Introduction

- Women’s Aid is the national charity working to end domestic abuse against women and children. Over the past 40 years Women’s Aid has been at the forefront of shaping and coordinating responses to domestic violence and abuse through practice. We empower survivors by keeping their voices at the heart of our work, working with and for women and children by listening to them and responding to their needs. We are a federation of over 220 organisations who provide more than 300 local lifesaving services to women and children across the country.
- Women’s Aid welcomes the opportunity to submit evidence to the Justice Select Committee Inquiry into Restorative Justice and will restrict our comments to our areas of expertise.
- Women’s Aid believes that there are limitations in the use and effectiveness of restorative justice practices in cases of domestic abuse due to the power imbalance between the victim and perpetrator and the intimate nature of their relationship.
- We would like to see stronger recognition from the Ministry of Justice of these limitations and to ensure that restorative justice is not offered proactively to victims of domestic abuse; is only made available on request from victims when it is clear that request is genuine and not coerced; and, is delivered by providers who meet a minimum set of standards on their understanding of the dynamics and nature of domestic abuse, coercive and controlling behaviour and its impact on the victim.

Restorative Justice and domestic abuse

- Domestic abuse is a serious and violent crime with often long-lasting devastating impact on the victim. The majority of victims will experience coercive control and have their mental health impacted by the abuse. For many victims it will have been going on for many years and will have long term effects on their lives and in some cases survivors may experience Post Traumatic Stress Disorder or other related illnesses. It is for these reasons that restorative justice can be potentially harmful for victims of domestic abuse and can be another way for a perpetrator to continue their control and abuse.
- The Government has recognised that the very essence of domestic abuse is power and control, through the criminalisation of controlling and coercive behaviour. The new criminal offence of ‘Controlling and coercive behaviour in an intimate or family relationship’ came into force on 29 December 2015 and comes with a maximum sentence of five years.
- Coercive control is at the heart of domestic abuse with 95 out of 100 domestic abuse survivors in one study reported experiencing coercive control. The Home Office states that the new offence of controlling and coercive behaviour, “ sends a clear message that this form of domestic abuse can constitute a serious offence particularly in light of the violation of trust it represents and will provide better protection to victims experiencing repeated or continuous abuse. It sets out the importance of recognising the harm caused by coercion or control, the cumulative impact on the victim and that a repeated pattern of abuse can be more injurious and harmful than a single incident of violence.”
- Furthermore, victims of domestic abuse often experience the abuse for a long time before reporting to the police or any statutory service. Women’s Aid Annual Survey of 671 victims who had used domestic abuse services found that the majority of victims had experienced abuse for between one and five years (46% of women in refuge and 37% of those using community based services).
- We also know that the impact of domestic abuse on victims is huge and long-lasting. Women’s Aid Annual Survey of 671 domestic abuse victims also found that the vast majority of domestic abuse victims (95.2% of women who used refuge services and 92.7% of women...
supported by community based services) have suffered adverse effects on their mental health
as a result of the abuse\(^{iv}\).

- Restorative justice implies a position of equality and of equal bargaining power between two
  parties. Yet fear is a significant factor influencing the behaviour and decisions made by
  women experiencing domestic abuse. As described, domestic abuse is characterised by an
  imbalance of power so any intervention that encourages conversation or mediation will result
  in further attempts to manipulate, dominate and threaten the victim. Women are likely to be
  pressurised into participating in a restorative justice process if it is available.
- They will inevitably not be able to participate or speak freely and may be subject to very
  subtle signals (such as a particular look or gesture) that serve as a threat, which often go
  unnoticed by a third party.
- We are concerned that restorative justice is not seen as an alternative to criminal proceedings
  where a crime has been committed. Using restorative justice in this way minimises the
  victims experience and the serious nature of domestic abuse and controlling and coercive
  behaviour.
- Furthermore, many victims of domestic abuse do not currently feel like the justice system is
  adequately achieving justice for them. For example, 89% of survivors of domestic abuse who
  responded to an APPG Inquiry into access to justice felt there were barriers to women
disclosing domestic violence to the police and/or other criminal justice agencies\(^{v}\). The
effective sanctioning of perpetrators for the crimes they have committed is critical in order to
increase access to justice for victims and their confidence in the system.
- We believe that due to the serious and repetitive nature of domestic abuse and coercive and
  controlling behaviour; and the devastating impact it has on its victims; restorative justice
should not be offered proactively to domestic abuse victims and minimum standards for
providers on their understanding of domestic abuse should be introduced and adhered to.

**Recommendations**

- We strongly recommend that advice and information on restorative justice states clearly that it
  should not be offered to victims of domestic abuse and is only delivered on request when it is
  clear that request is genuine and not coerced.
- We strongly believe that restorative justice should never be seen as an alternative to a
  criminal prosecution.
- We would like to see promotion of minimum standards and understanding of domestic abuse,
  its gendered nature and impact for professionals working within restorative justice.
- We would like to see stronger recognition from the Ministry of Justice of the limitations of
  restorative justice and to ensure that restorative justice is not offered proactively to victims of
  domestic abuse; is only made available on request from victims when it is clear that request is
  genuine and not coerced; and, is delivered by providers who meet a minimum set of standards
  on their understanding of the dynamics and nature of domestic abuse, coercive and
  controlling behaviour and its impact on the victim.

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iii Women’s Aid Annual Survey 2014 of 671 domestic abuse service users
iv Women’s Aid Annual Survey 2014 of 671 domestic abuse service users
v Hawkins, S & Laxton, C. From reporting to sentencing: women’s access to Justice (APPG on Domestic Violence, Women’s Aid 2014)