

IMPACT OF THE DOMESTIC ABUSE (DA) BILL

Impact on agencies (more detail is provided in Appendix One):	
Cross-government statutory definition of domestic abuse	Impacts all partner agencies. All training, policies, procedures and communications plans will require updating to reflect the new statutory nature of the definition and emphasise that non-violent abuse such as economic abuse must be treated with the seriousness it deserves.
Creation of the role of Domestic Abuse commissioner	Impacts all statutory partner agencies. All statutory agencies/local authorities must be mindful that the DA Commissioner will have a role in monitoring their response to domestic abuse and holding them and the Government to account in tackling DA. Specified public bodies (not yet defined) will be under a duty to cooperate with the commissioner, and they and government ministers will be required to respond to each recommendation made to them within 56 days.
New Domestic Abuse Protection Notice (DAPN) and Domestic Abuse Protection Order (DAPO)	Impacts primarily on Police, Courts, HM Prison & Probation Service. There will be significant investment required in training police and courts to understand the new orders. An increase in protective order applications and criminal breach proceedings is expected which will increase the burden on police and courts to not only respond, but monitor for breaches. There will also be additional costs to Police and HMPPS associated with Electronic Monitoring and enforcement of EM requirements.
Special measures for adult victims of domestic abuse in court	Impacts on Police and Courts. Screening, hearing a witness in private and removal of wigs and gowns are expected to have negligible impact on HMCTS. Costs to HMCTS associated with video cross-examination and live link are uncertain but could be substantial. Additional costs may fall on other entities such as the police (who may need to offer a video link from a police station) or rape support centres, where the victim does not wish to enter court, or by undertaking additional video recorded interviews.
Prohibiting cross examination of victims by accused DA perpetrators in family proceedings	Impacts on Courts. An effective mechanism would need to be set up to source and appoint legal representatives. Work is still required to establish the cost of administering this, or the costs of any necessary system changes. At present this means the additional costs of funding legal representatives to prevent victims having to cross examine their alleged abusers have not been quantified. HMCTS will also face administrative costs.
Mandatory polygraph examinations of high risk domestic abuse offenders on license	Impacts on HM Prison and Probation Service. This measure will initially be piloted. The estimated costs to HMPPS of running a 3-year pilot, includes staffing costs, training costs, travel and subsistence, legal, IT and evaluation costs are £0.5m per year. This does not include any costs of a potential full roll-out.
Placing the guidance supporting the Domestic Violence Disclosure Scheme (“Clare’s law”) on a statutory footing	Impacts on Police. This measure seeks to encourage the greater use of an existing scheme. The costs of implementing this measure are assumed to only impact the police through increased use of ‘Clare’s Law’.

Granting of secure tenancies in cases of domestic abuse	Impacts on boroughs/district councils and housing associations. The secure tenancies measures within the Bill will apply to tenants of local authorities and private registered providers of social housing (housing associations) in England. This is not a new requirement as local authorities already have a duty to grant secure tenancies to victims of DA through the 'Secure Tenancies (Victims of Domestic Abuse) Act 2018'. Part 7 of the Housing Act 1996 is also amended in relation to homelessness in England to give homeless victims of DA priority need for accommodation.
Support of victims and their children in accommodation-based domestic abuse services	Impacts on Surrey County Council and boroughs/district councils. The expectation is that a broad variety a safe accommodation is provided. There are clear expectations on cross border collaboration to meet the needs of all victims including those presenting from outside the locality. The Tier 1 authority (SCC) will: convene and chair a board to make commissioning decisions; conduct a needs assessment and produce a multi-agency strategy for delivery of safe accommodation; pass down adequate funding to Tier 2 authorities to fulfil agreed delegated commissioning requirements; report back to MHCLG. Tier 2 authorities have a statutory duty to co-operate with the county Board.
Extending the extraterritorial jurisdiction of the criminal courts in England and Wales, Scotland and Northern Ireland to further violent and sexual offences	Impacts on HM Prison and Probation Service. Most of the estimated costs associated with this measure impact HMPPS and will be associated with an increase of prison places. There will be costs associated with transporting evidence, victims, witnesses and defendants to the UK, police/prosecutors gathering evidence overseas and an increase in prison places. It is not clear which agency would bear these costs.

Summary of amendments to the DA Bill (given up to and including Monday 6 July 2020)

(Please note: to date no impact assessment or guidance has been published in relation to these new amendments)

- Children as victims of DA, this new clause provides that references in the Bill to a victim include children who see or hear, or experience the effects of, the abuse
- Special measures in family proceedings to ensure victims of DA are automatically eligible for access to special measures in family proceedings
- Special measures in civil proceedings: victims of specified offences, where their vulnerability is likely to diminish the quality of their evidence
- Prohibit cross examination in person in civil proceedings, where either the quality of the witness evidence would otherwise be diminished, or such cross examination would be likely to cause significant distress to the witness
- Consent to serious harm for sexual gratification not a defence i.e. a person may not consent to the infliction of serious harm for the purposes of obtaining sexual gratification
- The Secretary of State must commission research into the impact of pornography consumption on level of domestic abuse
- The Secretary of State must commission research on incidence of domestic abuse in the context of different forms of relationship including marriage, civil partnerships and cohabitation
- The Secretary of State must provide a report reviewing trends in the incidence of domestic abuse and sentencing for DA offences over the last 10 years with a view to making policy recommendations including with respect to increasing both minimum and maximum sentences for DA offences

- No defence for consent to death, to prevent consent of the victim from being used as a defence to a prosecution
- No defence for consent to injury, to prevent consent of the victim from being used as a defence to a prosecution in cases on domestic abuse which result in serious injury
- Require the consent of the Director of Public Prosecutions if, in any homicide case in which any of the injuries were inflicted in the course of DA, the charge (or the plea to be accepted) is of anything less than murder
- Require that the Director of Public Prosecutions consult with immediate family of the deceased on charging decisions where an offence less than murder is considered
- Offence of non-fatal strangulation, to create a new offence of non-fatal strangulation
- Prohibition of reference to sexual history of the deceased in domestic homicide trials
- Anonymity for victims in domestic homicides where the victim had died in the course of sexual activity

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Further detail of impact:

Provision	Summary	Lead agency	Impact & Amendments
Cross-government statutory definition of domestic abuse	“Behaviour of a person (“A”) towards another person (“B”) is “domestic abuse” if A & B are each aged 16 or over and are personally connected to each other, and the behaviour is abusive. Behaviour is “abusive” if it consists of any of the following: physical or sexual abuse; violent or threatening behaviour; controlling or coercive behaviour; economic abuse; psychological, emotional or other abuse”	All	Putting the government definition in statute will contribute to the required culture change around DA helping police and other agencies to understand the true nature of the crime by explicitly including non-violent DA and in particular economic abuse within the definition. All training and awareness raising will need to take account of the new definition.
Creation of the role of Domestic Abuse commissioner	The Bill will establish the office of the DA Commissioner in law, to provide public leadership on domestic abuse issues and play a key role in overseeing and monitoring the provision of DA services. The commissioner will be tasked with encouraging good practice in preventing DA; identifying victims and survivors, and perpetrators of DA, as well as children affected by DA; and improving the protection and provision of support to people affected.	All	The commissioner will have the power to publish reports and lay them before Parliament; these reports will hold local commissioners, statutory agencies and national government to account and make recommendations on how they can improve their response. Specified public bodies will be under a duty to cooperate with the commissioner, and they and government ministers will be required to respond to each recommendation made to them within 56 days
New Domestic Abuse Protection Notice (DAPN) and Domestic Abuse Protection Order (DAPO)	The Bill introduces a new civil Domestic Abuse Protection Notice (DAPN) to provide immediate protection following a domestic abuse incident, and a new civil Domestic Abuse Protection Order (DAPO) to provide flexible, longer-term protection for victims. Breach of a DAPO will be a criminal offence, carrying a maximum penalty of five years’ imprisonment. DAPNs and DAPOs will be introduced as a pilot in a small number of police force areas across the UK to assess the effectiveness and cost impacts of the new model prior to any national roll out. The Bill will repeal the current Domestic Violence Protection Notices (DVPNs) and Domestic Violence Protection Orders (DVPOs)	Police, Courts, HMPPS	Enabling more people (i.e. victims of non-violent DA offences and a broader range of agencies) to apply for a DAPO there will be an increased volume of applications and demand on courts, police and others to support those applications. The orders are designed to be more effective at protecting victims as they can be used flexibly to cover all types of DA cases and conditions attached can be tailored according to the risk. For these new orders to be effective they will require complementary local perpetrator-focused work providing a coordinated multi-agency response to disruption of the perpetrators’ abusive behaviour.

Special measures for adult victims of domestic abuse in court	The Bill provides that all domestic abuse victims are eligible for assistance when giving evidence in criminal proceedings. This could enable them, for example, to give their evidence from behind a screen or via a video link. In the criminal courts, the effect of the bill is that victims of DA will be automatically eligible for special measures as “intimidated” witnesses. They will not have to satisfy the fear or distress test for eligibility. There is no comparable fear or distress test in the family courts. Instead, the court is under an express duty to consider whether parties or witnesses are vulnerable and, in particular, must take any concerns about abuse into account.	Police & Courts	The range of measures should help to mitigate additional sources of stress when providing evidence. It may also help victims of DA to offer better evidence which in turn could result in improved justice outcomes. There is the potential for financial implications to courts with video cross-examination and live link and other entities such as the police who may offer video link from a police station or rape support centres where the victim does not wish to enter court. There is also the potential for an increase in the number of video recorded interviews.
Prohibiting cross examination of victims by accused DA perpetrators in family proceedings	These provisions will introduce a ban on cross-examination in person where one party has been convicted of, given a caution for, or charged with certain offences against the other party; or where one party has an on-notice protective injunction in place against the other party; or where it would be likely to either diminish the quality of the witness’s evidence or cause significant distress. The provisions also give the court a power in specified circumstances to appoint a legal representative to conduct cross-examination on behalf of a party who is prohibited from cross-examining in person. The court-appointed advocate will be paid from central funds.	Courts	Vulnerable witnesses would benefit from this provision by avoiding the distress of being cross examined in person by, or of having themselves to cross-examine, their alleged abusers. HMCTS will face administrative costs from this policy, managing the process of confirming booking, cancelling if required and signing off the appearance of publically funded representatives. In order to ensure that there are enough legal representatives available to carry out cross examinations, the Ministry of Justice will need to establish a mechanism for sourcing and appointing legal representatives in an effective and timely manner.
Mandatory polygraph examinations of high risk domestic abuse offenders on licence	Provisions in the Bill will enable the Secretary of State for Justice to impose mandatory polygraph examinations on high risk domestic abuse perpetrators. The legislation will require those who meet the eligibility criteria to take a polygraph test three months post release from custody and every six months thereafter, unless the test is failed. In such circumstances the offender will be required to take the test more frequently. (This approach will commence with a pilot of approximately 600 offenders in two National Probation Service (NPS) areas and will be evaluated by an independent academic body before roll out of mandatory polygraph examinations to all high risk domestic abuse perpetrators).	HMPPS	It is hoped that this approach will improve risk management of on license offenders and provide better risk-related information to agencies such as the police and social services. The pilot should also provide additional evidence of the use of polygraphs for this cohort of offenders. At present, knowing whether or not the offender has breached their licence conditions is often reliant on self-reporting which gives high risk offenders considerable scope to breach conditions without any detection.

Placing the guidance supporting the Domestic Violence Disclosure Scheme (“Clare’s law”) on a statutory footing	The Domestic Violence Disclosure Scheme (DVDS, also known as “Clare’s Law”) enables the police to disclose information to a victim or potential victim of domestic abuse about their partner’s or ex-partner’s previous abusive or violent offending. The Bill will put the guidance on which the DVDS is based into statute. This will place a duty on the police to have regard to the guidance and will strengthen the visibility and consistent operation of the scheme.	Police	Improving and increasing police application of the scheme would provide greater and earlier protection to potential victims of domestic abuse and potentially increase victims’ trust in the justice system. There is a financial/resource risk that will impact police through increased use of the scheme.
Granting of secure tenancies in cases of domestic abuse	The Bill supports victims of domestic abuse in social housing to leave their abusive situation. It will also help them build a new life for themselves and their families in safety and security, when they choose to stay in their home once the perpetrator has left. The Bill will require local authorities, when re-housing an existing lifetime social tenant, or offering them a new sole tenancy in their own home, to grant a new lifetime tenancy if the local authority is satisfied that the tenant or a member of their household has been a victim of domestic abuse. (Full details of this measure have previously been published in the Department for Communities and Local Governments Secure Tenancies - Victims of Domestic Abuse Bill 2017-19).	Borough & District Councils and Housing Providers	These measures will ensure that the move to fixed term tenancies is not a disincentive to prevent those who suffer domestic abuse from leaving their abusive partner; and that they and their families are provided with stability and security in their new home. The main impact will be on stock holding local authorities as they will be required to offer a further lifetime tenancy to social tenants forced to flee their home to escape domestic abuse. It is expected that victims of domestic abuse are more likely to leave an abusive situation, if they are guaranteed that they will not lose their security of tenure.
Support of victims and their children in accommodation-based domestic abuse services	The Bill will introduce a four part duty, to lead authorities (Tier 1 i.e. County Councils) to convene a multi-agency Local Domestic Abuse Partnership Board, which must perform certain specific functions, as outlined and explained in statutory guidance. These are to: Assess the need and demand for accommodation-based support for all victims, including those who require cross-border support; Develop and publish strategies for the provision of support to cover the locality and diverse groups of victims; Make commissioning/de-commissioning decisions; Meet the support needs of victims; Monitor and evaluate local delivery; Report back to central government. Tier 2 district, borough councils have a duty to co-operate with the Local Domestic Abuse Partnership Board.	SCC and borough/district councils	Tier 1 lead authorities will need to establish if existing governance boards and structures are fit for purpose to deliver against this duty, or if a new dedicate board should be established. The selected approach must be able to meet all the requirements set out under the duty and expectations in future statutory guidance which will set out how delivery will work in practice. Decisions on any funding available to support this duty will be made as part of the Governments Spending Review in 2020 ahead of the new duty coming into force.

<p>Extending the extraterritorial jurisdiction of the criminal courts in England and Wales, Scotland and Northern Ireland to further violent and sexual offences</p>	<p>The Bill will extend the jurisdiction of UK courts so that, UK nationals and residents who commit certain violent and sexual offences outside the UK may be brought to trial in the UK. The Council of Europe Convention on preventing and combating violence against women and domestic violence (“the Istanbul Convention”) provides for standards that are binding in international law to prevent violence against women and domestic violence, to protect victims and to punish perpetrators.</p> <p>The UK signed the Istanbul Convention in June 2012 and the government is committed to ratifying it as soon as possible.</p>	<p>HMPPS</p>	<p>Ratifying the Istanbul convention would enhance the UK’s reputation as a world leader in tackling violence against women and demonstrate the Government’s commitment to eliminating such violence. There will be costs associated with transporting evidence, victims, witnesses and defendants to the UK and police/prosecutors gathering evidence overseas and the provision of additional prison spaces.</p>
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