



Home Office

Strengthening the Law on Domestic Abuse - A Consultation

August 2014

Contents

| | |
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| Ministerial Foreword | 3 |
| 1. About this consultation..... | 5 |
| 2. Introduction..... | 6 |
| 3. Background to this consultation | 8 |
| 4. Current Legal Framework..... | 10 |
| 5. Should the law be strengthened? | 11 |
| 6. Groups Affected by this Consultation | 13 |
| 7. Timescales and next steps..... | 14 |
| 8. Summary of Consultation Questions..... | 15 |

Ministerial foreword



There can be no doubt that domestic abuse is an appalling crime. It is the worst possible violation of the trust that those in close relationships place in one another. It shatters the lives of its victims, and in some cases, leads to tragic and untimely deaths. That is why tackling domestic violence and abuse has been one of this Government's top priorities.

Domestic abuse happens every day in homes across England and Wales. Within every community there are people living in fear of those closest to them. The terrifying reality is that for the most part these appalling crimes happen behind closed doors. I am clear that this must stop. We must bring domestic abuse out into the open and send a clear message that it is wrong to put your partner or your family in fear.

In recent years much has been done to improve the response to domestic abuse. Our 'This is Abuse' campaign helps young people recognise abusive behaviours. We have increased the tools available to the police through the national roll-out of the Domestic Violence Disclosure Scheme, also known as Clare's Law, and Domestic Violence Protection Orders.

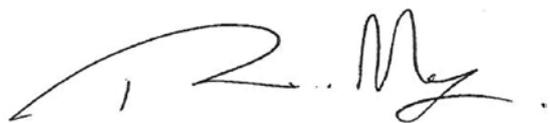
There is now a widespread understanding that domestic abuse is not just about violence. Coercive and controlling behaviour can be harder to recognise but can have an equally devastating impact on its victims. In recognition of this, in March 2013 we expanded the Government definition of domestic abuse to capture non-violent behaviour. This consultation now asks for views on whether the law needs to be strengthened to keep pace with these developments.

I know that there is a wide range of strongly held views on this issue. This consultation does not prejudge the outcome or next steps. We want to hear the views of victims and those who work in this field to understand how we can offer the best possible protection against domestic abuse.

I recognise that changing the law can only ever be one limb of our overarching strategy to end domestic abuse. In September 2013 I commissioned Her Majesty's Inspectorate of Constabulary to review the police response to domestic abuse because I was concerned that it was not as good as it should be. Sadly, when HMIC reported their findings in March, those concerns were realised.

I am clear that there must be an immediate and lasting change in the police response to domestic abuse. This means a change in culture right from the officers in charge to those on the frontline. I am chairing a National Oversight Group to make sure this happens.

Changing the law cannot be a substitute for the work I am leading to improve the police response. But this Government is committed to making sure the police have the best possible tools to do their job, and that the law provides the best possible protection to victims. We are seeking your views on how we can achieve this. I am confident that together we can eradicate domestic abuse from our society.

A handwritten signature in black ink, appearing to read 'T. May', with a large, sweeping initial stroke.

The Rt Hon Theresa May MP
Home Secretary

1. About this consultation

Why are we consulting?

This targeted consultation exercise is essential to enable the Government to fully scope and explore the potential impacts of strengthening the law on domestic abuse.

Scope of this consultation

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| Topic of this consultation: | This consultation seeks views on whether the current law on domestic abuse needs to be strengthened to offer better protection to victims. |
| Scope of this consultation: | This consultation is specifically focused on whether we should create a specific offence that captures patterns of coercive and controlling behaviour in intimate relationships, in line with the Government's non-statutory definition of domestic abuse. |
| Geographical scope: | England and Wales |
| Impact Assessment: | A consultation stage impact assessment will be available on request. |

Basic Information

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| To: | This consultation is open to the public. We will be particularly interested to hear from victims of domestic abuse, organisations representing victims, the police, criminal justice practitioners, front line workers, service providers and local authorities. |
| Duration: | 8 weeks |
| Enquiries and Responses: | Strengthening the Law on Domestic Abuse Consultation 5th Floor, Fry Building 2 Marsham Street London SW1P 4DF Email: DVoffence-consultation@homeoffice.gsi.gov.uk |
| Additional ways to become involved: | This will be an online consultation exercise. Please contact the Home Office (as above) if you require information in any other format, such as Braille, large font or audio. |
| After the consultation: | A summary of responses will be placed on the Home Office website. |
| Getting to this stage: | The Home Office has expanded the non-statutory Government definition of domestic abuse to cover coercive and controlling behaviour. The Home Secretary has also commissioned Her Majesty's Inspectorate of Constabulary to review the police response to domestic abuse. She is driving widespread and lasting improvement in the policing of domestic abuse through a new National Oversight Group, which she is chairing. We now ask whether the law needs to be strengthened to provide better protection to victims and support the work of the National Oversight Group. |
| Previous engagement: | Key partners have been consulted informally during the development of these options. |

2. Introduction

Domestic abuse is an appalling form of cruelty. Many people still do not see it as the serious crime it is. The Government defines domestic abuse as:

“any incident or pattern of incidents of controlling, coercive, threatening behaviour, violence or abuse between those aged 16 or over who are, or have been, intimate partners or family members regardless of gender or sexuality.”¹

The behaviour captured in this definition includes:

“...a pattern of acts of assault, threats, humiliation and intimidation or other abuse that is used to harm, punish, or frighten their victim”.

The latest statistics reported in the Crime Survey for England and Wales (CSEW) suggests that 30% of women and 16.3% of men will experience domestic abuse during their lifetimes².

In March this year, Her Majesty’s Inspectorate of Constabulary (HMIC) published the findings of their thematic review of the police response to domestic abuse³. The review highlighted the available evidence regarding the identity of domestic abuse victims and makes clear that anyone can experience domestic abuse regardless of their gender, ethnicity, religion, sexuality, class, age or disability.

HMIC reported that every 30 seconds someone will call the police regarding a domestic abuse related incident. 269,700 domestic abuse related crimes were reported to the police in the last year. Domestic abuse is a widespread problem, affecting people from all walks of life. It is vital that we offer protection to those trapped in cycles of abuse.

Activity to tackle domestic abuse

Tackling all forms of violence against women and girls, including domestic abuse, has been a key priority for this Government. Our plan to tackle domestic abuse is set out in our strategy document ‘A Call to End Violence Against Women and Girls’. Each year, a refreshed action plan has been published to deliver against this strategy. This has led to a range of interventions to improve the response to domestic abuse⁴.

For the first time, the Government has put stable funding in place for victims’ services, ring-fencing nearly £40 million for specialist local domestic and sexual violence support services, rape support centres, and national helplines. We introduced Domestic Homicide Reviews in April

1 <https://www.gov.uk/domestic-violence-and-abuse>

2 Office for National Statistics (2013). Focus on violent crime and sexual offences 2012/13 – Chapter 4: Intimate Personal Violence and Partner Abuse. Retrieved from: http://www.ons.gov.uk/ons/dcp171776_352362.pdf

3 Everyone’s Business: Improving the Police Response to Domestic Abuse’ <http://www.hmic.gov.uk/publication/improving-the-police-response-to-domestic-abuse/>

4 <https://www.gov.uk/government/collections/ending-violence-against-women-and-girls-action-plans>

2011 so that local areas and agencies identify lessons to be learned from tragic cases where domestic abuse is fatal to help prevent future homicides and violence. We continued the Specialist Domestic Violence Court programme that ensures domestic abuse cases receive a multi-agency approach and are handled by specially trained criminal justice staff. We also re-launched the flagship 'This is Abuse' campaign in December 2013. The campaign is aimed at preventing teenagers (13 to 18 year old boys and girls) from becoming victims and perpetrators of abusive relationships by encouraging them to re-think their views of controlling behaviour, violence, abuse, sexual abuse and what consent means within their relationships.

There have been some measurable improvements that indicate victims are safer and more perpetrators are being brought to justice. The CSEW reports that the number of victims reporting the domestic abuse they have suffered to the police has increased. The latest figures released by the Crown Prosecution Service (CPS) show that the number of domestic abuse cases being referred by the police for prosecution is at a record high (103,569 cases in the last year). Conviction rates also show that more perpetrators are being convicted for their crimes (conviction rates have risen from 59.7% to 74.6% between 2005/6 and 2013/14)⁵. In addition, the number of women killed by a partner or ex-partner in the last year was 77 - the lowest it has been in over a decade⁶. While anything more than zero domestic homicides is quite simply too many, this does suggest that lessons are being learnt from these individual tragedies. However there is still much more to do.

5 http://www.cps.gov.uk/publications/docs/cps_vawg_report_2014.pdf

6 Office for National Statistics (2013). Focus on violent crime and sexual offences 2012/13 – Chapter 4: Intimate Personal Violence and Partner Abuse. Retrieved from: http://www.ons.gov.uk/ons/dcp171776_352362.pdf

3. Background to this Consultation

The Government is committed to ensuring that the police and other agencies have the tools they need to tackle domestic violence, protect victims and bring offenders to justice.

Two leading initiatives we have introduced nationally from 8 March this year significantly improve the powers the police have to end domestic abuse. Domestic Violence Protection Orders (DVPOs) do away with the outdated idea that the onus should be on a victim to leave an abusive home. DVPOs require the perpetrator to leave the scene of their abuse, and can prevent them from returning to a residence and from having contact with the victim for up to 28 days. The Domestic Violence Disclosure Scheme (DVDS), also known as Clare's Law, entitles the police to disclose information about previous violent offending by a new or existing partner, empowering people to make informed decisions about entering potentially abusive relationships. Together, these initiatives improve the protection available to victims, but there is more to do to change public attitudes to domestic abuse and improve the police response.

In recognition that domestic abuse often features subversive exertion of power and control, in March 2013, we extended the definition of domestic violence and abuse to include coercive and controlling behaviour. Explicitly identifying the non-physical manifestations of domestic abuse helped raise understanding of the subtleties of abusive intimate relationships amongst the public and frontline agencies, including the police.

HMIC Review into the police response to domestic abuse

However, the Government remained concerned that despite these interventions the police response to domestic abuse was not as good as it should be. In September 2013, the Home Secretary commissioned HMIC to undertake a comprehensive review of how the police deal with these crimes to publicly set the tone for increased transparency and drive improvements.

The HMIC report 'Everyone's Business: Improving the Police Response to Domestic Abuse'⁷ was published on 27 March. It exposes significant failings, including a lack of visible police leadership and direction, poor victim care and deficiencies in basic policing. Some worrying findings were highlighted. Arrest rates varied wildly from 45% to 90% across the 43 police forces in England and Wales. Vital evidence was missed; photographs of injuries were taken in less than half of the actual bodily harm cases reviewed. Put simply, police officers failed to see domestic abuse as a serious crime. One victim captured the situation succinctly:

"I wanted to charge him [the perpetrator] yet I was talked out of it. I had physical evidence to say he'd hit me. To him [the police officer] it was a waste of time, or she'll only drop the charges or I can't be bothered with the paperwork. That's how I felt."

7 'Everyone's Business: Improving the Police Response to Domestic Abuse' <http://www.hmic.gov.uk/publication/improving-the-police-response-to-domestic-abuse/>

The report identified that police practice in using the current law is inadequate. HMIC also highlights failures in leadership that mean that strategic vision is not being realised in frontline policing; although domestic abuse is a feature of most Police and Crime Commissioner (PCC) Crime Plans, this does not translate to operational priorities in police forces and officers delivering good practice are not consistently recognised or rewarded. HMIC also identifies a frontline culture in which domestic abuse is often not regarded as a serious crime.

The Government is clear that this is not good enough. Lasting, meaningful improvement must happen now. The Home Secretary is leading work to drive a culture change in the policing of domestic abuse. Immediately after HMIC published its report she wrote to all chief constables making it clear that every police force must have an action plan for improvement in place by September. To make sure change happens, the Home Secretary has also established a new National Oversight Group, which she is chairing. This work is the Government's main priority on domestic abuse and will lead directly to better protection for victims.

However, in addition to important operational improvements, the Government wants to ensure that frontline agencies such as the police have the tools they need to provide the best possible protection to victims. This consultation seeks views on whether the law needs to be strengthened, with specific reference to the Government's new non-statutory definition of domestic abuse. The consultation asks whether reinforcing the law to capture patterns of non-violent behaviour within intimate relationships will offer better protection. We also welcome views on whether this will encourage victims to have the confidence to report their abuse, and cause perpetrators to rethink their behaviour.

4. Current Legal Framework

A range of existing offences capture the spectrum of behaviours set out in the Government definition of domestic abuse. These are most effectively set out in Crown Prosecution Service guidance for prosecutors⁸.

Violent Abuse

Violence in a domestic context is clearly criminal through offences that apply equally in a non-domestic setting, including common assault, battery, assault occasioning actual bodily harm, wounding with intent to cause grievous bodily harm, sexual assault and rape. According to HMIC, 96,000 assault with injury crimes reported in the last year were domestic abuse related, amounting to a third of all such crimes reported.

Non-violent Abuse

Common assault can extend to non-physical violence where there is a threat of imminent violence. Non-violent coercive and controlling behaviour is also captured by legislation that covers stalking and harassment. This does not explicitly apply to coercive and controlling behaviour in intimate relationships. However HMIC recorded 27,300 domestic abuse-related harassment crimes reported to the police in the past year, accounting for 49% of all such crimes reported. CPS data show there were 5,247 offences flagged as domestic violence charged under Section 2 Protection from Harassment Act (PHA) 1997 - course of conduct amounting to harassment - compared with 4,217 in 2012-13. There were 952 offences flagged as domestic violence charged under Section 4 PHA 1997 – putting people in fear of violence - compared with 775 in 2012-13.

⁸ <http://www.cps.gov.uk/publications/prosecution/domestic/domv.html#a20>

5. Should the current law be strengthened?

At present, there is no specific offence of domestic abuse outlining that coercive and controlling behaviour in an intimate relationships is criminal. As set out above, these behaviours are captured in stalking and harassment legislation, but this does not explicitly apply to intimate relationships. Some experts have argued that this means the law is ambiguous and perpetrators of domestic abuse are committing criminal acts but not being brought to justice.

We have brought coercive and controlling behaviour within the non-statutory Government definition of domestic abuse. We have defined controlling behaviour as a range of acts designed to make a person subordinate and/or dependent by isolating them from sources of support, exploiting their resources and capacities for personal gain, depriving them of the means needed for independence, resistance and escape and regulating their everyday behaviour. We have defined coercive behaviour as an act or a pattern of acts of assault, threats, humiliation and intimidation or other abuse that is used to harm, punish, or frighten their victim. We now ask whether the law needs to be strengthened to make it clear that these behaviours are criminal when perpetrated in an intimate relationship to control someone or cause them fear.

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

Conversely, the HMIC report on domestic abuse makes clear that the police fail to see domestic abuse, particularly in its non-violent form, as a serious crime. Acts that are clearly criminal are not referred for prosecution and arrest rate varies widely. Creating a specific offence of domestic abuse may send a clear, consistent message to frontline agencies that non-violent control in an intimate relationship is criminal. Explicitly capturing this in legislation may also help victims identify the behaviour they are suffering as wrong and encourage them to report it, and cause perpetrators to rethink their controlling behaviour.

The Government is seeking views on whether the law needs to be strengthened by creating a specific offence that criminalises coercive and controlling behaviour in intimate relationships, in line with the existing non-statutory definition. There is no need for greater clarity around violent behaviours, which are effectively criminalised through existing offences. However non-violent behaviours are criminalised through legislation that is not explicitly applicable to intimate relationships. We ask whether this framework needs greater strength to offer better protection to victims of domestic abuse.

Questions

We ask specifically for responses to the following questions:

- Does the current law adequately provide sufficient protection to victims of domestic abuse?
- In what ways could the law be strengthened?
- How would any changes you suggest be practically implemented?
- Does the current law sufficiently capture the Government's non-statutory definition of domestic abuse?

6. Groups affected by this consultation

During the initial development of this consultation, the Home Office has given due consideration to the impact it will have on different groups and does not consider strengthening the law as set out in this consultation paper highlights any specific issues in relation to:

- Race
- Disability
- Gender
- Gender Identity
- Religion, belief and non-belief
- Sexual orientation
- Age

We will take account of the evidence gathered through this consultation in developing final policy proposals.

7. Timescales and next steps

A summary of responses will be published on GOV.UK following completion of the consultation period.

If, following consideration of the consultation responses the Government's preferred way forward is to strengthen the law on domestic abuse, we will work to develop this option into formal proposals for new legislative provisions.

8. Summary of consultation questions

The Government asks for a response to the following questions:

- Does the current law adequately provide sufficient protection to victims of domestic abuse?
- In what ways could the law be strengthened?
- How would any changes you suggest be practically implemented?
- Does the current law sufficiently capture the Government's non-statutory definition of domestic abuse?

