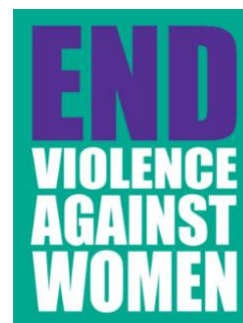


End Violence Against Women (EVAW) Coalition

Briefing for Second Reading of the Domestic Abuse Bill

24 April 2020



Need for a non-discrimination principle in line with the Istanbul Convention

Background

The Domestic Abuse Bill is a crucial opportunity to transform the response to domestic abuse for **all** victims and survivors now and in the future, but in its current form neglects the situation and urgent needs of women and children with insecure immigration status.

A truly victim-centred bill would comply with the best standards of protection in the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) - this means ensuring all victims /survivors of domestic abuse are entitled to access protection and justice regardless of their immigration status. Instead, no attention in this Bill has been paid to the rights of migrant women who have severely restricted routes to safety and support (see Southall Black Sisters [Briefing](#) on the lack of routes to safety).

It is unacceptable that migrant women with No Recourse to Public Funds (NRPF) are forced to choose between destitution and remaining with a perpetrator, or risk being treated as an immigration offender if they seek help rather than getting the protection they need. For this reason we support the call to abolish the No Recourse to Public Funds (NRPF) condition and extend eligibility for the existing Domestic Violence (DV) Rule. Currently the DV Rule and associated access to funds are only available to those on spousal visas. This prevents women subject to an NRPF condition from accessing the majority of refuge spaces and other welfare support. We believe all survivors – whether students, domestic workers or others – should be able to access an application route to regularise their immigration status independent of their perpetrator and receive public funds at the point of need in order to escape abuse.

Women with NRPF who are caring for children are theoretically entitled to continued support for their children under Section 17 of the Children Act. However, we know that these women are being refused help despite Section 17 duties, as some social services departments fail to recognise the welfare and safety of the mother as part of the duty of care to children. Of the 20 women with NRPF who were fleeing with children in 2017-18, supported by Women's Aid Federation of England's No Woman Turned Away project, social services either refused outright to fund a refuge space or provide emergency accommodation, or offered to accommodate the children in emergency accommodation but not the mother.

The second reading of this Bill is being debated in the midst of a coronavirus pandemic, this has created a context for increased domestic abuse and exacerbated significant inequalities in existing systems of support and protection for victims. Migrant women, who are at a heightened risk of the most serious and prolonged abuse, are also disproportionately reflected in the most 'at risk from COVID 19' categories. Those from a BAME background are over-represented in critical jobs in the care sector and NHS, and in other key worker roles that cannot be done from home.

The pandemic has exposed the already desperate need for an adequate and ring-fenced funded system of protection and support, which is led by the specialist 'by and for' Black and Minority Ethnic (BME) and migrant women sector. These services are expert in understanding and responding to the specific needs of different BME women. It is known that many BME women do not approach mainstream support services and only seek support from these 'by and for' services; they are trusted, the nature of their provision is culturally specific, and they have uniquely high rates of self-referrals. These life-saving services have however, been hit hardest by competitive tendering and 'austerity' cuts. Many receive no statutory funding and their services and are at most risk of being lost at this time of crisis. The Bill must build on emergency funding for the BME women's services by ensuring ongoing ring-fenced support to this marginalised but vital part of the domestic abuse support sector.

Equal access to protection and support must be a core principal for this Bill

Migrant women experiencing domestic abuse are effectively excluded from the few protective measures contained in the Bill. This means the Bill in its current form is not compliant with the requirements of Article 4, paragraph 3 of the Istanbul Convention which requires protection to be provided without discrimination on any ground, including migrant and refugee status. The need for a non-discrimination clause in the Bill was endorsed in the [Report](#) of the Joint Committee of MPs and Peers who undertook pre-legislative scrutiny of the draft Domestic Abuse Bill:

259. We recommend the inclusion of an additional clause in the Bill, imposing on public authorities dealing with a victim or alleged victim of domestic abuse, or making decisions of a strategic nature about how to exercise functions, a duty to have due regard to the need to protect the rights of victims without discrimination on any of the grounds prohibited by Article 4, paragraph 3 of the Istanbul Convention.

The Government has regrettably not incorporated this important recommendation into the Bill.

EVAW have developed a proposed amendment to the Bill, working with the Equality and Human Rights Commission (EHRC), SafeLives, and Barnardo's, and in consultation with the specialist VAWG and children's sectors. The amendment would introduce a statutory duty on public authorities to ensure that services and support are accessible to *all* victims of domestic abuse, without discrimination on any grounds, including migrant status, in accordance with Article 4(3) of the Istanbul Convention. see **Appendix 1** to this briefing for the text of the proposed amendment.

Why is this necessary?

The Istanbul Convention is the international “gold standard” in responding to violence against women and article 4(3) is one of its central principles. It is difficult to see what legitimate reason the government would have to oppose its inclusion in the Bill, when its sole purpose is to ensure protection is provided without discrimination. As the government intends to ratify the Istanbul Convention on the basis of this Bill, it is clear that without enshrining non-discrimination and taking positive steps to ensure all survivors can access protection equally, the UK will not be fully compliant.

Why so much focus on migrant status as a characteristic?

The Equality Act does not include migrant or refugee status as a protected characteristic so without a non-discrimination clause in line with Article 4(3) of the Istanbul Convention migrant victims will find it virtually impossible to access protection and support. Article 4(3) of the Istanbul Convention rightly covers a range of characteristics. Migrant status is particularly important because 1) currently migrant women find it virtually impossible to access protection and 2) perpetrators *use* immigration status as a tool of coercive control and abuse. By enshrining in law the right of migrant women to access support and protection without discrimination, we would be removing a significant tool of power that perpetrators exploit and enabling survivors to access the means they need to escape abusive situations and hold perpetrators to account.

Recommendation: *The Bill must ensure that all survivors of domestic abuse, regardless of age or immigration status, are entitled to support, equal access to welfare systems and legal tools that can provide protection from abuse, in accordance with the requirements of the Istanbul Convention which the Bill seeks to ratify.*

Recommendation: *Ring fenced funding for BME and migrant VAWG services to ensure there is sustainable funding for 'at risk' specialist women's support and advocacy services that are run 'by and for' BME women.*

Recommendation: *Abolish the no recourse to public funds (NRPF) policy which prevents many migrant women with insecure immigration status from accessing vital, often lifesaving support and routes to safety.*

Recommendation: *Extend eligibility for the existing Domestic Violence (DV) Rule, to ensure all women with insecure immigration status, not only those on spousal visas, can access a life-saving refuge space, financial support and housing.*

Recommendation: *Extend the time period for which the Destitution Domestic Violence Concession (DDVC) is provided for at least six months.*

Recommendation: *Deliver safe reporting mechanisms which ensure immigration enforcement is kept completely separate from the domestic abuse response and the safety of the victim is paramount.*

Recommendation: *Statutory guidance must make clear that those providing Section 17 support for children and their families base support on the child's need and best interests, not their parents' immigration status.*

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About the End Violence Against Women Coalition

The End Violence Against Women Coalition is a UK-wide coalition of more than 85 women's organisations and others working to end violence against women and girls (VAWG) in all its forms, including: sexual violence, domestic violence, forced marriage, sexual exploitation, FGM, stalking and harassment. We campaign for improved national and local government policy and practice in response to all forms of violence against women and girls, and we challenge the wider cultural attitudes that tolerate violence against women and girls and make excuses for it.

The EHRC Second Reading Briefing for the Domestic Abuse Bill which contains a background to the amendment in Appendix 1 can be read [here](#)

Appendix 1 – Proposed Amendment to the Domestic Abuse Bill

Duty to commission specialist support and services

Explanatory statement

This amendment would establish a clear statutory duty on public authorities in England and non-devolved authorities in Wales to commission specialist domestic abuse support and services for all persons affected by domestic abuse regardless of status. It is underpinned by a corresponding duty on the Secretary of State for Home Affairs to ensure sufficient funding for the implementation of this duty. The duty will apply to all who are affected by domestic abuse including those with insecure immigration status, children and young people. It will also include the commissioning of perpetrator programmes.

In relation to children, the amendment clearly sets out that specialist age appropriate domestic abuse support services are required. It also requires the provision of specialist services for children whether they are living in a household where there is domestic abuse or experiencing domestic abuse in their own personal relationship.

As part of this duty, the Secretary of State will ensure that sufficient funding is allocated on a three year basis to ensure public authorities can meet their statutory duties in the New Clause.

Amendment

In Chapter 1, after Clause 2 of the Domestic Abuse Bill, insert the following new clause –

New Clause 3 Secretary of State’s General Duty

The Secretary of State must take steps to ensure equally effective protection against domestic abuse and support for all victims of domestic abuse irrespective of their status including steps aimed at ensuring that:

domestic abuse is prevented;

all victims of domestic abuse receive protection and access to specialist services;

all perpetrators of domestic abuse are able to access accredited perpetrator programmes;

awareness of this Act is promoted.

In discharging the duty under section [1] the Secretary of State must –

Ensure that sufficient funding is provided annually to ensure that relevant public authorities can meet their statutory duties under Clause [4]; and

take steps to ensure continuous improvement in the outcomes that are achieved.

The outcomes referred to in subsection (b) of section [2] include, in particular, outcomes which demonstrate –

adequate and effective steps aimed at ensuring that domestic abuse is prevented;
adequate and effective protection and support for persons, including children, against domestic abuse irrespective of their status;
adequate and effective services to all adult and child victims of domestic abuse irrespective of their status; adequate and effective access for all perpetrators to accredited perpetrator programmes; and adequate and effective steps to promote awareness of this Act.

Commission specialist domestic abuse support services for victims and perpetrators of domestic abuse

It is the duty of relevant public authorities in England and non-devolved public authorities in Wales to commission sufficient specialist services for all persons affected by domestic abuse regardless of status. To ensure compliance with the duty under (a) public authorities must: regularly assess population and support needs changes as and when they happen in their area; and co-operate to discharge the duty.

The Secretary of State may issue Regulations making provision for the resolution of disputes between public authorities relating to the discharge of the duty under this section.

In performing the duty under Clause [4], a relevant public authority must secure sufficient specialist services for, in particular:

Victims of domestic abuse aged over 18.

Children who experience domestic abuse aged under 18 in their personal relationships.

Children who experience domestic abuse due to being a close relative of a person as defined in Chapter 1, Clause 1 (2).

Persons aged over 18 who exhibit abusive behaviours (as defined in Chapter 1, Clause 1 (3)) towards another person that they are personally connected to as defined in Chapter 1, Clause 1 (2).

Children aged under 18 who exhibit abusive behaviours (as defined in Chapter 1, Clause 1 (3)) towards another person that they are personally connected to as defined in Chapter 1, Clause 1 (2).

Every three years from the date on which this section comes into force the Secretary of State for Home Affairs must prepare, publish and lay before Parliament a strategic plan setting out their objectives, priorities and the measures they propose to take for the purpose of discharging their duty under section [1].

In preparing and adopting any strategic plan the Secretary of State for Home Affairs must take account of any strategy to end violence against women and girls adopted by a Minister or Ministers.

Interpretation

In this Part—

“**domestic abuse**” has the meaning given by Clause 1 of this Act.

“relevant public authorities” are public authorities with functions relevant to the provision of specialist services, and include but are not limited to,
Ministers of the Crown and Government departments
Local government in England
NHS Trusts in England
Police and Crime Commissioners
Prison Service
Police Probation Trusts

“status” includes a status for the purpose of Article 4(3) of the Council of Europe Convention on preventing and combating violence against women and domestic abuse and combined forms of such status.

“specialist services” include but are not limited to,
protective measures and action taken to protect persons against domestic abuse;
residential accommodation, including refuge services;
counselling and other support;
advocacy services;
access to welfare benefits;
perpetrator programmes;
financial support;
legal services;
helplines;
services designed to meet the particular needs of a group that shares a status to ensure appropriate and effective service provision, including separate or single-sex services within the meaning given in Part 7 of Schedule 3 of the Equality Act and “communal accommodation” within the meaning given in paragraph 3 of Schedule 23 of the Equality Act 2010;
whether provided by a public authority or other person or body.
“victims of domestic abuse” include persons who are reasonably believed to be at risk of domestic abuse.