



Home Office

**Victoria Atkins MP  
Minister for  
Safeguarding and  
Vulnerability**

2 Marsham Street  
London, SW1P 4DF  
[www.homeoffice.gov.uk](http://www.homeoffice.gov.uk)

Carolyn Harris MP  
House of Commons  
London  
SW1A 0PW

**24<sup>th</sup> October 2019**

Dear Carolyn,

### **Domestic Abuse Bill**

Both I and Wendy Morton MP, Parliamentary Under-Secretary of State for Justice, are extremely grateful to you and all the other members who spoke at Second Reading on 2 October for the passionate and supportive way in which you, and they, addressed the important issues dealt with in this landmark Bill. All members recognised that this Bill presents a once in a generation opportunity to transform the overall response to tackling domestic abuse and the Government firmly believes that the measures in the Bill go a significant way in achieving this. However, we also acknowledge that there are additional provisions that need further consideration and should be properly debated and scrutinised by the House as the Bill progresses.

In winding up at Second Reading I wanted to take the opportunity to thank members for their impassioned contributions and acknowledge the supportive way in which the debate was conducted. I recognise therefore, that I was unable to respond to many of the specific points raised and I thought that it would be helpful to set out the Government's position ahead of Committee stage.

#### Priority housing

Janet Daby along with other members, including yourself, expressed the need for victims who have been made homeless through domestic abuse to be recognised as priority need for settled housing. The Homelessness Reduction Act 2017 significantly reformed homelessness legislation in England and it is already the case that victims of domestic abuse who are pregnant, have children or are vulnerable as a result of having fled domestic abuse have priority need for accommodation. In July this year, the Government launched a review on the implementation of the Act which is due to conclude by March 2020. We will carefully consider the findings of the review and are committed to taking further action if necessary.

### Joint tenancy agreements

Vicky Ford called for changes in the law around the termination of a joint tenancies. We recognise that it is a difficult area which can give rise to some hard cases, including for example where an abusive partner seeks to end the tenancy as a form of coercive control. However, there are good practical and principled reasons for the rules on joint tenancies which seeks to balance the rights and interests of landlords and tenants. We need to give this matter serious consideration and we are committed to doing so.

### Domestic Abuse Commissioner

Diana Johnson noted the recommendation made by the Joint Committee on the Draft Domestic Abuse Bill, of which she was a member, in relation to the part-time nature of the designate Commissioner's role. The Government agreed with the Committee that the time commitment will need to be kept under review and we will undertake a formal review of the part-time nature of the designate Commissioner's role by the end of March 2020.

Luke Graham also expressed his disappointment that the Domestic Abuse Commissioner's remit does not extend to Scotland. We believe that victims of domestic abuse in all parts of the United Kingdom deserve effective protection and support, however matters relating to domestic abuse are devolved in Scotland. It therefore falls to the Scottish Government to decide whether to create a Domestic Abuse Commissioner, or equivalent, in Scotland. I should add that, with the agreement of the Scottish Government, the Bill includes measures extending the extra-territorial jurisdiction of the Scottish criminal courts in order to meet the requirements of Article 44 of the Istanbul Convention.

### Cross-examination in person in family proceedings

Angela Smith and Nick Thomas-Symonds pressed for a widening of the application of the automatic ban on cross-examination in person in the family courts. The measures in the Bill, to prohibit cross-examination in person in family court proceedings, are intended to be fully accessible to all victims and witnesses who need them. However, we are sympathetic to the fact that there may be cases in which the automatic prohibition may not apply. In these cases, new section 31T of the Matrimonial and Family Proceedings Act 1984 (as inserted by clause 75) provides the court the power to prohibit cross-examination in person where the threshold for automatic prohibition is not met but where a victim would likely suffer significant distress, or the quality of their evidence would likely be diminished.

Bob Neill also asked whether the Government will bear in mind the proposal made by the Law Society and others in this field, including those relating to representatives instructed to carry out the cross-examination.

I can assure you that we continue to consider carefully the Joint Committee's recommendations in relation to cross-examination, alongside wider considerations around how the advocate scheme will work in practice, including the Law Society recommendations. If any amendments to the Bill are required following this work, it is our intention to bring these forward at Committee stage.

## Special measures

I noted that Angela Smith called for the extension of the special measures provision in the Bill to the civil and family courts.

You may be aware that the Ministry of Justice recently convened a panel of Family Justice experts to lead a call for evidence on how the family court protects children and parents in private law children proceedings where there is a risk of domestic abuse or other serious offences. The aim of this work is to build a better understanding of the processes and challenges faced by the court when assessing potential harm against victims and their children during and after proceedings. I am pleased to report that the panel has now completed the evidence gathering stage and are currently focusing on analysing the vast amount of data collated. We anticipate a further update on their progress in the coming weeks, followed by a full report in due course.

The Civil Justice Council are also conducting a review on vulnerable witnesses within the civil courts. An extensive consultation has taken place over the summer period and we expect the Council to report in due course.

The Government will give serious consideration to the findings of both reviews which will inform future policy in relation to the family and civil justice systems.

## Perpetrator programmes

Thangham Debonnaire urged the Government to consider placing the Respect Standard for perpetrator intervention programmes on a statutory footing. Firstly, I would like to acknowledge the significant part she has played in developing the Respect Standard and welcome her continued interest, and personal contribution, to this work.

The Government continues to support the important work of Respect, who are fostering quality and innovation in the provision of perpetrator programmes and, through their service standards, are helping to ensure that programmes are delivered safely and effectively.

Intervention programmes targeted at convicted perpetrators are already accredited by the Ministry of Justice Correctional Services Accreditation and Advice Panel (CSAAP), which is a panel of independent experts who assess programmes against a set of evidence-based principles. We are also working to ensure that we are meeting the needs of people who have been convicted but who are not eligible for the perpetrator programmes accredited by the Ministry of Justice CSAAP, which may include those serving shorter sentences. That is why in our consultation response published in January we have committed to promoting CSAAP-approved evidence-based principles to guide the quality of other perpetrator interventions that may not be suitable for full accreditation – further information about these principles is published at: <https://www.gov.uk/guidance/intimate-partner-violence-domestic-abuse-programmes#programmes-for-perpetrators-of-domestic-violence>.

However, we recognise that the framework for working with perpetrators of domestic abuse is complex and that there are variations in approaches across agencies and local areas, particularly in relation to perpetrators who have not been convicted. That is why in our consultation response published in January we have also committed to work with specialist domestic abuse organisations to assess the range of interventions currently available for perpetrators who have not been convicted of a domestic abuse offence. The independent Domestic Abuse Commissioner will also play a key role in holding local areas

to account for the quality and safety of the services that they provide and in ensuring the effective commissioning of these services, including perpetrator intervention programmes.

### Istanbul Convention

Angela Crawley raised the Istanbul Convention and I can confirm that the Government is committed to ratifying the Convention as soon as practicable. In line with the requirements of Eilidh Whiteford's Preventing and Combating Violence Against Women and Domestic Violence (Ratification of Convention) Act 2017, the next annual report on progress towards ratification is due to be published by 1 November and will set out the Government's position in full.

### Extra-territorial jurisdiction (ETJ)

Naz Shah raised the tragic case of her constituent, Samia Shahid, who was the victim of an alleged 'honour killing' in Pakistan in 2016, and asked if the ETJ measures in the Bill would cover such cases. You will appreciate that I cannot comment on individual cases, but I set out below the extent to which the UK courts already have extra-territorial jurisdiction for offences such as rape and murder and how the Bill will extend their existing powers.

The UK courts already have jurisdiction for certain sexual offences, including rape, committed outside the UK by a UK national or resident where the victim of the crime is under 18. The Domestic Abuse Bill extends the courts' powers so that in future they will also have jurisdiction for rape (and certain other sexual offences) committed outside the UK by a UK national or resident where the victim of the crime is 18 or over.

In terms of murder and manslaughter, the UK courts have jurisdiction in all cases where those offences are committed abroad by a UK national and in most cases where they are committed abroad by a person who is habitually resident in the UK. There is, however, a small gap in UK law where murder or manslaughter is committed abroad by UK residents who are not nationals of "convention countries" for the purposes of the Suppression of Terrorism Act 1978 (which, despite its title, is not limited to terrorism-related offences and extended significantly extra-territorial jurisdiction for murder and manslaughter). For example, the UK courts do not currently have jurisdiction over a UK resident of Pakistani nationality who commits murder in Pakistan because Pakistan is not a 'convention country' for the purposes of the 1978 Act. But the Bill includes provision to close this gap so that the courts will in future have jurisdiction in all cases where murder or manslaughter is committed abroad by a person who is habitually resident in the UK.

### Prosecution statistics

Yvette Cooper raised concerns around the decline in police referrals to the CPS and the number of prosecutions for domestic abuse. I understand that the CPS continue to work closely with the police, locally and nationally, to ensure appropriate referrals are made by the police and to address any decline in referrals where needed. It is vital that the systems in place are effective in holding perpetrators to account for their actions. The Government takes this issue seriously and continues to closely monitor this issue through the Home Secretary chaired National Oversight Group on the police response to domestic abuse.

The Government's pledge to recruit 20,000 police officers over the next three years and provide additional funding for prisons and the CPS demonstrates our commitment to ensure that the police and other criminal justice agencies have the resources they need to tackle all crime and protect all victims.

## Crime Survey of England and Wales

During the debate you voiced concerns that data relating to domestic abuse does not account for victims over the age of 74. I understand that the Office for National Statistics (ONS) increased the age limit from 59 to 74 years in April 2017. Prior to that they assessed uptake from older participants alongside consideration of ease of use to determine whether the upper age limit could be completely removed. Testing showed that self-completion acceptance declined as age increased, with the proportion of people completing the modules decreasing significantly for those aged 75 and over. Therefore, the upper age limit was raised to 74 but was not removed completely.

I have written to the ONS on this issue and will share further information I receive on this matter in due course.

## Controlling or coercive behaviour offence

James Cartlidge asked the Government to consider expanding the controlling or coercive behaviour offence to capture professional relationships. In September last year, I met with James to discuss this issue and the specific case relating to his constituent's daughter, as mentioned during the debate.

The controlling or coercive behaviour offence was introduced to close a gap in the law around patterns of controlling or coercive behaviour that occur during a relationship between intimate partners, former partners who still live together or family members. Amending the offence to incorporate professionals could have many unintended consequences. For example, paid carers who legitimately have to undertake actions that the person they are caring for does not want nor understand would not be protected. Furthermore, widening the scope of the offence to capture professional relationships would also impact the statutory definition of domestic abuse.

The Government believe that it is vital we ensure the thrust and aim of this offence – namely to protect victims of domestic abuse from perpetrators – is not diluted. We will, however, continue to work with James and others to determine whether there are other solutions to this problem.

I am copying this letter to Wendy Morton MP as well as all MPs who spoke at Second Reading, and I am placing a copy in the library of the House.

Yours sincerely,



**Victoria Atkins MP**