



MoJ ref: ADR85448

15 February 2021

Dear Baroness Hamwee,

DOMESTIC ABUSE BILL – DEFENCE FOR VICTIMS OF DOMESTIC ABUSE WHO COMMIT CRIME

I agreed to write to you regarding your point on whether the Government will give an assurance that in cases where an individual is a victim of domestic abuse, but acts in self-defence or commits a crime, that consideration is given to the circumstances that have caused that individual to resort to such measures. The Government does of course sympathise and recognise the harm suffered by victims of domestic abuse. Indeed, it is why the Domestic Abuse Bill was brought forward: to strengthen the statutory agency support available to victims and survivors, and improve the effectiveness of the justice system response to domestic abuse. We aim, through raising the profile of this often devastating behaviour, particularly its wide-ranging and pernicious nature, that it will both alert and increase the understanding of all those involved in the criminal justice system.


As I said during Committee stage of the Domestic Abuse Bill, there are several defences which are potentially available in law to those who commit offences in circumstances connected with their involvement in an abusive relationship. These include the full defences of duress and self-defence, which are available to all victims of crime, including those who suffer domestic abuse. If pleaded successfully, they can result in acquittal. In addition, where a person accused of a criminal offence has been subjected to domestic abuse, this will also be considered throughout the Criminal Justice System - from the police investigation, through to the CPS charging decision, to defences under the existing law, and as a mitigating factor in sentencing. It is important, however, that where a victim of domestic abuse commits a crime as a result of the abuse they have received, they make their legal representatives and the CPS aware as soon as possible and provide details of their domestic abuse history, as this could have an impact on any charging decisions and when considering guilty pleas.

That said, it is also the duty of Government to ensure that there is fair and equal access to justice for all. Where a victim of domestic abuse acts in self-defence or commits another crime, this needs to be offset against the harm that results and the impact this has had on the victim. It is important to ensure, wherever possible, that people do not resort to criminal behaviour. It is, as I referred to during my speech at Committee, important that this ethos remains. It is a factor which is currently reflected in the law and one that the Government believes strikes the right balance between taking account of behaviour which led to the crime but also the impact and injuries that may be sustained by the victim as a result of that crime.

I am placing a copy of this letter in the Library of the House as well as copying to those peers who participated in the debate on this matter.

I hope this further explanation is helpful.

Yours sincerely,

A handwritten signature in blue ink that reads "David Wolfson". The signature is written in a cursive style with a small flourish at the end.

**LORD (DAVID) WOLFSON
OF TREDEGAR, QC**