge provides the National Domestic Abuse Helpline which receives hundreds of calls a day.

**Summary**

On Tuesday 28<sup>th</sup> April the Domestic Abuse Bill will have its second reading in the House of Commons. Refuge welcomes that the Bill is making progress, however as it stands the Bill does not do enough to ensure that survivors of domestic abuse have access to the safety and support they need in order to keep themselves and their children safe and live lives free from abuse. Domestic abuse is not a niche issue - [almost 1 in 3 women aged 16-59](#) in England and Wales will experience domestic abuse in their lifetime; [two women a week are killed](#) at the hands of their partner or ex-partner; 3 women a week [die by suicide](#) as a result of the abuse they have experienced; and [2.4 million people](#) experience domestic abuse in England and Wales every year. The Covid-19 crisis has exposed to a wide audience the scale of violence against women and girls in this country and the necessity of having a comprehensive government strategy to prevent abuse and support survivors as well as enough specialist support services to meet demand. The Domestic Abuse Bill is an opportunity to make significant progress in reducing domestic abuse and affording greater protection and support to survivors. It is vital that this opportunity is not missed and the full range of legislative changes needed to offer increased support and protection to survivors are implemented. The Bill has now been re-introduced and the Government has published its further response to the Joint Committee on the Draft Domestic Abuse Bill whose [final report](#) agreed with many of our recommendations for reform. However, there are some essential measures that are still missing from the Bill. Refuge's priorities that must be included in the Bill if it is going to be truly transformative are:

- **Sustainable funding for specialist services:** the crucial legal duty to fund accommodation-based domestic abuse services must be backed with enough funding to increase the number of refuges and ensure no woman or child is turned away. At least £174 million per year is needed to achieve this
- **Threats to share intimate images:** *threatening* to share intimate images without consent must be outlawed, in addition to the actual sharing of such images, as is already illegal under the 'revenge porn' law
- **Gendered definition of domestic abuse:** the statutory definition of domestic abuse must reflect the reality of this crime, namely that women make up the overwhelming majority of victims and survivors and men the overwhelming majority of perpetrators
- **Welfare system:** the aspects of Universal Credit that currently facilitate and exacerbate economic abuse must be reformed. This includes paying joint UC separately by default and exempting survivors from repaying UC advances
- **Housing:** housing law must be amended to ensure that all survivors have automatic priority need for housing to enable survivors without children to access accommodation away from the perpetrator

- **Migrant women:** immigration law must be amended to abolish the no recourse to public funds condition, extend the destitute domestic violence concession to at least six months, and expand eligibility for leave to remain under the domestic violence rule to all migrant survivors

### **Sustainable funding for specialist services**

According to the Government's own estimates, [domestic abuse costs society £66 billion](#) a year. Specialist domestic abuse services are life-saving. Survivors and their children that receive specialist support can and do recover. Given the cost implications of domestic abuse on the NHS, the police, and other public services, the quicker survivors can access refuge and other specialist services, the more public services will save. Investing in specialist services ultimately leads to long-term savings.

Despite the enormous cost of domestic abuse, the specialist domestic abuse sector is under severe financial strain and cannot meet the demand for its services. Refuge has had to endure funding cuts to 80% of its services over recent years, with **our refuge services being cut by an average of 50% since 2011**. [64% of total refuge referrals in England were declined last year](#). The Covid-19 emergency has caused further strain on the specialist sector, as many providers have had to transform the way they deliver services whilst fundraised income has fallen. Services are therefore already seriously overstretched and underfunded.

Emerging evidence from around the world suggests domestic abuse has increased in many countries following the imposition of Covid-19 lockdown measures. Refuge's National Domestic Abuse Helpline has seen a 49% increase in daily calls and contacts and 417% increase in web traffic compared to pre-lockdown averages. Some of the increased demand is likely down to awareness raising activity, including the Home Office's You Are Not Alone campaign. When survivors come forward, it is vital that the specialist services they need are there to support them. This will not be the case unless a long-term, sustainable funding model is introduced for the vital services survivors rely on for safety, support, and to rebuild their lives.

Refuge therefore welcomes the legal duty to assess need for accommodation-based domestic abuse services and commission services based on that need, which has been added to the Bill in section 4. However, the success of the duty depends on: whether it ensures refuges can **operate as a national network**, whether **national oversight** of services is sufficiently robust, whether it ensures that services provided under the model are **specialist and delivered by experts**, and, most importantly, whether it is accompanied by **adequate, sustained funding**. To date the Government has not announced how much funding will be made available for the new duty to be delivered. Research suggests that the amount of money needed to increase refuge provision to meet demand and ensure that no woman or child is turned away from refuge is [£174 million per year](#) with a further £220 million a year needed for support services.

**Refuge therefore asks MPs during the second reading of the Domestic Abuse Bill to call on the Government to commit to providing £174 million of ring-fenced funding each year to ensure that there are enough refuge spaces to meet demand.**

### **Threats to share intimate images**

Technology is increasingly being used as a tool of abuse and coercive control, with women disproportionately abused, harassed, threatened and monitored online. Refuge's specialist tech abuse team works with survivors who are experiencing abuse facilitated by technology. A common feature of these cases is abusers threatening to share intimate images without consent, either by publishing them online, sending them to friends and family, or both. Threatening to share intimate images is used to control, coerce and scare survivors both during a relationship with an abuser and following separation.

It can cause constant fear, affecting their everyday lives and have devastating and long-term consequences.

Threatening to disclose intimate images is not adequately covered by the criminal law in England and Wales. Whilst actual disclosure of a private sexual photograph or film is a crime under the Criminal Justice and Courts Act 2015 (known colloquially as the 'revenge porn' offence), threats to share are not covered, however it [is already a criminal offence in Scotland](#). In Refuge's experience, when the survivors we support approach the police about these threats, they are often told to wait until the images have been shared by the perpetrator and then come back, as only then is it a criminal offence and therefore a police issue. This is unacceptable and fails to recognise that threats to share are commonly used by abusers as a tool of coercive control. The Domestic Abuse Bill presents an opportunity to explicitly outlaw threatening to share intimate images without consent, in recognition of such threats being used to abuse and control survivors of domestic abuse.

**Refuge is therefore asking MPs during the second reading of the Domestic Abuse Bill to call on the Government to amend the Domestic Abuse Bill to explicitly outlaw threats to share intimate images without consent.**

### **Gendered definition of domestic abuse**

Refuge welcomes that the Domestic Abuse Bill will establish a definition of domestic abuse in law for the first time. We are pleased that the definition will explicitly include a variety of forms of abuse, such as economic and emotional, which will be essential in aiding understanding of domestic abuse. However, we are disappointed that the Bill does not explicitly recognise that domestic abuse is a gendered phenomenon. Gender inequality is a cause and consequence of domestic abuse. The overwhelming majority of perpetrators are men, with the majority of victims women – a figure that is particularly acute when it comes to domestic homicide. In England and Wales, in the year ending March 2019, [five times more women than men were killed by their partner or ex-partner](#).

The Joint Committee on the Draft Domestic Abuse Bill, after taking extensive evidence on the issue, agreed with Refuge that the best way to spread an accurate understanding of domestic abuse amongst the professionals tasked with responding to domestic abuse and the public more widely is to introduce a statutory definition that explicitly states that women are disproportionately victims of domestic abuse. While the Government has committed to including the gendered nature of domestic abuse in statutory guidance, Refuge, along with the Joint Committee, submits that this must be on the face of the Bill in order to have the impact on public awareness needed.

**Refuge is therefore asking MPs during the second reading of the Domestic Abuse Bill to call on the Government to amend the legal definition of domestic abuse, on the face of the Bill, to accurately reflect the gendered reality of this crime.**

### **The welfare system**

Research by Refuge and the Co-Operative Bank found that 1 in 5 adults have experienced economic abuse. In Refuge's experience debt, a lack of access to money and fears about not being able to be financially independent are key reasons for survivors staying with perpetrators for longer than they want to. Refuge therefore strongly welcomes that the definition of domestic abuse in the Bill includes economic abuse – a form of abuse that has never appeared in any Government definition before. However, we are disappointed that the Government has not introduced concrete measures in the Bill to tackle economic abuse, including reforms to Universal Credit. In our experience, aspects of UC are exacerbating and facilitating economic abuse, and making pushing survivors into severe poverty at the point of fleeing.

### Universal Credit single payments

UC is paid in arrears, as one monthly payment, into a single bank account – this includes joint claims. In our experience, single payments into one bank account limits women's financial independence and are used by perpetrators to gain immediate control over the entire household income. Survivors can request to split payments between them and the perpetrator, however this puts them at serious risk of further abuse, as perpetrators will always know the request has been made via their online account. If the request is granted, they will of course become aware of this as their monthly UC payments will decrease. Our frontline staff tell us it is rarely, if ever, safe for a survivor to request splitting UC payments. In response to our concerns, the then Secretary of State for Work and Pensions announced in 2019 that the UC system will be changed, so that more main carers of children will receive the UC payment. The DWP is currently testing how well this is working. However, Refuge remains concerned that the single payment model remains vulnerable to abuse, even when it is intended to reach the main carer of children, and that this change will not help women without children who are jointly claiming UC with their perpetrator.

Refuge therefore maintains that separate UC payments by default is the safest option for survivors. In recognition of the risk single UC payments poses to survivors of abuse, the Scottish Government has already committed in law to introducing separate UC payments by default. Additionally, the Joint Committee on the Draft Domestic Abuse Bill recommended the Government investigate implementing separate UC payments by default in order to prevent the UC system itself being used to facilitate economic abuse. As millions more people apply for Universal Credit as a result of Covid-19 it is more pressing than ever that the system works for survivors and enables them to access money. It is essential for the protection of survivors that the Domestic Abuse Bill is used to implement separate UC payments by default.

**Refuge therefore asks MPs during second reading to call on the Government to implement separate Universal Credit payments by default for all joint claims.**

### Five-week delay

The minimum five-week delay between applying for and receiving UC frequently typically kicks in for survivors when they are fleeing abuse, as they frequently need to make a new Universal Credit claim. This is either because they are not claiming Universal Credit prior to fleeing but need to claim benefits to financially support their stay in a refuge, or because they were previously claiming legacy benefits and the change in circumstance that results from fleeing requires survivors to make a new Universal Credit claim. This leaves women who have fled abuse in extreme poverty while they await their first UC payment, with many relying on foodbanks and other forms of charitable support during the waiting period. This happens at a particularly expensive time for survivors, who often flee with little money and few possessions. In our experience, survivors sometimes question their decision to leave the perpetrator due to the enormous difficulties they face accessing money.

Whilst survivors can request advance UC payments, these are loans and repayments are deducted from future UC payments from the first payment at a rate of up to 30 per cent. This is at a time when survivors need to have access to enough money in order to rebuild their lives and homes after fleeing, often with nothing. Refuge argues that survivors fleeing abuse should be exempt from paying back advance payments in recognition of the impact of economic abuse and the traumatic and expensive nature of fleeing an abuser. The Joint Committee on the Draft Domestic Abuse Bill agreed that the five-week delay was particularly damaging for survivors, and recommended considering converting advance payments into grants for survivors. Refuge has been supporting women waiting for their first Universal Credit payment during the Covid-19 crisis. A combination of some foodbanks seeing increased demand

or having to scale back operations, low stock of the cheapest foods in many shops and an inability to shop around for low cost food, many women we support have struggled and Refuge has purchased food for them using our limited reserves. This is unsustainable and a stronger safety net is needed urgently.

**Refuge therefore asks MPs during second reading to call on Government to exempt survivors of domestic abuse from repaying Universal Credit advances.**

### **Housing**

One of the issues most commonly raised by Refuge's frontline workers and the survivors we support are the inordinate difficulties around securing safe, affordable, long-term housing following domestic abuse. Survivors living in refuges and those who still live with but wish to flee the perpetrator, are legally homeless and many are in priority need for housing assistance because, e.g. they have children or a severe physical disability. For survivors who do not have children, the problem is particularly acute as they frequently do not qualify as being in priority need, meaning local authorities have no legal duty to house them. This leaves survivors reliant on the private sector, which is unaffordable for many. For other women, this can lead to street homelessness or sofa-surfing with friends and family. Sadly, in some cases, survivors return to the perpetrator.

Amending the Housing Act via the Domestic Abuse Bill to ensure that all survivors of domestic abuse, including those without children, qualify as being in priority need for housing assistance is a first and necessary step to ensure survivors are able to rebuild their lives following abuse. This change has broad support across the domestic abuse and homelessness sectors. [Research from Crisis](#) suggests an additional 1,960 households per year would be owed the main homelessness duty in England if the law is changed so that survivors automatically qualify as being in priority need. So while a change in law is needed to protect survivors without children fleeing abuse, this should not lead to an overwhelming additional demand for housing. Such a change would also support the functioning of the national network of specialist refuges by enabling women to move on from refuge into safe, affordable housing when they are ready to do so.

**Refuge is therefore asking MPs during the second reading of the Domestic Abuse Bill to call on the Government to amend the Bill so that all survivors of domestic abuse automatically qualify as being in priority need for housing assistance.**

### **Migrant women**

A large proportion of migrant women have no recourse to public funds (NRPF) meaning they are barred from accessing certain types of financial support from the state including housing assistance and other welfare benefits. Survivors staying in refuge most commonly support their stay using their housing benefit and the funding crisis within specialist domestic abuse services means that many are unable to support women with NRPF. Therefore, migrant women who have NRPF find it extremely difficult to secure a stay in a refuge. Survivors who are in the UK on a spousal visa or a small number of family visas can apply for the destitute domestic violence concession (DDVC). This grants survivors leave to remain in the UK for three months and eligibility to apply for benefits during this time, while they apply for indefinite leave to remain under the Domestic Violence Rule (DVR). The DVR again is only open to survivors on spousal visas or a small number of family visas. If survivors successfully apply for the DDVC and for benefits during this time, they can use their housing benefit to support a stay in refuge. Similarly, if survivors successfully apply for indefinite leave to remain under the DVR, their eligibility for benefits continues and they are able to continue using housing benefit to support a stay in refuge.

However, only migrant women on a very limited number of visa types are eligible to apply for the DDVC and indefinite leave to remain under the DVR, arbitrarily leaving an enormous number of migrant survivors with NRPF status, with few options about where to go if they are experiencing domestic abuse. Refuge is particularly concerned that the number of survivors of abuse that have no recourse is set to increase post-Brexit under the new immigration proposals, and having pre-settled status under the EU Settlement Scheme will not grant survivors recourse to public funds. This means even more women will experience difficulties accessing safety and support in this country. The Covid-19 crisis has served to demonstrate just how precarious the position of migrant survivors is and how essential it is that they can access financial support from the state in order to keep them and their children safe. Many migrant survivors who were working and were able to maintain some economic independence have lost their jobs due to the ongoing crisis, like many others living in the UK. However, unlike the millions of people who have made a Universal Credit claim over the past few weeks, migrant survivors do not have this option, leaving many trapped with abusers.

Refuge strongly believes that the no recourse to public funds condition should be abolished in its entirety. This is ultimately what is needed to ensure that all migrant survivors of gender-based violence and abuse can access safety and support when they need it. Alternatively, while not a complete solution as some survivors will fall through the cracks, for example, because they are unable to evidence the abuse they have experienced, eligibility for the DDVC could be expanded to all migrant survivors of abuse, regardless of immigration status and visa type. Given the complexity involved in many immigration applications involving survivors of abuse, Refuge recommends that the length of time for financial support under the DDVC is extended to six months. The Joint Committee on the Draft Domestic Abuse Bill agreed with us that the time limit for support under the DDVC should be extended. Refuge also recommends that the DVR is extended to all migrant survivors, regardless of immigration status or visa type. The outcome of the migrant survivor review that the Government committed to undertake in response to these recommendations is still unknown. The entirety of VAWG sector, led by the Step Up for Migrant Women campaign, is in agreement that there is a wealth of existing evidence demonstrating the necessity of abolishing the no recourse to public funds condition, or failing that extending eligibility for the DDVC to all migrant survivors and extending the length of time support can be accessed under the DDVC. The sector is also in agreement that the DVR must be extended to all migrant survivors.

**Refuge is therefore asking MPs during second reading to call on the Government to extend the Domestic Violence Rule to all migrant survivors, abolish the no recourse to public funds condition, and to extend the time the DDVC lasts for to six months.**

### **Other provisions**

#### **Domestic Abuse Commissioner**

Refuge welcomes the establishment of a Domestic Abuse Commissioner in the Bill and the appointment of Nicole Jacobs and the Designate Domestic Abuse Commissioner. The Commissioner could play a key role in investigating and highlighting gaps in service provision, promote best practice, oversee the collection of data, and ensure minimum quality standards are met across different domestic abuse services. We are disappointed that the Domestic Abuse Commissioner has not played a greater role in advising the Government on preventing violence against women and girls during the Covid-19 crisis. The ongoing emergency demonstrates the importance of a coordinated Government strategy to tackle VAWG, in which the Domestic Abuse Commissioner should play a key role.

The extent of the Commissioner's impact and effectiveness will depend on the remit and powers of the role and if the office of the Commissioner is adequately resourced. The Commissioner should have the

power to intervene and require agencies to improve their response to domestic abuse. At present the Bill only requires agencies to cooperate with the Commissioner and respond to their recommendations. It is also essential that the office of the Commissioner is adequately resourced. As it stands, the Commissioner role itself is only part-time, and only £1.15 million per year has been sent aside for the entire office of the Commissioner. Given the prevalence of domestic abuse, with almost one in three women aged 16-59 in England and Wales experiencing it in their lifetime and the [estimated £66 billion annual cost of domestic abuse](#), this is far from sufficient.

#### Domestic Abuse Protection Orders

Refuge welcomes the introduction of the new consolidated Domestic Abuse Protection Order (DAPO), particularly that breach of a DAPO will be an automatic criminal offence. Further, we are pleased that the new DAPO can be applied for, and will be recognised in, both the criminal and civil courts. However, the implementation of this is likely to be complex and therefore we support that the DAPO will be piloted.

Currently, the use of Domestic Violence Protection Orders (DVPOs – which DAPOs are intended to replace) is [fairly low and varies significantly across police forces](#). Substantial training and investment, as well as support from senior leadership, will be needed if DAPOs are to become a significant tool in preventing domestic abuse and protecting survivors. Without this, we would expect the use of DAPOs to be low, in line with existing orders. We are therefore concerned that at present the Government does not anticipate any significant additional costs on the police as a result of introducing DAPOs. Instead, we recommend that the introduction of DAPOs is met with adequate training and investment to ensure all police forces are using them whenever appropriate and that perpetrators are arrested and charged when they are breached.

#### Special measures in court for survivors of domestic abuse

Refuge welcomes the provisions in the Bill to ensure that survivors will automatically qualify for special measures in the criminal courts, such as giving evidence via video link or behind a screen. This will limit the potential for intimidation and re-traumatisation, enabling the survivor to give their best evidence. However, this provision does not cover the family courts, despite the arguments being the same – that special measures will support survivors to give their best evidence. The Government should take the opportunity the Bill presents to introduce automatic eligibility for special measures in the both the criminal and family courts. The use of remote proceedings during the Covid-19 crisis demonstrates that ensuring survivors have access to special measures in the family courts can be rolled out routinely in all courts. The Government should take the lessons learned from alternative court procedures and the opportunity to ensure that all survivors have routine access to special measures.

#### Cross-examination in family proceedings

Survivors often tell us that the experience of going through the criminal and family courts is re-traumatising, with survivors frequently disengaging from the process altogether. Refuge is therefore very pleased that the Bill will prohibit direct cross-examination of survivors by perpetrators, and vice versa, in the family courts. We are also pleased that the Government intends for the evidence needed to qualify for this prohibition to be in line with the legal aid evidence. However, for many women experiencing domestic abuse, providing evidence may be impossible. The Government should instead extend the ban to all family court proceedings where domestic abuse is alleged, to ensure that as many survivors are protected from the often traumatising experience of going through the family courts.

#### Extending extra-territorial jurisdiction to some domestic abuse-related offences

Refuge welcomes the provisions extending extra-territorial jurisdiction to a range of VAWG-related offences committed by UK nationals overseas.

### Polygraph testing of domestic abuse offenders

Refuge is concerned about the proposed use of polygraph testing on perpetrators of abuse released on license. The explanatory notes published alongside the draft Domestic Abuse Bill suggests that the imposition of polygraph testing on domestic abuse perpetrators would assist offender managers to assess perpetrator risk. Specifically, the guidance said tests would provide offender managers with information regarding contact with survivors or the formation of any new relationships. Refuge is concerned about the lack of evidence for the validity of polygraph testing in identifying deception. If offender managers use polygraph test results to inform their risk assessment of the perpetrator, this could put the survivor and their children at higher risk of harm given the unreliability of test results. Whilst Refuge supports the use of technology to monitor and disrupt the behaviour of perpetrators, investment and focus should be on technologies with a stronger evidence base.

### The Domestic Violence Disclosure Scheme (DVDS, or Clare's Law)

Refuge cautiously welcomes the Government's plans to put the DVDS on a statutory footing. This could increase the number of right to ask applications regarding an individual's domestic abuse-related offending history, as well as the number of right to know applications. It may also increase consistency in the use of the DVDS across different police forces. However, the majority of survivors do not report abuse to the police. Even when they do, it is increasingly unlikely that the perpetrator will be arrested and charged, as both [arrest rates](#) and [referrals to the CPS have fallen](#) over the last few years. If a woman enquires about her partner under the disclosure scheme, she may be told that he has no history of violence; she may then believe that she is safe, but this will not necessarily be the case. The DVDS should therefore only be regarded as having a very limited role in the prevention of domestic abuse. All relevant police officers should receive adequate training on the DVDS and all applicants must be told that domestic abuse perpetrators are not always known to the police and women then given information about specialist VAWG organisations.

### Secure tenancies for survivors of domestic abuse

Refuge welcomes the provisions ensuring that survivors who had a lifetime tenancy for a social home that they had to leave due to domestic abuse and are subsequently rehoused by a local authority, will be offered another lifetime tenancy. Refuge recommends that all local authority housing officers receive training on the impact of this legal change for survivors fleeing abuse.