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| Country and target area of study | England and Wales  |
| Your name and title              | Dr Paula S. Wilcox |
| Reporting date                   | 31 January 2018    |

This report provides an overview of complex terminology, rights, laws, processes and procedures in England and Wales with regard to domestic violence and abuse. The report is for information purposes only and does not constitute legal advice. The information contained in this report is accurate according to data available in the public sphere as at end January 2018. The law may have changed since then and anyone experiencing domestic violence and abuse should seek legal advice on the current law.

## I. Outline of the legal protection for domestic violence victims and their children

- ※ Including the legal definition of domestic violence in your target area of study
- ※ Including names of laws or regulations

In England and Wales the Home Office is the lead government agency for policy and legislation on domestic violence and abuse. Incidents of domestic violence and abuse are largely dealt with as crimes in this target area. As crimes of domestic violence and abuse are disproportionately gendered, with women more likely to be victims and men more likely to be perpetrators, domestic violence and abuse crimes are included in the government's violence against women and girls strategy. In 2016 the Home Office published '*Ending Violence Against Women and Girls (VAWG) Strategy: 2016 to 2020*'. The government framework to protect domestic violence and abuse victims is based on what is called the four P's: prevention, provision of services, partnership working and pursuing perpetrators.

The policy area addressing domestic violence and abuse is incredibly complex and despite different policy areas considering victims' needs, policy commitments need to be more evident in reality. After disclosure of domestic violence, some victims face barriers to accessing legal support and others feel trapped and unable to escape their perpetrator because of practical barriers in accessing housing and finance.

In terms of defining domestic violence and abuse, there is a legal definition in the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO):

“'[D]omestic violence' means any incident of threatening behaviour, violence or abuse (whether psychological, physical, sexual, financial or emotional) between individuals who are associated with each other.” (Schedule 1, Pt.1, para.12(9)). This definition echoes the non-legal definition of domestic violence that was used by the Government until 2013, when the non-legal definition was changed so

that “domestic violence and abuse” is now defined as follows, please note this is not a legal definition:

“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. The abuse can encompass, but is not limited to:

- psychological
- physical
- sexual
- financial
- emotional

Controlling behaviour is 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.

Coercive behaviour is 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.

The changes to the definition of domestic raise awareness that young people in the 16 to 17 age group can also be victims of domestic violence and abuse”.

[www.homeoffice.gov.uk/crime/violence-against-women-girls/domestic-violence](http://www.homeoffice.gov.uk/crime/violence-against-women-girls/domestic-violence)

There is guidance on the Home Office website on forced marriage, so-called ‘honour’ based violence and female genital mutilation (FGM), and it is made clear that victims are not confined to one gender or ethnic group.

## **Legal Protection**

Victims of domestic violence have rights under the criminal and civil law systems in England and Wales. Violence from a known person is as much an assault as violence from a stranger and therefore victims of domestic violence can access criminal laws against assault – see A. Criminal Legislation. Victims of domestic violence can also apply for a civil court order to tell their abuser to stop harassing or hurting them, or to keep away from their home – see B. Civil Legal Protection. They can also get help with emergency or temporary accommodation – see Section II. Finally the law can also help to protect children. Victims can apply to the Family Courts for an order specifying where and with whom the children should live, and regulating contact with the other parent – see Sections 5, 6 and 7.

### **A. CRIMINAL LEGISLATION**

The criminal law is primarily aimed at punishing the offender. The police together with the Crown

Prosecution Service (CPS) initiate the process. Criminal cases are heard in either the Magistrates' Court or the Crown Court depending on the severity of the charge.

Domestic violence takes many forms. To deal with it, the criminal law provides a variety of offences that can be prosecuted. In order to aid prosecutors, the CPS has produced an aide-memoire please see [www.cps.gov.uk/legal/d\\_to\\_g/domestic\\_violence\\_aide-memoire/index.html](http://www.cps.gov.uk/legal/d_to_g/domestic_violence_aide-memoire/index.html) some examples are:

Pressuring a victim/witness to "drop the case" or not to give evidence.

Possible Offences: Witness intimidation, obstructing the course of justice, conspiracy to pervert the course of justice.

Physical violence, with or without weapons, including: punching, slapping, pushing, kicking, head-butting, and hair-pulling.

Possible Offences: Common assault, actual/grievous bodily harm, wounding, attempted murder.

Neglecting, abandoning or ill-treating a child.

Possible Offences: Child cruelty.

So-called honour crimes.

Possible Offences: Murder, aiding and abetting suicide.

Female circumcision.

Possible Offences: Female genital mutilation.

#### **Legislation enacted to address domestic violence and abuse:**

The **Protection from Harassment Act 1997** (as amended) provides both civil and criminal remedies. These include non-harassment and restraining orders (Library briefing paper 6648, The Protection from Harassment Act 1997 discusses these in more detail).

The Government amended the 1997 Act in November 2012 to introduce **two explicit offences of stalking** (Library Briefing Paper 6261, Stalking: Criminal Offences). Stalking can be a continuation of domestic violence and abuse after a violent relationship has broken up. The new offences will become sections 2A and 4A of the Protection from Harassment Act 1997 Act. Though there are only two new sections they actually create 3 new offences namely s2A(1) "Stalking", s4A(1)(b)(i) "Stalking involving fear of violence", and s4A(b)(ii) "Stalking involving serious alarm or distress".

#### **Adoption and Children Act 2002, section 120**

Amended the definition of 'harm' in Section 31(9) of the Children Act 1989 to include 'impairment suffered from seeing or hearing the ill-treatment of another'. This makes witnessing domestic abuse a reason to take action to protect a child from harm. Applies to England and Wales.

#### **Female Genital Mutilation Act 2003**

FGM has been a criminal offence in the UK since 1985. In 2003 it also became a criminal offence for UK

nationals or permanent UK residents to take their child abroad to have female genital mutilation. Anyone found guilty of the offence faces a maximum penalty of 14 years in prison.

#### **Domestic Violence, Crime and Victims Act 2004**

The Act relates to criminal justice for adults and children giving direction for the legal protection and assistance to victims of crime, in particular domestic abuse (UK wide legislation). Extended provisions to help stop domestic abuse and created the new offence of "causing or allowing the death of a child or vulnerable adult". This offence enables prosecutions of people who stay silent or blame someone else.

#### **Domestic Violence, Crime and Victims (Amendment) Act 2012**

The Domestic Violence, Crime and Victims Act 2004 was amended in 2012 by the Domestic Violence, Crime and Victims (Amendment) Act 2012 to include 'causing or allowing serious physical harm (equivalent to grievous bodily harm) to a child or vulnerable adult'

#### **The Care Act 2014** (applies to England only).

The Care Act replaces most of the previous laws relating to carers and the people they care for. Within The Care Act there is legislation relating to safeguarding adults at risk of abuse or neglect.

**Violence against Women, Domestic Abuse and Sexual Violence (Wales) Act 2015** The Act sets in place measures to reduce gender based violence in Wales and aims to raise awareness of domestic abuse and set out preventative measures so that professionals can recognise the signs of abuse and violence.

#### **The Anti-Social Behaviour, Crime and Policing Act 2014**

In June 2014, the government introduced the Anti-Social Behaviour, Crime and Policing Act 2014, which amended the Forced Marriage (Civil Protection) Act 2007 and the Family Law Act 1996. It created a new separate offence of Forced Marriage as well as criminalising breaches of Forced Marriage Protection Orders (FMPOs).

#### **The Serious Crime Act 2015, Part 5: Domestic Abuse**

Part 5 of the Serious Crime Act defines and expands the scope of domestic abuse offences, creating a new offence of "controlling or coercive behaviour in an intimate or family relationship". The offence came into force in December 2015. It closes a gap in the law around psychological and emotional abuse that stops short of physical abuse. The offence carries a maximum sentence of 5 years' imprisonment, a fine or both. Part 5 also updates the law around female genital mutilation (FGM).

### **B. CIVIL LEGAL PROTECTION**

There are three most common civil law remedies under the Family Law Act 1996 (as amended by Part 1 of the Domestic Violence Crime and Victims Act 2004): a non-molestation order and an occupation order and a prohibited steps order.

#### **A Non-molestation Order**

A non-molestation order is a civil court order which prohibits an abuser from molesting another person they are associated with. Molestation is not defined in the Act but has been interpreted to include violence, harassment and threatening behaviour. An order contains specific terms as to what conduct is prohibited and can last for however long is deemed appropriate by the court. It is typically granted for 6-12 months. Breach of a non-molestation order is an arrestable, criminal offence.

### **An Occupation Order**

An occupation order is issued by the family court under Part IV Family Law Act 1996 and sets out who has the right to stay at the family home, who can return and who should be excluded. An order does not change the financial ownership of a property. It temporarily excludes an abuser from the home and surrounding area and gives the victim the right to enter or remain. In certain circumstances, the court may attach a power of arrest to the occupation order. It can be granted for 6-12 months.

### **A Prohibited Steps Order**

A prohibited steps order forbids someone from taking your child away from your care and control. This order is particularly appropriate when the person threatening to take away your child(ren) is ordinarily allowed to have the care and control of them. No power of arrest attached though police may assist informally. This order is enforceable in the County Court as contempt of court.

In addition to the above orders from 8 March 2014 there are now also Domestic Violence Protection Orders (DVPOs). DVPOs were introduced to plug the gap where police could not charge an abuser for lack of evidence and because the process of granting an injunction took too much time.

### **A Domestic Violence Protection Order**

A domestic violence protection orders (DVPOs) is a civil order that provides protection to victims by enabling the police and magistrates' courts to put in place protective measures in the immediate aftermath of a domestic violence incident where there is insufficient evidence to charge a perpetrator and provide protection to a victim via bail conditions. Under this scheme, the police and magistrates can ban a perpetrator from returning to their home and from having contact with the victim for up to 28 days. The order may be with or without notice. With notice it comprises an initial temporary notice (a domestic violence protection notice, DVPN), authorised by a senior police officer (Superintendent and above) and issued to the perpetrator by the police, followed by a DVPO that can last from 14 to 28 days, imposed at the magistrates' court. DVPOs are designed to help victims who may otherwise have had to flee their home, giving them breathing space to consider what options they have.

### **The Domestic Violence Disclosure Scheme: guidance (2012)**

The Domestic Violence Disclosure Scheme or 'Clare's Law' does not introduce new legislation. It is based on the police's common law power to disclose information where necessary to prevent crime. The

scheme provides structure and processes for the exercise of the powers. It enables people to ask the police to carry out checks for any record of abusive offences by their partner or the partner of a member of their family/friend who is believed to be at risk. Disclosure must be within the existing legal framework and have regard to established case law, the Human Rights Act 1998 and the Data Protection Act.

The purpose of the scheme is to facilitate disclosure to protect potential victims from harm. Each request for information under this scheme should be considered on a case-by-case basis and the police should seek legal advice when necessary.

### **Prosecuting Domestic Violence**

Independent Domestic Violence Advisers (IDVAs) have been appointed to support victims through the complex process of prosecuting domestic violence. Witness-care units, jointly staffed by the police and the CPS, have also been established to provide a single point of contact for victims and witnesses. There is also a Code of Practice for Victims of Crime which includes the right to an enhanced service in the case of vulnerable or intimidated victims, which includes victims of domestic violence.

Each CPS area now has a co-ordinator responsible for domestic violence with Crown Prosecutors being given training in respect of domestic violence. There has been a roll-out of specialist domestic violence courts (SDVCs) to carry out a fast-track process and special measures have been introduced to support vulnerable and intimidated witnesses, with the agreement of the court. These include: screens in the courtroom to prevent the witness from seeing the defendant; live links, allowing a witness to give evidence away from the courtroom; evidence in private, allowing a witness privacy by clearing the public gallery in cases involving sexual offences and intimidation; removal of wigs and gowns by Judges and barristers; visually recorded statements – these allow a witness to use a pre-recorded video statement as their main prosecution evidence; intermediaries – specialists who help witnesses with communication difficulties.

### **Proposed Future Legal Protection Measures**

On 17 February 2017, the Prime Minister announced a programme of work to develop legislation on a Domestic Violence and Abuse Act. The Queen's Speech 2017 confirmed that there would be a draft Domestic Violence and Abuse Bill in this session. It will:

- Establish a Domestic Violence and Abuse Commissioner;
- Define domestic abuse and bring in consolidated protection orders;
- Allow aggravated sentences where abusive behaviour involves a child.

The Queen's Speech 2017 also promised a Courts Bill which will "end direct cross examination of domestic violence victims by alleged perpetrators in the family courts and allow more victims to participate in trials without having to meet their alleged assailant face to face".

## II. Protection for domestic violence victims in case of emergency

## 1 Emergency shelters for protecting domestic violence victims and their children

### (1) Outline

One of the main problems experienced by the refuge movement (shelters are referred to as refuges in England and Wales) is the inadequacy and uncertainty of funding. The amount of money allocated to women's shelters is not Government protected and the majority of their funding comes from local authorities. Local authorities have been subject to cuts in funding with 17% of refuges being forced to close between 2015 and 2017.

#### **National Contact Information**

##### **0808 2000 247 Freephone 24 hour National Domestic Violence Helpline**

(Run in partnership between Women's Aid and Refuge) acts as the gateway to all services across the country and helps women find a space in a refuge/shelter.

Alternatively contact by email: [helpline@womensaid.org.uk](mailto:helpline@womensaid.org.uk)

##### **0808 80 10 800 Freephone 24 hour All Wales Domestic Abuse and Sexual Violence Helpline**

(Run by Welsh Women's Aid)

In the UK there are over 500 shelters for domestic violence victims and their children organized and run mainly by two umbrella organizations: Women's Aid and Refuge. There are also independent refuges run by charities and other independent groups see Section 2 below. Within all three of these groups there are specialized shelters designed to meet the needs of minority ethnic women.

Women's Aid (Women's Aid Federation England, Women's Aid Federation Wales, Women's Aid Federation Northern Ireland) website: <https://www.womensaid.org.uk/>

Women's Aid is a grassroots federation working together with women and children to provide life-saving services and build a future where domestic violence is not tolerated'. Women's Aid also has a national presence in policy, research, fund raising and pilot project work. Currently running pilot projects are:

Refuge: <https://www.refuge.org.uk>

Refuge supports women and children who experience all forms of violence and abuse, including domestic violence, sexual violence, female genital mutilation, forced marriage, so-called 'honour'-based violence, and human trafficking and modern slavery'. Refuge also works with men who are victims of domestic violence as well as men who are abusers.

Refuge organisations often have public contact numbers so they can be contacted by members of the public (see the domestic abuse service directory compiled by Women's Aid <https://www.womensaid.org.uk/domestic-abuse-directory/>).

People can also contact refuge organisations through the Police, the Samaritans on 08457 90 90 90 (UK), social services or the Citizens Advice Bureau.

(2) Names of shelters in your target area of study, contact information, how to apply for their support (please give names of 3 shelters)

A Women's Aid Shelter: e.g.

Cardiff Women's Aid (Welsh Women's Aid) <https://www.cardiffwomensaid.org.uk/>

Refuge Shelters:

e.g. Kingston South Asian Women's Refuge

<https://www.refuge.org.uk/>

An Independent/Charity Shelter: e.g.

BCHA (Bournemouth Churches Housing Association) Refuges

<https://www.bcha.org.uk/our-services/support-to-stay-safe/domestic-abuse/>

(3) Requirements for receiving their assistances (for each shelter picked up in item(2))

### **Cardiff Women's Aid**

#### **Access to Women's Aid Refuges**

Any woman who needs to escape from domestic abuse can go into a refuge at any time. It does not matter whether or not she is married to or living with her abuser, or whether or not she has children. Telephone the Freephone 24 hour National Domestic Violence Helpline run jointly by Women's Aid and Refuge - 0808 2000 247.

Women should be able to go into a refuge on the day that they call. It is not usual to book in advance, nor will it always be possible to find refuge space in the location of their choice. In theory the woman can choose (subject to space and availability) whether to travel a long way away from their home town, or remain in the same area but refuges are highly unlikely to accept women from their immediate local area as this is usually where they are most at risk.

Some refuges have space for many women and children, and some are small houses. Some refuges are specifically for women from particular ethnic or cultural backgrounds (for example, Black, Asian or South American women). Many refuges have disabled access and staff and volunteers who can assist women and children who have special needs. Some refuges are unable to offer accommodation to women with severe mental health needs because they have insufficient resources to provide suitable support. However, other refuges will be able to accommodate you – and all refuge organisations should be able to find them somewhere else to go.

Can women bring teenage sons with them? This depends upon the individual refuge. Some allow sons up to the age of 16, while others cannot take boys over the age of 13 or 14. Very few refuges will accept male children up to the age of 18. Talk to the National Domestic Violence Helpline about the options.



### **Kingston South Asian Women's Refuge**

<https://www.refuge.org.uk/>

At any one time, the service can provide safe accommodation and specialist support to 15 women escaping domestic violence and their children, including five refuge spaces specifically tailored for South Asian women and children. It used to be run by an organization called Hestia but was taken over by Refuge in 2017.

Access is through contacting the parent organization – Refuge – this can be done directly or by someone acting on the victim's behalf. Telephone the Freephone 24 hour National Domestic Violence Helpline run jointly by Women's Aid and Refuge - 0808 2000 247.

### **BCHA (Bournemouth Churches Housing Association) Refuges -**

<https://www.bcha.org.uk/our-services/support-to-stay-safe/domestic-abuse/>

BCHA services are open to anyone to contact as the web site says: If you're living in a violent or abusive relationship and you need to access advice, information, support or accommodation, call one of our 24-hour helplines: Bournemouth and Dorset: 01202 547755, Poole: 01202 710777. Alternatively, referrals to our refuges can be made on your behalf by someone such as your GP, Social Worker, the Police or any other agency you may be working with or you can ring the National Domestic Violence Helpline run by Women's Aid - 0808 2000 247.

#### **Access to BCHA refuges**

Any woman or man aged 16 and over, with or without children, who has been subjected to any form of domestic abuse, and is a resident in the UK. Victims must be able to financially support themselves and their dependents, or be entitled to public funds such as welfare benefits, or be eligible for the Destitute Domestic Violence Concession (DDVC) See section 6 below.

The service is available to anyone who fulfils the criteria irrespective of race, ethnic or national origin, religion (or lack of belief), gender, sexuality, disability or any other characteristic. Teenage boys aged over 14 years may need to be assessed prior to admission.

(4) Programs and services (for each shelter picked up in item(2))

### **Cardiff Women's Aid**

At the point of crisis when women experience a breaking point through physical violence or a psychological breaking point from all the other forms of abuse they experience. An intake and assessment model is used. The intake house is the front door for the accommodation services. It is permanently staffed and has full IDSV support using our refuge specialists. The aim is to carry out a full assessment of women within a few days or up to a week depending on her personal circumstances. Once the assessment is complete our client in collaboration with her IDSV will decide on a course of action.

Cardiff Women's Aid has a public Women's Centre where women drop in at any time during open hours (9am to 7pm). Most clients self-refer and the second most common referral is via the Police closely followed by health care professionals.

Professional staff called Independent Domestic and Sexual Violence Advisors (IDSVAs) deliver crisis responses, secure refuge accommodation, risk reductions, safety planning, advocacy, advice and emotional support.

Cardiff Women's Aid delivers the PATH psychological intervention alongside crisis work. This is carried out by IDSVAs who have been specially trained to deliver the intervention by a Clinical Psychologist. PATH sessions enable women to explore their feelings in a safe environment with their Specialist Psychological Advocate. This can be around depression, anxiety and self-esteem but explore more deep-rooted issues around childhood experiences, post-traumatic stress and dissociation.

The Phoenix programme is a 6 week awareness raising group run by qualified IDSVAs. This is an open, rolling group offering flexibility to attend on an informal basis. It will consider the different dynamics of abuse, safety planning in or when leaving the relationship and how to identify abusive relationships in the future.

SafeAs is Cardiff Women's Aid's programme for children and young people who are currently experiencing domestic violence/abuse primarily referrals for children at high risk from the Women's Centre team and from Social Services. SafeAs offers age appropriate one to one work with children and also work with parents/carers to help them understand what their children are experiencing and how best to help them. There is also group work delivered from a therapeutic perspective focused on helping children understand what is happening and build resilience.

Survivors Of Domestic Abuse (SODA). This is a pilot project designed for teenagers who are using self-harm and experiencing suicide ideation to deal with the trauma of living, or having lived previously, with domestic violence/abuse.

Dave's House. This is a programme for young men 17-25 yrs who may have been affected by domestic abuse or are concerned about their behaviour within their own relationships and want to learn and understand what are healthy relationship behaviours. The group is a safe place for young men to explore what it means to have a 'healthy relationship' and to discuss what sometimes can be difficult topics. Male IDVA for boys and young men, funding for specific male worker to support young boys and men who are more receptive to discussing their experience of domestic violence/abuse.

Families First. SafeAs is delivering an access pathway for families with children under four who live in the Families First areas of Cardiff. They have to prioritise children who are most at risk and/or in need but this is an extremely needed resource for these very young children. Delivering age appropriate interventions and working with parents/carers to support them and put in place sustainable change and healing for the children in the family.

Children in refuge. A specific group supported as part of Cardiff Women's Aid core service provision is children who are staying in our crisis accommodation/refuge/shelter.

### **Kingston South Asian Women's Refuge**

Refuge-Kingston's specialist staff will provide residents with the building blocks they need to begin a new life. They help women and children to overcome the physical and emotional impacts of what can be years of violence and abuse and offer individual, tailored support to suit their needs. This might include advice on housing, education, accessing benefits, employment, or immigration, or it might mean helping a woman to achieve better health and wellbeing. Children in the service will also benefit from an expert child support worker.

One of the biggest challenges women face when moving on from refuges is securing housing, particularly in London. Lack of safe housing impacts on women's ability to rebuild their lives following abuse. Therefore, Refuge-Kingston offers a rent deposit scheme for women who face barriers in accessing housing in the social sector, which will enable them to secure homes once they have exited the service.

### **BCHA (Bournemouth Churches Housing Association) Refuges**

BCHA provide a number of services throughout Bournemouth, Poole and Dorset, helping people to find the courage they need to leave an abusive situation. Refuges are safe houses for victims of abuse, and their children, to escape to and access support to help them rebuild their lives and live a life free from abuse.

The refuges/shelters offer self-contained and shared flats across Bournemouth and Poole, one of which is identified as a space specifically for a male. They are able to accommodate single clients with a maximum of five children. The refuge addresses are confidential. Trained and experienced staff are available 24-hours a day on site during office hours to provide practical and emotional support to residents.

Each refuge has a playroom, and an outside space for use by families. The playrooms have an emphasis on fun through many different activities, and are very much a place for parents and children to play together, as well as providing an opportunity for children to socialise with others who may have been through similar experiences.

BCHA is committed to working with those who have suffered from domestic abuse with respect, dignity and sensitivity, enabling victims to regain control of their lives. They recognise everyone's needs are unique, so we work with all individuals to create a personalised support plan that helps keep you safe and allows you to move on with your life.

BCHA offers support related to:

- Emotional support in overcoming the effects of living with domestic abuse.
- Welfare benefits advice, and help to manage your financial situation.

- Support if you are considering going to court and help to access legal advice.
- Support in accessing specialist support for your children.
- Signposting you to specialist agencies such as mental health and substance misuse services where relevant, and counseling services.
- Tenancy advice, including joint property and mortgage agreements, and long-term housing options.
- Accessing relevant support networks in the local community.
- School placements for your children

Clients can stay in BCHA refuges for up to six months. During the stay, staff will work with clients to find alternative long-term permanent accommodation to move on to, and give information about the various options. For example, private rented accommodation, housing provided by the local Council, or advice about returning home if it is safe to do so. BCHA also offer a resettlement support service for moving on from the refuge. This is usually for a period of up to six weeks and consists of three visits. This ensures that victims are secure, and settled in their new accommodation. If any additional support needs are identified, victims will be signposted to local services.

#### **Barriers to Access to Refuges of All Kinds in England and Wales**

No Recourse to Public Funds (NRPF) can be a key barrier to accessing a refuge space see the NRPF Network website: <http://www.nrpfnetwork.org.uk/aboutus/Pages/WhatNRPF.aspx>.

The No Woman Turned Away (NWTa) project was commissioned by the Department of Communities and Local Government (DCLG) to provide additional support to women facing difficulties accessing a refuge space. The report identified a number of barriers faced by women based on refuges being unable to accommodate a range of support needs and circumstances. The report highlights how these barriers particularly affect women from some of the most marginalised social groups.

“Outside of London, there is limited provision for Black and Minority Ethnic (BME) women with most regions limited to a handful of spaces, and with no refuges specifically for BME women across the entirety of the South West. Vacancy monitoring found that the average number of vacancies for a woman and two children requiring a BME specialist refuge in the North West was 0.65. One quarter of refuges have a worker who can speak another language and half the refuges have access to an interpreter. 14% of women supported by the NWTa caseworkers experienced a language barrier. Out of these 57 women with support needs around language, only six (11%) were accommodated in a suitable refuge space.

“Vacancy monitoring for spaces accepting a woman with NRPF showed an average of one space per region in England. Over a quarter of women supported by the NWTa caseworkers had NRPF, 67% of whom were not eligible to apply for the Destitute Domestic Violence Concession. Out of the 110 with NRPF supported by the NWTa caseworkers, only eight were accommodated in a suitable refuge space. This report highlights the additional barriers for women with complex needs, particularly the difficulties women with mental health support needs face when attempting to access refuge and the lack of capacity and resources within refuges to provide this support. Less than one in four refuges are able to offer in-house specialist mental health support.

“Mental health support needs were common amongst the women supported by the NWTa caseworkers: 106 of the women (26%) had mental health support needs. Of this group, 31% were refused from a refuge for this reason. 28% of the women with mental health support needs were safely accommodated in Substance use support needs may present a barrier to accessing refuge, as some refuges may not be able to support a woman without a named alcohol/drugs worker, or who is not in treatment as their support needs will be too high for the refuge to deal with in isolation. Only 10% of refuges had a specialist alcohol worker, and 10% had a specialist drug worker. Out of the 23 women supported by the NWTa caseworkers with drug or alcohol use support needs, 15 (65%) were refused an available space because of their needs. 39% spent time sleeping rough while waiting for a refuge space. Five of the 23 women (22%) with substance use support needs were accommodated in an appropriate refuge space.

“Women often flee domestic abuse with their children, and must find a refuge with sufficient space to accommodate them. Over half of the women supported by the NWTa caseworkers were fleeing with children. 13% of women had four or more children, one in five required a refuge with a cot for their young child and 6% were fleeing with an older male child. 173 women (80%) with children were able to have her child/children accommodated with her. 24% of women with children, 20% of women with four or more children and 8% of women with an older male child were accommodated in a suitable refuge space.

“Vacancy monitoring of spaces suitable for a woman with three children and requiring an accessible space in the East Midlands showed a suitable refuge on just four occasions, reflecting the need for accessible refuge spaces. Disabled women also faced particular difficulties in accessing a refuge space and 27% of the women supported by the NWTa caseworkers had one or more disability.

“Out of the 404 survivors supported by the NWTa caseworkers, 200 (50%) were tied to their local area for one or more reasons and therefore found it more difficult to find a space far enough to be safe, but close enough to be within reach of support networks”.

For further information see *Women’s Aid 2017 Nowhere To Turn: Executive Summary, Findings from the first year of the No Woman Turned Away Project Women’s Aid*  
<https://1q7dqy2unor827bjls0c4rn-wpengine.netdna-ssl.com/wp-content/uploads/2017/07/NWTa-Executive-Summary-Final.pdf>

(5) Treatment for victims who are immigrants/foreigners (including assistance of interpreter, etc.) (for each shelter picked up in item(2))

### **Southall Black Sisters**

[www.southallblacksisters.org.uk](http://www.southallblacksisters.org.uk)

Their services are open to all but in particular Southall Black Sisters give support to BME women who have experienced abuse. They are also able to provide small amounts of financial support for women

fleeing violence with no recourse to public funds.

Helpline: 020 8571 0800 General Enquiries: 0208 571 9595

### **Women's Aid (e.g. Cardiff Women's Aid)**

Women's Aid has designed and developed CPD courses for workers on immigration and domestic abuse: *Domestic abuse and immigration status* (CPD course) CPD: 6 points How to identify the immigration status and assess the right to access public funds of refugee, asylum seeking and migrant survivors of domestic abuse.

*Domestic abuse and free movement law*: Supporting EEA nationals and family members of EEA nationals (CPD course) CPD: 6 points European Free Movement law still applies in the UK, and will do so for the foreseeable future. Survivors' rights under European law can be complicated and confusing making advocating for this client group challenging. Access to services and immigration advice for refugee, asylum seeking, EEA, and migrant survivors of domestic abuse (CPD course) CPD: 6 points.

Any questions please email: [training@womensaid.org.uk](mailto:training@womensaid.org.uk)

### **Refuge (e.g. Kingston South Asian Women's Refuge)**

Refuge runs a number of refuges specifically for women of African and Caribbean descent, and for women of Asian descent. Nine out of ten women in these refuges have said they preferred living in a specialist refuge. Staff in specialist refuges better understand the specific pressures and challenges facing the women they support. Women in these refuges often speak of their relief at knowing they will not be judged by their experiences, immigration status, religion or traditions. They know they will not encounter prejudice or racism. Many of the women supported in the Asian refuges do not speak English as a first language, and this may have contributed to their isolation. Refuge workers speak a range of languages, including Urdu, Punjabi, Mirpuri, Hindi and Sylheti.

Some of the ways Refuge's culturally specific refuges are adapted to suit the women they serve:

- Language support
- Support around immigration, asylum and modern slavery
- Support to access the criminal justice system
- Support relating to forced marriage, 'honour'-based violence and FGM
- Support following potential or actual child kidnap (including overseas)
- Staff accompany women to appointments, to support and empower them and challenge prejudices and racism
- Staff work with women to connect, safely, with local cultural and faith groups
- Support to access safe technology
- Providing separate pots, cutlery and utensils to cater for any dietary requirements

### **The Destitution Domestic Violence (DDV) concession**

If a victim of domestic violence is in the UK on a temporary visa as a partner, their relationship has broken

down because of domestic violence and they have no money to support themselves, they can apply to claim public funds (benefits) for up to 3 months while UK Visas and Immigration considers their application to settle in the UK. The DDV form needs to be submitted as soon as a relationship breaks down and money is needed, but it is important that they also immediately complete the form SET(DV) to apply to settle in the UK.

Due to their immigration status victims of domestic violence are reluctant to seek help. These individuals believe that they have to remain in the abusive relationship to 'legalise' their stay in the UK. Victims who have come to the UK on a spouse or partner visa and are experiencing domestic violence, can apply for indefinite leave to remain immediately under the domestic violence rule – or at any time during the probationary period, even if they have overstayed their visa.

### **Requirements to apply**

Under the domestic violence rule, victims are entitled to apply for indefinite leave to remain if:

- They have been granted a spouse visa;
- They were in a continuing relationship with their spouse/partner on arrival in the UK;
- They are able to provide evidence that their relationship with their spouse or partner was caused to permanently break down before the end of the probationary period because of domestic violence;
- They must also meet the suitability requirements under the immigration rules.

Applications under the domestic violence rule should be made on the form SET (DV). The application fee for this currently costs £1,875 for the victim and £1,875 for each child. However, if the person is destitute at the time of applying, the fee will be waived. Destitution means that the person is unable to provide evidence to the Home Office that they do not have access to sufficient funds to pay the fee and are totally reliant on a third party for the provision of living costs. Knowledge of language and life is not required under the victims of domestic violence rules.

It is often perceived that the perpetrators of domestic violence are the partners or spouses. This is not always the case since victims are often subjected to forms of domestic violence from other members of the family. These victims often live with extended families as a cultural norm.

### **Support Organisations**

**Asylum Aid** <https://www.asylumaid.org.uk/>

Charity working to help those in need of asylum.

**British Red Cross** <http://www.redcross.org.uk/>

Provides practical and emotional support for refugees and asylum seekers

**Electronic Immigration Network** <https://www.ein.org.uk/>

Links and advice on immigration issues.

**Joint Council for the Welfare of Immigrants** <http://www.jcwi.org.uk/>

Advice, publications, lobbying, courses, etc.

**Immigration Law Practitioners' Association** <http://www.ilpa.org.uk/>

(6) Any other useful information related to shelters

Any woman who needs help can locate her local services and shelter by using the Women's Aid Domestic Abuse Directory at <https://www.womensaid.org.uk/domestic-abuse-directory/> where it is possible to search by region or local authority. For full listings of services in Wales, Scotland, Northern Ireland and Republic of Ireland, please visit: Scottish Women's Aid, Welsh Women's Aid, Women's Aid, Republic of Ireland, Women's Aid Federation Northern Ireland.

The Survivors' Handbook <https://www.womensaid.org.uk/the-survivors-handbook/> provides practical support and information for women experiencing domestic abuse, with simple guidance on every aspect of seeking support.

## 2 Handling of abusers by the police

(1) Outline

Police service policy in England and Wales is that an officer will always attend a domestic abuse incident and will be dispatched immediately or within a non-emergency response time. In some cases the victim may not want an officer to attend, so an appointment at a police station may be arranged. In only a very small number of cases is a scheduled appointment appropriate. This should only occur after an effective risk assessment by the call handler.

ACPO (Association of Chief Police Officers) guidance sets out the priorities for the police in domestic abuse cases to:

- Protect the lives of adults and children at risk.
- Investigate all reports.
- Facilitate action against offenders.
- Adopt a multi-agency approach.

The attitude of the responding officer is crucial in terms of gaining the victim's trust and confidence. A survey of victims by HMIC found officers need to demonstrate clearly that they take the incident seriously and empathise with the victim's plight. It is also important not to judge a victim who is intoxicated or has previous convictions.

All officers attending domestic abuse incidents should have, as a minimum:

- access to details of all previous incidents relating to the victim;
- records relating to the perpetrator;
- information about any risk assessments relating to the victim and any children; and
- details of any officer safety issues.



The term 'positive action' originates from the ACPO Guidance on Investigating Domestic Abuse 2008, which refers to a duty on police officers to take positive action in domestic abuse cases (this includes by making an arrest where there are grounds to do so) pursuant to positive obligations to protect human rights including the right to life (Article 2 EHCR), the right not to be subjected to inhuman or degrading treatment (Article 3 ECHR) and the right to private and family life (Article 8 ECHR).

Notwithstanding this guidance, there is often unacceptable variation in how forces are dealing with domestic abuse offenders at the scene. This is due to a number of factors including: poor training and awareness; mixed messages about whether to arrest or not; confusion about current guidance on arrest policy; and contested evidence about the effectiveness of the arrest policy.

This confusion manifesting itself in significant and highly concerning differences in arrest rates for domestic abuse crimes. It would be expected that far greater consistency in the number and rates of arrests across forces would be occurring. The power of arrest is an important part of the investigatory and criminal process. An officer must demonstrate that they have reasonable grounds for believing that the arrest is necessary for one of the reasons listed in section 24(5) PACE46. These grounds include protecting a child or vulnerable person; preventing the suspect causing injury; and/or to allow for the prompt and effective investigation of the offence.

There is not a mandatory arrest policy, but a policy with a strong expectation that where arrest is justified it will be carried out, and if the arrest is not made it needs to be justified and reasons recorded. Where the decision is made not to arrest, there are still likely to be other actions that the officer needs to take in order to meet the requirements of a positive action policy. These will include actions to ensure the safety of the victims and of any children.

That decision on whether to arrest must not be influenced by questions of police resources, or the concern that an arrest will mean the responding officer will have to spend time in custody. Nor should it be influenced by the willingness of the victims or witnesses to testify or otherwise participate in a judicial proceeding. The decision to arrest rests with the police and that "... victims should not, therefore, be asked whether they require an arrest to be made." Research shows, that some victims may wish the perpetrator to be arrested, primarily for temporary respite from the aggression, to calm the perpetrator down or to emphasise the severity of the abuse to the perpetrator. It is also clear that many women do not want their violent partners or ex-partners to be arrested and, for many, this is because of controlling behaviours and the fear of retaliation.

If the police are to implement a positive action policy with confidence, they need to understand the impact that coercive control has on a victim. While there is a concern that the arrest of a perpetrator of domestic abuse may increase the risk to the victim, it is the responsibility of the police to take effective action to safeguard the victim and their family (including letting the victim know when the perpetrator has been released).

(2) Names of police in your target area, contact information, how to contact, etc.

Domestic abuse or violence should be reported to the police service

In an emergency telephone 999.

[If you are deaf, deafened, hard of hearing or have a speech impairment, a text phone is available on 18000]

If it's not an emergency telephone 101

[If you are deaf, deafened, hard of hearing or have a speech impairment, a text phone is available on 18001 101]

The national police website online: <https://www.police.uk/> has a search facility through a 'Find Your Neighbourhood' button, the victim inputs their location and the contact details of their local neighbourhood police station will be listed. This facility covers England, Wales and Northern Ireland.

(3) Police procedures when they are notified of domestic violence

The information on police procedures has been extracted from: **The College of Policing: Domestic Abuse** <https://www.app.college.police.uk/app-content/major-investigation-and-public-protection/domestic-abuse/first-response/#top>. For a detailed account of police procedures please consult this resource online.

First response officers have a dual role to play when attending domestic call-outs relating to the victim and the offender. They need to: (a) recognise signs of abuse and the need for safety planning to protect victims (or potential victims) and prevent offences from occurring in the longer-term and (b) identify criminal offences so that offenders can be brought to justice and dealt with robustly within the judicial system. First Response Officers have six key aims which are to:

- ensure immediate safety
- build rapport
- carry out an initial investigation
- identify risk
- initiate support and protection (initial safety planning)
- ensure a good handover takes place, where applicable.

#### **Ensure Immediate Safety**

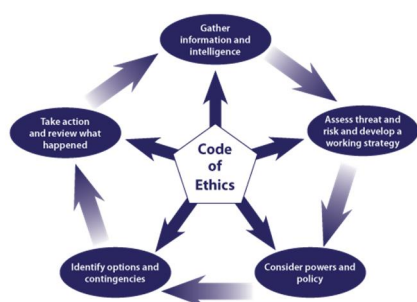
Obtain all relevant information on the situation from the call handler on the incident re the family and their previous history. Officers attending domestic abuse incidents have to deal with the incident that led to the call for service as well as any previous incidents. Evidence of previous abusive behaviour can be valuable in proving the offence of controlling or coercive behaviour under section 76 of the Serious Crime Act 2015.

All relevant information: information gathered from the caller and appropriate checks of police IT and/or paper-based systems for previous reported domestic abuse history and previous risk assessments.

On Arrival at the Scene the first priority of an officer is to protect all people present from injury or further harm. This includes the victim, children, witnesses, police officers and the suspect.

Officers should also be prepared to gather evidence as soon as they arrive at the scene. Body-worn video (BWW) recordings can provide excellent evidence, particularly in criminal proceedings.

Officers should consider the nature of the incident that the child(ren) may have experienced and ensure full details are recorded for transmission to the local children's safeguarding department. In serious cases, they should consider powers to take a child into emergency care under section 46 Children Act 1989. The basic principles of safeguarding apply in relation to both adults and children. Officers must always consider risk in accordance with the national decision model (NDM) below.



<https://www.app.college.police.uk/app-content/national-decision-model/the-national-decision-model/>

If the assessment identifies a risk of harm it is never appropriate to do nothing. Arrest may not be possible because the grounds for arrest are not met. With domestic abuse where the victim is at risk of harm the duty of positive action requires officers to implement proportionate alternative measures to protect the victim and their children.

Officers must gather evidence, such as photographs, and prepare a detailed description of the scene. This can prove vital to a successful prosecution. Where the suspect has left the scene, a description should be circulated and every effort made to locate them. Officers should ensure that victims and any children are safe while suspects are being located.

Officers may need to enter premises when responding to domestic abuse incidents.

Powers exist in the following circumstances:

- under section 17(1)(b) of the Police and Criminal Evidence Act 1984 (PACE) a constable may enter and search any premises for the purpose of arresting a person for an indictable offence
- under section 17(1)(e) of PACE a constable may enter and search premises for the purpose of saving life or limb or preventing serious damage to property
- under common law an officer has the power to enter premises to prevent a breach of the peace
- under section 48 of the Children Act 1989 a warrant may be obtained to search for children who may be in need of protection

- where a power of arrest has been attached to a civil order, such as an occupation order, and there has been a breach.

Officers should keep a record of all searches, in line with the PACE Codes of Practice.

A victim may deny police entry to the property on arrival, either because the perpetrator is inside the house threatening the victim. The victim may also be subject to controlling or coercive behaviour which extends beyond any immediate physical threat. Officers should use judgment to assess why the victim is reluctant to engage with them. If it appears that it is out of fear, this should be recorded as a risk factor.

The perpetrator may refuse entry, claiming that nothing has happened. Officers should ask to see any other person in the house. Where this is refused but officers have reason to believe that there are others in the house, this may give grounds to invoke a power of entry under section 17(e) of PACE. If other persons indicate nothing is wrong, officers should use judgement to assess if fear may be a factor.

Where access to the property is denied, this does not necessarily mean that no entry is possible. It does, however, mean that any decision to enter in spite of objection by the victim or another person must be legally justifiable. Officers should accurately record both the power of entry invoked and the reasons why it is believed to apply. Considering the use of powers of entry will sometimes involve very fine judgements and officers may wish to seek advice from a domestic abuse expert or supervisor

Scene protection considerations are most likely to apply where there has been an immediate report. Although delayed reports limit opportunities for forensic evidence, these should still be explored. Where evidence gathering is likely to be complex, eg, if specialist forensic techniques are needed, officers should seek advice from a supervisor, domestic abuse specialist or crime scene expert.

Scene protection should primarily focus on the immediate scene, as indicated by the initial crime complaint. It may also include other scenes that provide supporting evidence for previous or ongoing incidents. First responders note that other crimes often occur alongside domestic abuse incidents, such as child abuse or sexual abuse, but these types of offences are not always immediately apparent.

The suspect is likely to have had legitimate access to the scene but there is still potential for forensic evidence to corroborate the victim or witness account.

#### **Scene protection guidelines**

These should be put into place in a manner which ensures that personal safety is not compromised and any material of evidential value is preserved.

#### **Initial enquiries with victims and witnesses**

Although an MG11 (section 9 statement) is the most desirable form of victim account, it is not the only potentially admissible account. Body-worn video, a 999 call or a PNB entry are all potentially admissible in an evidence-led prosecution, ie, a prosecution based on hearsay or circumstantial evidence, or featuring a hostile witness.

**When speaking to a child:**

- consider using an intermediary at the start – children may find it intimidating to talk to police officers
- consider the language used – they may find it difficult to understand legal or technical words.

**Follow-up**

- Provide the victim with referral details of independent advocacy or outreach services where available, eg, independent domestic violence advisers (IDVAs). Not all IDVA services accept self-referrals.
- Preserve any written notes made during initial victim or witness interviews in line with Criminal Procedure and Investigations Act 1996 requirements for unused material.
- If a victim is taken to a refuge or other place of safety, never disclose this to the suspect or their representative, as this not only places the victim at risk but also refuge staff and other users.
- Brief interviewing officers on useful lines of questioning if the suspect is to be formally interviewed later by a different officer.

**Restraining orders and victim personal statement**

Although restraining orders are normally obtained at the conclusion of criminal proceedings, officers need to be thinking about the potential for obtaining one from the outset.

Where the perpetrator is arrested, officers should ask the victim if they would like a restraining order, and in what terms, and record the answer in the victim's statement. If the victim requests a restraining order, officers should provide details on the police form MG5 as part of initial file submission.

This is important because if the victim feels they need the protection of a restraining order this supports an application for a remand in custody or the imposition of bail conditions. Bail conditions can be requested which reflect the terms of the requested restraining order set out on the MG5. If the victim chooses later not to support the proceedings, the initial views can still be used at sentencing or to apply for a non-conviction restraining order.

**Injury photos**

Wherever possible, victim injuries should be photographed at the scene. If this is with the officer's personal issue camera-enabled mobile device or camera, the images should be downloaded as part of the handover so that they are with the file at an early stage.

Forensic photographs should also be taken where possible, but as the victim may not keep an appointment for these to be taken, it is important not to lose the opportunity at first contact – it is better to have non-professional photos than no photos.

Some injuries do not become visible immediately. A follow-up visit should be scheduled to take further photographs where the assault alleged is expected to result in additional visible injuries.

With the victim's consent, officers should photograph all non-intimate injuries that the victim refers to in their account, including any injuries which may be concealed in the hair. Officers should also make a note of any areas they have not seen or the victim does not wish to show them.

Where officers charge a suspect and keep them in custody for court, they should make every effort to provide a colour copy or print-out of the injury photographs with the remand file. These can make the difference between a defendant being remanded in custody or bailed by the court, which affects victim confidence and likelihood of maintaining support for the case.

Officers should also photograph any injuries of the suspect and include them in the handover package.

### **Determining the primary perpetrator and dealing with counter-allegations**

Officers should avoid jumping to conclusions about which of the parties in the relationship is the victim and which the perpetrator. This applies to all types of relationships, whether heterosexual, same sex, transgender or familial (non-intimate partner). They should probe the situation and be aware that the primary aggressor is not necessarily the person who was first to use force or threatening behaviour in the current incident. They should examine whether:

- the victim may have used justifiable force against the suspect in self-defence
- the suspect may be making a false counter-allegation
- both parties may be exhibiting some injury and/or distress
- a manipulative perpetrator may be trying to draw the police into colluding with their control or coercion of the victim, by making a false incident report.

Counter-allegations require police officers to evaluate each party's complaint separately and conduct immediate further investigation at the scene (or as soon as is practicable) to determine if there is a primary perpetrator.

If both parties claim to be the victim, officers should risk assess both. There may also be circumstances where the party being arrested requires a risk assessment, as in the case of a victim retaliating against an abuser. Officers should bear in mind the possibility that the relationship is a mutually abusive one.

When investigating counter-allegations, officers should note and record:

- body language
- comparative severity of any injuries inflicted by the parties
- whether either party has made threats to another party, child or another family or household member
- whether either party has a history of abuse or violence
- whether either party has made previous counter-allegations
- whether either party acted defensively to protect him or herself or a third person from injury
- what any third party witnesses say.

First responders are witnesses and should prepare or give a detailed statement to be included with any prosecution file. If this is by interview at a later stage, supervisors should be mindful that dealing with domestic abuse incidents may sometimes trigger an officer to disclose personal experience of domestic abuse and they should be prepared to offer welfare support if this happens.

### **Identify risk**

Risk identification and assessment are the responsibility of the response officer in the first instance. They remain so unless and until the case is handed over to a specialist or other investigation officer. The response officer must conduct the first risk assessment correctly because it may be the only one carried out in the case.

### **Arrest**

Where an offence has been committed in a domestic abuse case, arrest will normally be 'necessary' within the terms of the Police and Criminal Evidence Act 1984 (PACE) to protect a child or vulnerable person, prevent the suspect causing injury or criminal damage and/or allow for the prompt and effective investigation of the offence.

Code G of the PACE Codes of Practice states that, among other grounds, an officer may carry out an arrest to allow prompt and effective investigation of the offence where there are grounds to believe that a person may intimidate, threaten or make contact with witnesses or destroy evidence. The decision whether or not to arrest a suspect rests with the police officer, and officers should not ask victims whether they require an arrest to be made.

It is important to understand that the incident being dealt with is likely to be the latest in a series. It may form part of a pattern of controlling or coercive behaviour. Officers must base their decision to arrest or not to arrest on their professional judgement, based on the best information available. Officers should record the reasons for not making an arrest in a domestic incident where a power of arrest exists.

The decision to prosecute in domestic abuse cases must be made by the Crown Prosecution Service (CPS), in accordance with the Director's Guidance on Charging, 5th Edition and the Aide-memoire on charging in domestic abuse cases. Only cases which are capable of meeting the Full Code Test should be referred to the CPS, but that is a matter for the police decision maker, not the first responder. Initial police action should not prejudice those decisions. The role of the first responder is to pursue all reasonable lines of enquiry and collect sufficient evidence to enable the decision to be made.

### **Removal to prevent breach of the peace**

In cases where there are no apparent grounds for arrest, sometimes the victim just wants the perpetrator to leave the premises temporarily or the situation can be defused by removing the perpetrator from the location. Where a breach of the peace is likely to occur or reoccur, officers should remove the perpetrator on this ground. They should take the perpetrator to an alternative location, preferably some distance away, and advise them to stay away for a period of time. Where a person has been arrested and de-arrested due to there no longer being a likelihood of breach of the peace, without being taken to a police station, the officers must record this as soon as possible after the release (sections 30(7)-(9) of PACE).

(4) Police procedures when they were notified that restraining order or any other orders are not followed by abusers

The information on police procedures has been extracted from: The College of Policing: Domestic Violence Protection Orders

<https://www.app.college.police.uk/app-content/major-investigation-and-public-protection/domestic-abuse/arrest-and-other-positive-approaches/domestic-violence-protection-notices-and-domestic-violence-protection-orders/>

Where a DVPN (Domestic Violence Protection Notice) is issued it is important there is a plan for monitoring and enforcing its conditions. This may involve communicating with the victim to ensure s/he notifies the police of breaches and the use of local policing teams to monitor the victim and/or suspect.

The victim should be made aware that a DVPN has been issued and what it prohibits. The process should be explained in a way that they understand. They should be provided with details of relevant support agencies as soon as possible so that victim services can use the 48-hour period to support the victim to make decisions about their relationship. Victims should be encouraged to seek information about their options from an Independent Domestic Violence Adviser (IDVA), outreach support worker or other specialist domestic abuse support service

A high-risk flag should be added to the Police National Computer (PNC), including a note of the specific terms of the DVPN, so that any breach can be acted on promptly.

Although breach of a DVPN is not a crime carrying a formal sanction, there are consequences for the suspect. If an officer has reasonable grounds to believe that the suspect has breached the DVPN, the person should be arrested under section 25(1)(b) CSA. They should then be kept in custody until they are brought before a magistrates' court, which must be within 24 hours of arrest (not including Sundays, bank holidays, Christmas and Good Friday).

It is important to clearly highlight the time of arrest so that the 24 hours do not expire before the breach can be dealt with. If it expires, no action can be taken and the person must be released. The DVPN continues to apply until a decision is made on the DVPO application.

The DVPO (Domestic Violence Protection Order) application must be heard within 48 hours of serving the DVPN. It is made by way of complaint to the magistrates' court. It should be listed in the Special Domestic Violence Court, but this is only possible if it is sitting within the 48-hour period. Sundays, bank holidays, Christmas and Good Friday do not count towards the 48-hour period.

#### **After the DVPO hearing**

The victim must be told of the outcome of the application as soon as reasonably practicable.

If the DVPO is granted, the officer should explain:

- the details and duration of the order
- that the obligation is on the perpetrator to comply with the terms, but that the victim should also cease any contact with them



- if there is a term which allows the perpetrator to attend on one occasion with a police officer to collect essential belongings
- if the terms allow child contact under certain conditions
- the consequences of a breach and what to do if the perpetrator breaches the order.

If the DVPO is refused, the officer should:

- ask the victim if they wish to reconsider support for criminal proceedings (if they had previously refused)
- provide the victim with a point of contact, preferably in the domestic abuse or public protection unit, and remind them to call the emergency services if there are any further incidents
- ensure the victim is aware of all safety planning measures that are in place and how to make use of them.

### **Breaches**

If there are reasonable grounds to believe that the person has breached the DVPO, they should be arrested and brought before a magistrates' court within 24 hours of arrest. It is important to be proactive, as any delay loses the victim's confidence and defeats the purpose of the order.

There is no power of entry for breach of a DVPO so officers must rely on section 17 of PACE or the power relating to a breach of the peace. Breach of a DVPO is a civil contempt of court under section 63 of the Magistrates' Courts Act 1980. The court can order a fine not exceeding £50 per day up to a maximum of £5,000 or up to two months' imprisonment. As it is not a criminal offence, it is not recordable. If the case is adjourned, the court can remand the person in custody for up to three weeks.

Officers should always consider if the conduct could also amount to a substantive criminal offence. If it could, this must be investigated in addition to bringing the perpetrator before the court for breach of the DVPO.

(5) Treatment for victims who are immigrants/foreigners (including assistance of interpreter, etc.)

It is important for the police, as with other social agencies, to have facilities and services which will meet the needs of victims who are immigrants/foreigners. There are 43 police services in England and Wales and currently none of them are fully representative of the communities they work in. In 2015, 5.5% of police officers were from a Black and Minority Ethnic background, compared to 14% of the population, and 11.4% of the UK workforce. No police force in England and Wales has a BME representation which matches its local demographic.

The police in England and Wales do not have their own in-house interpreters but employ interpreters from specialist organisations through the Ministry of Justice Framework Agreement or via the National Register of Public Service Interpreters (NRPSI). The police use both face-to-face interpreters and telephone interpreters on a regular basis in order to conduct interviews, interrogations and take witness statements. The interpreters are required to interpret for persons detained, witnesses and others. Telephone interpreting is instant and ideal for an officer who requires an interpreter very quickly,

whereas face-to-face interpreters need to be booked in advance and are used more frequently in police stations and custody suites.

If there is a need for an interpreter at the scene of domestic violence and abuse, an approved interpreter should be sourced if possible. Where none is available and there is a need to secure immediate safety, officers should consider using a telephone interpreting service, limiting its use to preliminary inquiries.

Officers should only use family members as interpreters as a last resort and only for the purpose of securing immediate safety. This applies particularly to children. Any use of a family member or member of the public to interpret at the scene should be recorded. If they are used, the officer(s) should consider checking the information they have received – does the explanation fit the evidence? Can another person corroborate the description of the incident?

Further options may include foreign language-speaking officers or the use of pictorial cards/other communication aids. Again, their use should be limited to securing immediate safety.

In some cases, people detained or interviewed by the police can speak some English however, they will request an interpreter. This is because the interpreter will be able to explain the process, and they feel safe and secure having someone fluent in both their native tongue and English, to assist them with the language barrier. In all cases, Article 6 of the European Convention on Human Rights requires that an interpreter in criminal proceedings be fully competent for the task assigned.

The police will arrange for an interpreter when interviewing suspects or witnesses in the course of their investigation who have difficulty in speaking and understanding English. The Codes of Practice issued under the Police and Criminal Evidence Act 1984 (PACE) give guidance to the police. (Archbold 4-35 4-38) and in particular Code C 13. However, it should be noted that the Codes are currently under revision.

Victims of domestic violence and abuse whose first language is not English, or who were not born in the UK, have reported particular concerns about the policing of domestic violence. They describe feelings of being disempowered and tend not to report domestic violence and abuse as they do not understand what the police officers say and equally are not able to describe what has happened to them.

In addition to problems over language and interpretation there are also specific forms of domestic violence and abuse which tend to be experienced by those whose first language may not be English ; these are so-called honour-based violence, forced marriage and female genital mutilation.

#### **So-called honour-based violence (HBV)**

So-called honour-based violence is a crime or incident, which has or may have been committed to protect or defend the honour of the family and/or community. It is recognised that there is no honour in and no legal defence for committing offences against the person. So-called honour-based violence can be described as a collection of practices (some criminal and some not) which are used to control behaviour within families to protect perceived cultural and religious beliefs and/or honour. Honour-based violence is distinguishable from other forms of violence as it is often committed with some degree of approval from family and/or community members.

For further details please consult The College of Policing: Honour based Abuse, Forced Marriage and Female Genital Mutilation: a Policing Strategy

<http://library.college.police.uk/docs/appref/Final%20NPCC%20HBA%20strategy%202015%202018December%202015.pdf>. This document above sets out the national policing strategy for honour based abuse, forced marriage and female genital mutilation.

(6) Any other useful information related to the handling of abusers by the police

Recent research by Westmarland, Johnson and McGlynn (2017) Under the Radar: The Widespread Use of 'Out of Court Resolutions' in Policing Domestic Violence and Abuse in the United Kingdom, (The British Journal of Criminology, Volume 58, Issue 1, 18 December 2017, Pages 1–16) investigated the nature and extent of out of court resolutions for domestic abuse using the Freedom of Information Act. Out of court resolutions were used by every UK police force except Scotland to respond to over 5,000 domestic abuse incidents (including intimate partner abuse) in 2014. Some of these incidents related to offences with sentencing tariffs up to life imprisonment.

Under the Code of Practice for Victims of Crime (October 2013) victims are entitled to take part in restorative justice techniques, however, police policy does not support the use of restorative justice for domestic abuse in intimate (current or previous) partner cases - the use of restorative justice is not seen to be appropriate for cases of domestic abuse. However, officers are allowed to consider its use where a domestic violence case not involving intimate (whether current or previous) partners arises, and where they have considered the specific criteria set out by the Police Service. From the research cited above it appears that policing policy is not being carried out as expected on the ground and this will need further investigation and monitoring.

### 3 Support for domestic violence victims by the police

(1) Outline

The key aspects of police support for domestic violence victims are:

- Ensure rapid medical assistance and forensic medical examination where necessary.
- Carry out duties in relation to safeguarding (1) children and (2) vulnerable adults
- Build rapport with the victim
- Carry out initial investigation using evidence based approach
- Initiate support and protection for victims such as safety planning
- Referral to specialized domestic violence service and voluntary sector support agencies
- Officers must be familiar with protocols to access emergency accommodation and be able to make arrangements on behalf of victims or ensure support services help them to do so
- Ensure a good handover including all information relevant to the safety of the victim and any children

- Risk assessment - the DASH risk assessment tool has been adopted by police  
<https://www.dashriskchecklist.co.uk/>
- Civil Orders - a number of emergency injunctions can be obtained in the civil courts to protect victims for a period of time – police officers should make victims aware of these options

(2) Contents of the support for victims offered by the police

The College of Policing: Victim safety and support

<https://www.app.college.police.uk/app-content/major-investigation-and-public-protection/domestic-abuse/victim-safety-and-support/>

### **Medical treatment and forensic medical examination**

Officers should make an immediate assessment of the need for first aid or other medical assistance such as an ambulance. They should also consider the need to request and/or complete an early evidence kit (EEK), according to local procedures. The victim may need to attend at a hospital, health centre or sexual assault referral centre (SARC) If this is the case, a police officer should accompany the victim in order to maintain the continuity and integrity of the evidence.

If a victim refuses medical help, officers should document injuries in as much detail as possible. This could include the use of a body map, photographs and BWV as well as a written description. Victims may sometimes refuse treatment because they are concerned about leaving their children. Officers should consider safe and appropriate care for children and reassure the victim that they will be kept safe.

Officers and CSIs (Crime Scene Investigators) should avoid cross-contamination of scenes and should, where possible, avoid attending both the scene and any forensic medical examination. An appointed forensic physician or other suitably trained and authorised health service personnel should conduct forensic medical examinations in suitably equipped medical rooms.

### **Duties in relation to safeguarding**

#### **Children**

A child is any person under the age of 18. The police have a duty to protect children from harm. In all investigations the principle that the welfare of the child is paramount should be observed. Officers should seek to establish whether any children ordinarily resident in the household or present are subject to child protection plans.

Officers investigating domestic abuse offences should identify whether a child was present when the incident occurred, or whether a child is ordinarily resident at the address where it occurred. When officers do not see children, they should ask if children are resident at the address and should look for signs of children, such as clothing and toys. They should check bedrooms. Where they are told children are on the premises, officers should ensure they see each child to check that they are safe and well.

Officers do not need parental consent to speak with the child but, if it is refused, officers should record all requests for consent to interview and should consult and involve children's social care departments as

appropriate.

Children exposed to domestic abuse are subject to harm and risk. Allowing this to happen may amount to an offence of child neglect, which means the child may be a direct victim as well as a witness. See child abuse investigations for further information. Officers must consider referral to the CAIU (or force equivalent) or local authority children's social care (LACSC) departments in all cases where a child is believed to have witnessed a domestic abuse incident. Where it appears necessary to arrest both parents to investigate an offence, officers should seek advice from a supervisor as to how this should be done, eg, identifying a primary perpetrator or a sequence of arrests to ensure the child is not left without at least one parent at any time.

Where necessary, officers should consider exercising police powers of protection under section 46 of the Children Act 1989.

### **Vulnerable adults**

The broad definition of a vulnerable adult is a person: Who is or may be in need of community care services by reason of mental or other disability, age or illness and who is or may be unable to take care of him or herself, or unable to protect him or herself against significant harm or exploitation (Lord Chancellor's Department, Who Decides (1997)).

The offence of ill-treatment or willful neglect of a person lacking capacity, under section 44 of the Mental Capacity Act 2005 (MCA), can be committed by anyone responsible for that adult's care and support. This includes familial carers or a family member holding a power of attorney for the vulnerable adult and can therefore be domestic abuse. Willful neglect normally refers to a deliberate failure by a person to do something they knew they had a duty to do. Ill-treatment covers both deliberate ill-treatment and reckless acts resulting in ill-treatment.

### **Build rapport**

To achieve the safety of victims and children officers must establish a rapport and effective communication with the victim. If an incident is handled effectively and sympathetically on the first occasion, the victim is more likely to have the confidence to call the police again if the situation recurs..

Many factors can prevent a victim from giving a full and frank account of what has happened. There may be hostility or distrust based on the victim's previous experiences with the police. Victims may be traumatised by years of abuse, feel terrified of their partner or have come to accept the abuse as normal. Officers must avoid being dismissive or judgemental towards the victim, especially if they are frequently called to the same address. It is important to understand the dynamics of domestic abuse and to empathise with victims who choose not to, or are unable to, end an abusive relationship. The role of the police is to protect, not judge.

A victim who refuses to engage with the police may be prepared to work with other domestic abuse services – officers should always consider referring a victim to specialist domestic abuse services, even if they are not engaging with the police.

Officers can help to put victims at ease and encourage cooperation by explaining their actions, eg, why they are talking to the children or why they need medical consent and what the consent relates to.

### **Carry out an initial investigation**

Although there may be specialist involvement in the investigation at a later stage, this depends on individual force arrangements for handling domestic abuse cases. The first responder is often the only investigator, especially in cases which are initially identified as standard risk.

### **Unsupportive victims and the evidence-led approach**

It is common for victims not to support, or to appear not to support, the police, an investigation or criminal proceedings for a variety of reasons. Officers should not assume that investigating the incident in such circumstances will not result in a positive outcome, and should take steps to build a case for a potential evidence-led prosecution, ie, a prosecution based on hearsay or circumstantial evidence, or featuring a hostile witness. The first responder should look for corroborating evidence immediately on arrival at the scene as this is the best opportunity to investigate.

At the scene, officers should consider calling a crime scene examiner and think about:

- physical evidence – clothing and bedding, weapons, signs of disturbance
- forensics – blood pattern distribution, other biological evidence, footwear, DNA
- photographic evidence
- CCTV
- house-to-house enquiries
- technology and social media – mobile phones, social media, email.

### **Initiate support and protection for victims**

It is the responsibility of first responders to initiate safety planning and set out options for the victim, even where this is subsequently followed up by a specialist officer. Urgent safeguarding actions can be put into place straight away – a matter of hours can make all the difference to that victim's safety.

Officers could make a return visit to the premises or arrange for the neighbourhood policing team to make contact. More detailed safety planning should be carried out with specialist help, eg, an independent domestic violence adviser (IDVA).

When children are present or if they are ordinarily resident at the address, officers should consider the impact of domestic abuse on them. If either applies, the case must be considered for referral to local authority children's social care department. In some cases, the impact or risk will be so significant that children may need to be taken into emergency care under section 46 of the Children Act 1989.

Forces should keep and regularly update a list of services in their area, where they are based, and what areas they work in, with contact details, so that the victim can be made aware of them and make their own choices about what services to access. This list should be made available to first responders to assist with supporting victims.

### **Referrals to voluntary sector support agencies**

Officers should inform victims of Victim Support (VS), community-based outreach services and places of safety, many of which are dependent on local arrangements. Ministry of Justice (2015) The Code of Practice for Victims of Crime specifies that the police should not routinely make referrals to VS in domestic abuse cases and should only refer if they have explicit consent from the victim to do so.

### **Emergency accommodation**

Local authorities (LAs) have an initial duty to provide access to emergency temporary accommodation for anyone threatened with or experiencing domestic abuse. Officers should be familiar with local protocols to access emergency temporary accommodation and should be able to make arrangements on behalf of victims or ensure support services will help them to do so.

### **Ensure a good handover**

The first responder must ensure that any handover includes all information relevant to the safety of the victim and any children.

### **Normal investigation handover considerations apply.**

The officer should also give the victim a point of contact and remind them to call the emergency services if there are any further incidents or bail breaches.

### **Risk assessment**

The DASH risk assessment tool has now been adopted by all police services and their partners. The model was developed after serious case reviews showed a number of failures in risk assessment, including insufficient information sharing, a lack of training in risk identification and failures to manage intelligence.

### **Domestic violence protection notices and domestic violence protection orders**

Domestic violence protection notices and domestic violence protection orders (DVPN/DVPO) can provide short-term protection for a victim following a domestic incident involving a perpetrator over the age of 18. In order for it to be an option, the officer should conclude that there are reasonable grounds to believe that:

- the suspect has used or threatened violence against the victim, and
- the DVPN is necessary to protect the victim from violence or threat of violence by the suspect.

### **Civil Orders**

A number of different emergency injunctions can be obtained in the civil courts to protect victims for a period of time. The victim may apply for them even if the perpetrator is subject to bail conditions or a DVPO, as those offer only short-term protection.

Officers should make victims aware of these options. They cannot give detailed advice on the process but they should emphasise the need to act promptly if the victim wishes to take this step, as the court is likely to give more weight to evidence of abuse if it is recent. In the case of non-molestation and occupation orders, the applicant and abuser must be associated persons within the meaning of section 62(3) of the Family Law Act 1996.

### **Multi-agency working and victim support**

Government guidelines and ACPO guidance stress the importance of informing and involving other agencies, such as social services, when tackling domestic abuse.

### **Multi-Agency Risk Assessment Conferences (MARACs)**

MARACs are regular local meetings where information about high risk domestic abuse victims (those at risk of murder or serious harm) is shared between local agencies including police, health, child protection, housing, Independent Domestic Violence Advisors (IDVAs) and other specialists from the statutory and voluntary sectors. The victim does not attend the meeting but is represented by an IDVA who speaks on their behalf. Following the meeting, a risk focused, co-ordinated safety plan is drawn up to support the victim.

(3) How to obtain a copy of bill of complaints or reports at the police

In an emergency always dial 999

For minor crimes dial 101

The Independent Police Complaints Commission oversees the police complaints system in England and Wales. The complaints system can be used to complain about both police officers and members of staff working for a police force. There is a guide to the police complaints system in pdf format:

[https://www.ipcc.gov.uk/sites/default/files/Documents/easyread/Easyread How to make a complaint about the police.pdf](https://www.ipcc.gov.uk/sites/default/files/Documents/easyread/Easyread%20How%20to%20make%20a%20complaint%20about%20the%20police.pdf)

This booklet tells people how to make a complaint, what happens after a complaint is made and how to appeal the way the police handled your complaint.

(4) Treatment for victims who are immigrants/foreigners (including assistance of interpreter, etc.)

See section 2 (5) above.

(5) Any other useful information related to support for victims offered by the police

Her Majesty's Inspectorate of Constabulary (HMIC) carried out a review of the policing of domestic violence in England and Wales in 2014 entitled 'Everyone's business: Improving the police response to domestic abuse'

<https://www.justiceinspectorates.gov.uk/hmicfrs/wp-content/uploads/2014/04/improving-the-police-response-to-domestic-abuse.pdf>



4 Any other information related to protection for domestic violence victims in case of emergency

In a domestic violence emergency it is essential to contact the police straight away by dialing 999.

#### **Applying for court orders**

Information about how to apply for court orders is available from the Women's Aid Survivors Handbook (<https://www.womensaid.org.uk/the-survivors-handbook/>) and the Victim Support website (<https://www.victimsupport.org.uk/>). There are a number of national organisations which help victims with obtaining injunctions/orders or other aspects of family law.

#### **The National Centre for Domestic Violence (NCDV) <http://www.ncdv.org.uk/>**

They provide assistance with applying for emergency injunctions and are usually able to do so within 24 hours of first being contacted.

#### **Rights of Women (RoW) <http://rightsofwomen.org.uk/>**

They provide women with free, confidential legal advice by specialist women solicitors and barristers and has telephone advice lines available to women throughout England and Wales. Their specialism is the law as it applies in England and Wales and so their specialist legal advice and information is limited to the benefit of women in England and Wales

#### **Women's Aid** provide useful links to legal advice

<https://www.womensaid.org.uk/the-survivors-handbook/your-legal-rights/>

They run a free telephone legal advice line for women including a sexual violence legal advice line. They produce publications – including ones on domestic violence and the law, child contact, and for those who have experienced rape or sexual assault.

#### **Dyn Project - [www.dynwales.org](http://www.dynwales.org)**

The Dyn Project works across Wales to support men who experience domestic abuse.

#### **Man Kind Initiative - [www.mankind.org.uk](http://www.mankind.org.uk)**

The Man Kind Initiative is a national charity that provides help and support for male victims of domestic abuse.

#### **Men's Advice Line - [www.mensadvice.org.uk](http://www.mensadvice.org.uk)**

The Men's Advice Line offers practical advice, information and support to male victims of domestic abuse as well as concerned friends and families.

See also the Crown Prosecution Service (CPS) Domestic Abuse Guidelines for Prosecutors, Annex D – for a longer list of national support organisations - attached at the end of this document.

### III. Independence support for domestic violence victims

#### 1 Medical insurance system

##### (1) Outline

England and Wales have a National Health Service (NHS) which victims of domestic violence are able to access free of charge as long as they are ordinarily resident in these countries and therefore medical insurance is not necessary in these cases. Also there is an exemption for victims of violence accessing health care see Section 4 below.

##### (2) Names of organizations in charge, contact information, how to apply for medical insurance in your target area of study

Department of Health and Social Care

<https://www.gov.uk/government/organisations/department-of-health-and-social-care>

Royal College of Nursing

<https://www.rcn.org.uk/clinical-topics/domestic-violence-and-abuse/legislation-and-employment-resources>

##### (3) Requirements for application

N/A

##### (4) Treatment for victims who are immigrants/foreigners

Information sourced at:

<https://www.gov.uk/government/publications/guidance-on-overseas-visitors-hospital-charging-regulations/summary-of-changes-made-to-the-way-the-nhs-charges-overseas-visitors-for-nhs-hospital-care>

#### **Victims of violence**

An overseas visitor who has been subjected to certain types of violence must not be charged for treatment or services needed to treat any condition caused by that violence, in recognition of the particularly vulnerable position they may be in. The types of violence are:

- torture
- female genital mutilation
- domestic violence
- sexual violence

The conditions include physical or mental illness, or an acute or chronic condition. The exemption applies wherever the violence has been experienced, provided that the overseas visitor has not travelled to the UK for the purpose of seeking that treatment.

(5) Any other useful information related to medical insurance

N/A

## 2 Living expense support

### (1) Outline

On fleeing domestic abuse with her children, a parent with no or low income would typically wish to claim:

- child benefit – HMRC (Her Majesty's Revenue and Customs oversees Child Benefit)
- child tax credit - HMRC
- housing benefit (whether living in a refuge or private accommodation) – Local Authority
- income support, if any of the children are under five – DWP (Department of Work and Pensions)

However, there are difficulties in obtaining living expenses for women fleeing a violent partner with their children. They can be left with virtually no money for weeks or even months if their former partner is the Child Benefit recipient. This is because receipt of Child Benefit is the test of whether someone is entitled to claim Income Support as a lone parent – a delay in getting Child Benefit has the knock-on effect of denying entitlement to Income Support until the Child Benefit claim is sorted. In the worst cases, mothers can be left without Child Benefit or Income Support for 16+ weeks.

### (2) Names of organizations in charge, contact information, how to apply for the support in your target area of study

Her Majesty's Revenue and Customs (HMRC), Child Benefit online services, online advisors and forms available at:

<https://www.gov.uk/government/collections/child-benefit-forms>

In order to claim a benefit a person has to make contact with their nearest Jobcentre Plus. In order to find the nearest office use you can use the local office search by entering your Post Code at <http://los.direct.gov.uk/>. There are two ways to claim Income Support. By phone: Contact Jobcentre Plus on 0800 055 6688 or textphone 0800 023 4888. By post: You can you can fill out a claim form on GOV.UK.

For Housing Benefit see Section 4 below.

### (3) Requirements for application

Detailed guidance on eligibility for universal credit is available on the DWP web site at

<https://www.gov.uk/universal-credit/eligibility>

(4) Contents of their support

The maximum amount you can now get in benefit income is:

- £23,000 a year if you live in London
- £20,000 a year if you live elsewhere in the UK

(5) Treatment for victims who are immigrants/foreigners

An immigration rule, the two-year rule, stipulates a probationary period for all marriages to non-British spouses; if the marriage breaks down before then, the partner will be deported, unless she can prove that she faced violence under the domestic violence concession. The destitute domestic violence (DDV) concession introduced in 1999 now allows non British women to apply for three months' leave, giving them access to benefits while they apply for indefinite leave to remain (ILR) .

For useful information in relation to financial support for immigrants see:

*Benefits for Migrants Handbook*, 2017, 9<sup>th</sup> ed. , Child Poverty Action Group, ISBN: 978-1-910715-24-6

(6) Any other useful information related to the living expense support

An up to date report into finances and domestic violence was carried out recently by the Child Poverty Action Group: 'A question of responsibility: problems with child benefit and income support when women and their children flee domestic violence', Martin Williams, Dan Norris and Josephine Tucker, November 2017

<http://www.cpag.org.uk/sites/default/files/uploads/A%20question%20of%20responsibility.pdf>

There have been recent changes to the UK benefits system. Some benefits are being replaced while others may have different rules for claiming them. Many benefit changes have already taken place in England, Scotland and Wales.

•Universal Credit

Universal Credit is a new single monthly payment for people looking for work or on a low income. It will replace the following benefits:

- Child Tax Credit
- Housing Benefit
- Income Support
- income-based Jobseeker's Allowance (JSA)
- income-related Employment and Support Allowance (ESA)
- Working Tax Credit

If a person currently receives any of these benefits, they can't claim Universal Credit at the same time.

Universal Credit is being introduced in stages across the UK but as this happens the Government needs to monitor the impact this single payment policy has on domestic abuse cases. The payment of monthly household finances to one individual has inbuilt risks for people in abusive relationships, allowing perpetrators to take complete control of finances. An exemption to this for domestic violence and abuse is available but it depends on the claimant proactively applying for the exemption and it being granted, this may not safeguard victims sufficiently.

### 3 Childcare support

#### (1) Outline

In England and Wales 29.5% of young people under 18 have been exposed to domestic violence during their lifetime (12% of children under 11, and 17.5% aged 11-18) and approximately 5.7% of children and young people, will experience domestic violence in a year (Radford, Corral, Bradley, & Fisher, 2013).

In England and Wales there is a complex multi-agency pattern of childcare support for children who have experienced domestic violence: (1) specialized agencies working on domestic violence which provide individual and group work services for the children of women in refuges and in the community, there are (2) generalist children's and youth services which also offer a service for children who are experiencing or have experienced domestic violence e.g. charities, midwives, health workers etc. (3) the Children and Adolescent Mental Health Services (CAMHS) provide services to children who suffer mental health issues. (4) The Children and Family Court Advisory and Support Service (CAFCASS) is a non-departmental public body in England set up to promote the welfare of children and families involved in family court. (5) In recent years work has also started on children who often as a result of domestic violence in their own families start to use violence against their parents or other people close to them eg Respect.

(2) Names of organizations in charge, contact information, how to apply for the support in your target area of study

#### **1. Specialised domestic violence services working with children and young people**

**Women's Aid:** <https://www.womensaid.org.uk/>

Women's Aid Federation England (WAFE) has a website called The Hideout dedicated to children and young people. The website helps children and young people to understand domestic violence and how to take positive action if it is happening to them. The website can be found here: <http://www.thehideout.org.uk/default.aspx>

All Women's Aid affiliated services provide services for children either within the refuge or at other premises in the community and some have dedicated youth workers. For example, SafeAs is Cardiff Women's Aid's programme for children and young people who are currently experiencing domestic violence/abuse primarily referrals for children at high risk from the Women's Centre team and from

Social Services. SafeAs offers age appropriate one to one work with children and also work with parents/carers to help them understand what their children are experiencing and how best to help them. There is also group work delivered from a therapeutic perspective focused on helping children understand what is happening and build resilience.

Refuge Website: <https://www.refuge.org.uk>

Refuge offers Child Support workers to work with children in their refuges.

## **2. Generalist Children's Services/Charities that also address domestic violence**

### **Barnardo's**

The Early Intervention Support Service is a voluntary service. Families can self-refer into the service or a referral can be made from any professional involved with your family. For further information or to make a self-referral, contact Pauline Price on 02891 271538.

The EISS service offers short term (approx 12 weeks) support in your own home to families with children 0 – 18 years who have additional needs or are facing challenges that are difficult to overcome, for example:

- Family difficulties
- Domestic Abuse

### **NSPCC (National Society for the Prevention of Cruelty to Children)**

Worried about a child? The NSPCC offers trained helpline counsellors for 24/7 help, advice and support. 0800 5000

There is also help for young people via Childline 0800 1111

## **3. Child and Adolescent Mental Health Services (CAMHS)**

CAMHS stands for Child and Adolescent Mental Health Services. CAMHS are the National Health Service (NHS) services that assess and treat young people with emotional, behavioural or mental health difficulties. CAMHS support covers depression, problems with food, self-harm, abuse, violence or anger, bipolar, schizophrenia and anxiety, to name a few.

There are local NHS CAMHS services around the UK, with teams made up of nurses, therapists, psychologists, support workers and social workers, as well as other professionals

Local areas have a number of different support services available. These might be from the statutory, voluntary or school-based sector, such as an NHS trust, local authority, school or charitable organisation.

#### **4. Children and Family Court Advisory and Support Service (CAFCASS)**

The Children and Family Court Advisory and Support Service is a non-departmental public body in England set up to promote the welfare of children and families involved in family court.

#### **5. Services that address children and young people's violence to others**

##### **Respect**

Respect is a UK-based charity working in the area of domestic violence. A national organisation based in London, it provides services, including helplines, for male and female perpetrators of domestic violence, for male victims of domestic violence, and for young people who are violent in the home or relationships. Respect works with young people using violence and abuse in close relationships through the RYPP (Respect Young People's Programme) as well as working with perpetrators of domestic violence and male victims of domestic violence. <http://respect.uk.net/>

There are also programmes which work with young people's violence to parents for example Break4Change based in Brighton and Hove <http://break4change.co.uk/>

##### 6. Requirements for application

1. Children living in a Women's Aid or Refuge shelter are automatically offered childcare support and also some Women's Aid services offer children and young people the chance to self-refer to their programmes based in the community.

<https://www.womensaid.org.uk/>

<https://www.refuge.org.uk>

2. Barnardos and NSPCC - families can self-refer into the service or a referral can be made from any professional involved with the family.

[https://www.barnardos.org.uk/what\\_we\\_do/our\\_projects/domestic\\_violence.htm](https://www.barnardos.org.uk/what_we_do/our_projects/domestic_violence.htm)

[help@nspcc.org.uk](mailto:help@nspcc.org.uk)

3. CAMHS - Someone, usually a parent, teacher, GP, or the victim him/herself if old enough, can refer the victim for an assessment with CAMHS to see what help they could get. If the victim is being supported by social care, a youth offending team or a service at your school, they might also be able to refer him/her. It's important that the victim tells the person referring them as much as possible in order to get the help needed.

Most CAMHS have a website victims can use to look up how to get access to their services.

e.g. Central and North West London <http://camhs.cnwl.nhs.uk/>

4. CAFCASS <https://www.cafcass.gov.uk/>

Referral is through the court system.

5. Respect – Respect Young People’s Programme (RYPP)

Referrals to the RYPP need to be made via [respect@idas.org.uk](mailto:respect@idas.org.uk). For further information about the RYPP please email: [respect@idas.org.uk](mailto:respect@idas.org.uk) or contact them on 01904 646036.

(Freephone) Helplines

UK helpline for perpetrators & professionals seeking advice:  
0808 802 40 40

Men’s advice line for male victims:

0808 801 0327

<http://respect.uk.net/>

7. Contents of their support

1. **Women’s Aid e.g. Wycombe Women’s Aid** <http://www.wycombewomensaid.org.uk/>

Wycombe Women’s Aid has a dedicated children’s service which aims to meet the emotional, physical and educational needs of all the children living in the refuge. All of the children will have been affected by domestic violence and specially trained Child Development Workers will support the children throughout their stay.

Our overall aim is to provide a safe and supportive environment in which children can play, experience new activities, talk about their experiences of domestic violence, spend time with other children who have had similar experiences and increase their self-confidence and self-esteem. This is achieved through free play, structured activities, trips outside the refuge, After School Group, holiday play schemes and one-to-one sessions.

**Children’s play area**

Wycombe Women’s Aid has a fully equipped Playroom and garden – this is a safe space that can be enjoyed by children of all ages. The Child Workers will help to arrange a school or nursery place as well as offering support and guidance on any aspect of a child’s welfare. Children living in the refuge are also able to access Helping Hands (see below).

**Youth Service**

Wycombe Women’s Aid has a dedicated Youth Worker who works with young people (boys and girls) aged 11-17 years who are living either in the refuge or in the local community.



She works with young people who have experienced domestic violence at home, or in their own personal relationships, providing emotional support to enable them to reflect on and heal from their experiences of domestic violence and to make choices about their current and future options. She promotes the safety, health and well-being of young people, raising their awareness around their rights to feel safe and healthy relationships. The Youth Worker provides a safe environment for the young people to express their feelings and to develop their self-esteem and self-confidence.

The Youth Worker works closely with schools, through one to one support, assemblies and class awareness raising sessions with teachers and pupils, to ensure young people are able to make safe and informed choices within personal relationships and their home environment. The Youth Worker also helps to raise awareness of the nature and prevalence of domestic violence.

The Youth Worker can also deliver training to schools, other agencies and youth settings around domestic violence and young people and healthy relationships.

The Youth Service can be contacted by calling a Youth Worker on 07436 536400

**A Young Person's** Leaflet is available explaining **how** to self-refer to the Youth Service by contacting them by telephone 07436 536400, by using the Contact Us form to send us a message or by completing a referral form below:

### **In the Local Community**

#### **You & Me, Mum**

You & Me, Mum is a 10 week group work programme which aims to support women around understanding how domestic violence can impact on their relationships and parenting of their children. There are no sessions during school holidays. The group is open to any woman who has children and there will be a maximum of 8 women per group.

The group takes place on Tuesday mornings between 10.00am and 12.00 noon at a venue in High Wycombe. The aim of the programme is 'to provide a ten week self-help programme which will empower, support and develop further understanding of your role as mothers, in addressing the needs of children and young people who have lived with domestic violence'. The objectives of the programme are:

- to understand how domestic violence affects you as a parent
- to understand the effects of domestic violence on children and young people
- to develop effective communication skills with children and young people
- to promote healthy and non-violent relationships
- to explore key protective behaviours messages and strategies for keeping mothers, children and young people safe

The group is facilitated by a Wycombe Women's Aid IDVA/Outreach Worker and a Wycombe Women's Aid Child Development Worker.

For more information contact the IDVA/Outreach Worker on 07436 536600.

### **Helping Hands**

Helping Hands is a six week programme for children in the community who have witnessed or experienced domestic violence and who are now living in safe and settled accommodation away from the perpetrator. The primary purpose of Helping Hands is:

‘To increase children’s understanding of feeling safe and to explore and promote behaviours which will contribute to a safe environment’

Running at the same time is a support group for the mothers to ensure that they are another source of support for their children and also enable them to deal with any issues that may arise from the process. A downloadable leaflet is available. Referrals for the Helping Hands Programme can be made at any time. Please contact the Child Development Worker on 01494 461367 for a referral form.

2. **Barnardos** <https://www.barnardos.org.uk/>

The Early Intervention Support Service (EISS) is a voluntary service offering counselling and family support. Families can self-refer into the service or a referral can be made from any professional involved with your family. For further information or to make a self-referral, contact EISS on 02891 271538.

The EISS service offers short term (approx 12 weeks) support in your own home to families with children 0 – 18 years who have additional needs or are facing challenges that are difficult to overcome, for example:

- Family difficulties
- Domestic Abuse

3. **CAMHS**

Specialist CAMHS are NHS mental health services that focus on the needs of children and young people.

They are multidisciplinary teams that often consist of:

- psychiatrists
- psychologists
- social workers
- nurses
- support workers
- occupational therapists
- psychological therapists – this may include child psychotherapists, family psychotherapists, play therapists and creative art therapists
- primary mental health link workers
- specialist substance misuse workers

4. **Children And Family Court Advisory and Support Services (Cafcass)**

<https://www.cafcass.gov.uk/>

Cafcass may be asked by the court to work with families in three main areas:

- Divorce and separation
- Care proceedings
- Adoption

In terms of children and young people they aim to ensure that children's voices are heard in the court setting.

5. **Respect**      <http://respect.uk.net/>

The Respect Young Peoples Programme (RYPP) is a programme that has been developed by Respect aimed at work with young people aged 11 – 14 who are displaying abusive behaviours within the family unit. IDAS are working in partnership with Respect to deliver the RYPP across many areas of North Yorkshire. For further information about Respect or IDAS visit [www.respect.uk.net](http://www.respect.uk.net) or [www.idas.org.uk](http://www.idas.org.uk)

The RYPP is a Cognitive Behavioural Therapy based programme is designed to enable the family to identify their negative behaviours. The aim is then to help change the families' ways of thinking so that they can avoid these behaviours. The programme also helps the families thought patterns to be more realistic and positive.

The RYPP is very practical with lots of different tools and resources used to work with both the parent and young person. There is the opportunity for discussion and reflection about actions, behaviours, thoughts, feelings and consequences. The programme follows a structured delivery of support over a period of 11 weeks.

8. **Treatment** for victims who are immigrants/foreigners

If a victim is not a UK national some of the information, particularly on benefits and housing, may not apply fully to them. If a victim is concerned about their immigration status, they should seek specialist advice as soon as possible

Child victims who are immigrants/foreigners would be entitled to access the programmes above as long as their parent has been given indefinite leave to remain in the UK. Women experiencing domestic violence who are immigrants/foreigners can apply to UK Visas and Immigration under the Destitution Domestic Violence Concession for access to public funds for three months while they make a claim for indefinite leave to remain as a victim of domestic violence. If the victim does not apply for indefinite leave to remain within three months she becomes a person subject to immigration control again.

## 9. Any other useful information related to childcare support

Domestic abuse is persistent and widespread. It is the most common factor where children are at risk of harm in England and Wales and can have a detrimental impact on a child's health, development, ability to learn and well-being.

A useful Ofsted Report 'The Multi Agency Response to Children Living with Domestic Violence: Prevent, Protect and Repair' (2017) was published recently and has been commented on as follows:

"..Police, social services, NHS staff and other public sector workers are getting better at identifying and supporting victims of domestic abuse.

"This progress is to be welcomed - but a new report from Ofsted warns that children's needs and experiences are not always given enough attention as the focus is on their parents - and that there are risks to their emotional health as a result. Pregnancy and having a new baby are often a trigger for abuse to start or worsen, so it's essential that we help families at this crucial time.

"The report points to non-specialised services as key sources of support and protection - both to spot families at risk, and to help children cope. In some parts of the country, midwives play a key role in identifying women who might be at risk of domestic violence and working with other organisations to help them. Teachers can also spot families who might be at risk of harm, and help children learn about the importance of healthy relationships." (Claire Harding 21 September 2017 <https://www.familyandchildcaretrust.org/we-must-back-childcare-professionals-supporting-children-risk-abuse> date accessed 05/01/2018).

Multi-agency working offers strengths in terms of the diversity and flexibility of responses to domestic violence but can be weak if communication networks and protocols amongst the different agencies do not work well.

### 4 Housing support

#### (1) Outline

In relation to housing support the victim of an abusive relationship might want to:

- leave home temporarily or permanently, or
- stay in their home and get the person who is perpetrating the domestic violence to leave

The key areas of housing support can be organized under the following headings:

- Leave home temporarily or permanently and find a place to live
  - Rent from a social landlord
  - Rent from a private landlord

## Issues re Housing Benefit or Universal Credit

- Stay in their own home and get the perpetrator to leave

### **Find somewhere safe to stay**

The victim is likely to need somewhere safe to stay, either alone or with their children. They can:

- stay at home - if they think this is safe
- stay with relatives or friends
- stay in a refuge
- get emergency accommodation from the local authority under homeless persons law - this will usually mean a bed and breakfast hostel
- get privately rented accommodation.

(2) Names of organizations in charge, contact information, how to apply for the support in your target area of study

### **Child Poverty Action Group (CPAG)**

Campaigns for the abolition of child poverty in the UK and for a better deal for low-income families and children. Domestic violence is an important factor for people in poverty. CPAG carry out research and publish reports on issues re income support and child benefit for domestic violence victims.

### **Refuges/Shelters**

Refuges provide somewhere safe for victims and their children to stay and think about what to do next.

Staff at refuges are specialised in dealing with domestic violence, and so can give a lot of emotional and practical support, for example, advice on benefit claims, which solicitors to use and, if necessary, how to contact the police.

If you're a woman contact the National Domestic Violence Helpline 0808 2000 247

If you're a man, you can get help through the charity called Refuge

### **Going to the Local Authority**

Local authorities have a legal duty to provide help to certain people who are homeless or threatened with homelessness. Victims of domestic violence will qualify for help if eligible for assistance, legally homeless or threatened with homelessness and not intentionally homeless. They must also be in priority need. The local authority may also investigate whether they have a local connection with the area.

They will normally be considered to be legally homeless if it is not reasonable for them to occupy their home because of the risk or fear of domestic violence.

Local authorities in England and Wales should deal sympathetically with applications from people who are in fear of violence. The victim can ask for a private interview, with someone of the same sex, and can take a friend with them for support. The local authority may have a duty to provide emergency accommodation for them while it decides whether they are legally homeless. If it is outside of normal office hours, they should telephone the local authority's emergency out-of-hours number for help with emergency housing.

Once a victim has found a safe place to stay short-term, s/he will need to think about what to do in the longer term.

- whether they wish to permanently separate from their partner. They need to seek legal advice from a local domestic violence service or a solicitor

- whether they want to take action to keep the violent partner away from them. This could include getting an injunction to protect them from more violent behaviour (known as a non-molestation order), or a court order to sort out who can stay in the family home, for example if they want to stop their violent partner from returning home (known as an occupation order).

- housing. Their legal rights to the family home will depend upon the type of housing, the legal status of the relationship and whether or not they have children. They should get legal advice to ensure that everything possible is done to protect rights to the family home. They should seek advice about the family home even if leaving permanently because, if their partner sells the home, they may lose money and possessions.

- children. If they have children they need to decide if they are taking the children with them. It may be unsafe to leave them behind. They may need to use the courts to resolve who the children should live with and with whom they should have contact. Again they should seek legal advice and help from a local domestic violence service or a solicitor

- money. They will need to sort out their benefit entitlement and tax arrangements and whether or not to apply to court for maintenance for themselves. They may also want to apply to the Child Maintenance Service for them to arrange maintenance for their children.

If the victim needs further information and advice, they should consult an experienced adviser, for example, a solicitor, law centre or Citizens Advice Bureau (CAB).

#### **Finding a place to live:**

##### **Renting from a social landlord**

Government web site <https://www.gov.uk/council-housing>

Victims apply for a council house through their Local Authority / Council Housing Office

They can apply for council housing through their local council by inserting their post code on the government web site to find the local housing office <https://www.gov.uk/apply-for-council-housing>

Housing Association homes. Housing associations offer similar types of housing as local councils – often to people on a low income or who need extra support. Victims can apply:

- directly to a housing association
- or through their local council

### **Finding a place to live:**

#### **Renting from a private landlord**

Searching for a property. The quickest way to find a property is online, on property search websites. A woman can search for the exact area she wants and arrange viewings on website, alternatively she could visit local estate agents. It's also worth asking friends and family and checking local noticeboards and newspapers.

When looking for a home, do not pay any money without seeing the property first. Do not rent a property directly from an existing tenant. This is called 'subletting' - the tenant might not have the landlord's permission to rent to you. If a tenant is just showing you the property on behalf of the landlord they should give you the landlord's details.

#### **If the victim is on Housing Benefit or Universal Credit**

Not all landlords and letting agents will let people rent from them if they get Housing Benefit or housing costs payments through Universal Credit.

The victim needs to tell the landlord or letting agent that s/he is getting Housing Benefit or Universal Credit if they ask.

They might be able to get a landlord or letting agent to accept them by giving extra references. They could ask more than one of their previous landlords to give them a reference that says their rent was always paid on time. They could also get a guarantor to help them, get accepted. A guarantor is someone who agrees to pay the rent if they don't. Ask your local council if they have a list of landlords and letting agents who will rent to people who are getting Housing Benefit.

### **Staying safe in the home**

The victim can stop their partner entering their home by getting an injunction to protect them and their family from domestic abuse.

They can:

- apply for an injunction through the National Centre for Domestic Violence
- find out more about injunctions on GOV.UK

If the order bans the partner from their home they can make it safer by changing the locks and installing an alarm see the Sanctuary Scheme below.

### **The Sanctuary Scheme**

The Sanctuary scheme involves a process known as target hardening (enhancing security with extra locks and bolts) and aims to reduce homelessness by enabling victims (where safe and appropriate) to stay in their own home. Many victims do not want to flee their homes or the area where they live as their support networks are there and their children are settled. The scheme aims to improve security by replacing locks, installing window locks and alarms and putting in measures to reduce the risk of fires.

The scheme works slightly differently in each area and may involve resources from the district councils. This service is not restricted to those in rented or local authority housing. This service can also be accessed if the victim owns their own home.

(3) Requirements for application

#### **Housing Association homes**

##### **Starter tenancy**

New housing association tenants may be offered a starter tenancy. These usually last 12 months and are like a 'trial' period.

The victim will become an assured or fixed term tenant after 12 months, unless their housing association has either:

- started action to evict them
- extended their starter tenancy

##### **Assured and fixed-term tenancies**

At the end of their starter tenancy they'll be offered either:

- an assured tenancy - meaning they can normally live in their property for the rest of their life
- a fixed-term tenancy - usually lasting for at least 5 years (their landlord will decide whether it's renewed)

##### **Their rights may include:**

- buying their home
- having their home repaired
- swapping their home with another council or housing association tenant

##### **Ending their tenancy**

Their tenancy can be ended if:

- they give the housing association 4 weeks' notice in writing
- the housing association evicts them
- they transfer their tenancy to someone else or swap homes
- the housing association needs to move them (eg to redevelop their property) - it should offer them a



new property

(4) Contents of their support

### **Rights of Women 2012 Domestic Violence, Housing and Homelessness**

The options that are available to victims of domestic violence depend on whether they are married, in a civil partnership or living together. In addition, their rights may depend on whether they are renting or they own their home.

If they are married, in a civil partnership or cohabiting with their abuser they can apply to the court for an occupation order. This is an order which decides who lives in their home.

It is a temporary measure which can exclude their abuser from their home. It usually lasts six months although it can be extended and will allow time to look at other options. The court has the power to order their abuser to pay the rent, mortgage or other outgoings when making an occupation order. If they have been forced out of their home they can also apply to the court to get back in.

If they own their home or are renting and the tenancy is in their name and they are not married then their abuser has no legal right to remain in the property and they can request that he leaves.

Alternatively, if they rent their home with the abuser and the tenancy is not in their own name (or if it is in joint names) they can apply to the county court under Part IV Schedule 7 of the Family Law Act 1996 for the tenancy to be transferred into their sole name. This type of order is called 'a Part II Order'. They can make an application under this section if they are married or civil partners (provided divorce/dissolution proceedings have been started), or if they are living together. The court can order the person to whom the tenancy is transferred to pay money in respect of rent to the other person.

If the tenancy is an assured shorthold tenancy they will not be entitled to make this application so they will need to check what sort of tenancy they have.

When deciding whether to make a transfer of tenancy the court must consider all the circumstances including:

- the circumstances in which the tenancy was granted
- the circumstances in which either of the persons involved became tenants
- the housing needs and housing resources of the victim/any relevant child
- the victim's financial resources
- the likely effect of any order on the health, safety and wellbeing of both the victim and any relevant child
- the conduct of both persons involved
- the persons' suitability as tenants

If they are cohabitants and only one of them has a right to live in the property, the court will also consider:

- the nature of the relationship
- the length of time they lived together
- whether there are children
- the length of time since they stopped living together

They can apply for this order whether renting privately or whether a local authority tenant.

If the victim wants to remain in their home but is concerned about the security, they should contact their local authority to see if they operate a sanctuary scheme in their area. The purpose of this scheme is to help prevent victims of domestic violence from having to leave their homes by providing them with additional security measures including a safe room in their home. This involves a room fitted with safety measures such as extra locks, closed circuit television, security lights and a direct alarm through to the police. They will need to check with their local authority to see if they offer this service. This scheme will only be set up if they request it and if their abuser no longer lives in their home. If they are at high risk this may not provide sufficient protection.

### **Emergency Transfer**

In certain circumstances local authorities are able to do emergency transfers. They will normally require a statement from the police confirming that they are at risk and that they must be moved.

Because local authority allocation schemes vary, they should contact their local authority housing officer about this option.

What are the victim's rights if they leave their home because of domestic violence?

If they leave their home because staying there will lead to domestic violence and they do not wish to return, the local authority may have a duty to help you under Part VII of the Housing Act 1996 (HA1996) and the Homelessness Act 2002.

A person applying to a local authority for housing is considered to be in priority need if fleeing domestic violence. Under the Housing Act 1996 domestic violence is defined as 'violence from another person or threats from another person which are likely to be carried out'. This includes actual violence and threats of violence and includes violence inside or outside the home. There is no need for violence to have already taken place.

The Homelessness Code of Guidance 2006 makes it clear that domestic violence is not just physical violence and specifically states that it should be understood to include threatening behaviour, violence or abuse (psychological, physical, sexual, financial or emotional). Local authorities must have regard to the Code of Guidance before making a decision and cannot require proof of domestic violence before they will act.

The local authority will have a duty to help the victim if s/he is homeless or threatened with homelessness. Threatened with homelessness means that s/he is likely to become homeless within 28 days. The victim can still be considered homeless if s/he is living in a refuge or has a home but it is likely that they will experience violence or threats of violence if they return.

The victim will be considered unintentionally homeless if someone has used or threatened violence against her/him and s/he has been forced to leave their home because of domestic violence.

In order to qualify for local authority help you must also be eligible for assistance. Unless you are subject to asylum or immigration restrictions it is very likely you will be eligible. The rules on eligibility are subject to change, so if you have any concerns about your immigration status you should get advice from an immigration solicitor before approaching your local authority.

If you are fleeing domestic violence you are entitled to apply to any local authority and the local authority will not be allowed to refer you back if there is a risk of violence to you if you return.

It is not necessary to have a local connection in cases of domestic violence.

### **Procedure**

You should first contact your local homeless persons unit (HPU) or local authority housing office. The local authority will then have a duty to investigate your case.

If the local authority has reason to believe that you are homeless/threatened with homelessness, in priority need (for example, you are vulnerable from domestic violence) and eligible it must provide you with immediate temporary accommodation until they have completed their enquiries and notified you in writing of their decision. This may be bed and breakfast or hostel accommodation.

If you have been experiencing domestic violence you should therefore tell the local authority at the earliest opportunity.

It is up to the local authority to investigate your case, it is not your responsibility to prove it. Although you do not need proof of violence, if you have a police report concerning an incident of domestic violence you should give this to the local authority because it is good evidence which can assist you.

If the local authority is satisfied that you are eligible, in priority need and unintentionally homeless it has a duty to provide you and your family with secure and suitable accommodation.

This is called the main housing duty. There is no time limit on this but it can end in certain circumstances. You should ask your local housing officer for further information.

If the local authority does not consider that you are in priority need but decides you are unintentionally homeless and eligible it must provide you with free advice and assistance. This should include a list of

hostels and private accommodation in your area.

The Homelessness Code of Guidance 2006, which local authorities must consider, says that they have a duty to notify you in writing within 33 days. At the same time it must also notify you of your right to request a review of the decision if you are not happy with it.

### **Challenging the Local Authority's decision**

Once you have been notified in writing of a decision there are various ways you can challenge it. You have a right to request a review by the local authority of many decisions including those of eligibility, priority need and whether you are intentionally homeless or not. The request for review must normally be made within 21 days. The 21 days starts on the day you receive the decision, not from the date it was sent. This can be important if you have left your home and are having problems getting your post.

A review request does not need to be in writing so a conversation with someone or a message left on an answering machine can be a legitimate request. This should only be relied on in an emergency, for example, if the deadline is about to expire. It is always useful to make a note of the name of the person that you speak to.

The request does not need to contain reasons why the decision is wrong, these can be provided at a later stage. You only need to state that you want to review the decision. This can be useful if you need time to find legal representation.

If the review fails you can apply to the county court within a further 21 days. However this can only be done where there is a "point of law" and you should seek urgent legal advice as the deadline is extremely strict. The council may decide to continue to house you while it reviews your case but it does not have to do so.

You may be able to challenge other decisions by judicial review. Strict time limits apply and you should seek urgent legal advice. Alternatively, you may wish to contact the government ombudsman. This can be a slow process and you normally have to use the local authority complaints procedure first.

The law clearly states that there is no obligation to get an injunction (i.e. a non molestation order or an occupation order) before the local authority will help you. You should challenge your local authority if they refuse to help you for this reason.

### **Can a victim reject the accommodation offered?**

The home you are offered should be reasonable and suitable for a victim's needs. This means it must be big enough for the victim and any children and that it should be free from a risk of violence.

What is considered reasonable may depend on whether the home offered is temporary or permanent. For example, it might be considered reasonable for a woman with one child to live in a

one bedroom flat if it is only on a temporary basis. The victim is entitled to view the property before being requested to say whether they accept or refuse it and before the tenancy agreement is signed. If they do not think the accommodation is suitable, it is still advisable to accept the offer and request a review. This is because if the offer is rejected the council may be entitled to refuse to find the victim alternative accommodation.

### **Protection of your belongings**

Under the Housing Act 1996 if the victim has been provided with temporary or permanent accommodation the local authority also has a duty to take reasonable steps to protect their personal belongings if they are in danger of being lost or damaged because they cannot look after them. For example, this could be if they are in their former home and the abuser is threatening to dispose of them.

### **Transferring to another area**

If the victim is at risk of domestic violence they can be transferred to another local authority. The local authority will first need to establish that the victim is eligible before transferring her/him.

### **Housing Benefit**

If the victim is fleeing domestic violence and has to rent another property they may be entitled to housing benefit, even if they own the home they have left.

In some cases housing benefit can be paid on two homes for a limited period if the reason the victim is absent from their home is because of a fear of violence. If the victim is intending to return they may be entitled to housing benefit for up to 52 weeks. If they are not intending to return housing benefit may only be payable for 4 weeks.

This is a complex area and the law frequently changes. Victims of domestic violence should check with their local Citizens Advice Bureau or their local benefits office.

### **Evicting the abuser**

If the victim was living in rented accommodation with their abuser and is now living elsewhere and unlikely to return, it may be possible for the landlord to make an application to the county court to evict the abuser because of domestic violence. This will depend on the type of landlord and tenancy that the victim has. There is no obligation on the landlord to grant the victim a new tenancy once the abuser has been evicted, therefore the main effect is that this will punish the abuser rather than assist the victim directly. This is a complicated area of law and any victim of domestic violence should seek legal advice.

### **Other options**

Refuges are available to women with or without children who are fleeing domestic violence. There are over 500 in England and Wales. In addition to accommodation they will provide victims with support

and advice on benefits and housing. Victims should also apply to go on the local authority's housing register in addition to any other application they make. Local authorities can only offer permanent housing if a victim is on this register. This can avoid the situation where a victim is constantly being moved from one temporary home to another. Waiting lists can be long, so the sooner a victim applies the better. A victim does not need to wait for the outcome of the decision on homelessness before doing this.

The law relating to domestic violence, housing rights and homelessness is complex and this is a basic overview of terminology, law and court practice and procedure. It is strongly advisable for any victim to seek legal advice by either telephoning a legal advice line or contacting a solicitor

(5) Treatment for victims who are immigrants/foreigners

If you are not a UK national some of the information, particularly on benefits and housing, may not apply fully to you. If you are concerned about your immigration status, you should seek specialist advice as soon as possible.

If you're from abroad and a dependent of your ex-partner. There are ways for you to stay in the UK if your relationship has broken down because of domestic violence.

A victim of domestic violence should get help from an immigration lawyer as soon as they can – the lawyer will be able to tell the victim what to do next. They may be entitled to legal aid (free legal advice).

A lawyer will help you decide whether to:

- apply for a 3-month extension to their current visa and access to public funds (benefits) – the victim should do this if s/he is struggling with money
- apply for indefinite leave to remain (ILR) - this is more complicated but if they are successful, it will be worth the extra time and effort
- claim asylum in the UK - if the victim is unable to go back to their home country because they fear persecution, and want to stay in the UK as a refugee

(6) Any other useful information related to the housing support

**N.B.**

The victim must tell the Home Office as soon as they separate in a situation of domestic violence if they are a dependant on their partner's visa. S/he needs to explain the circumstances and that s/he has experienced domestic abuse. As soon as they have separated the victim will be in the UK illegally - not once they are divorced.

5 Employment support and vocational training

(1) Outline

One in four women will experience domestic abuse at some point in their lifetime and so most if not all workplaces have staff that have experienced or are experiencing domestic abuse. Domestic abuse not only impacts on the well-being of women, and some men, but it affects the financial strength and success of the companies for which they work. Seventy-five per cent of those experiencing domestic abuse are targeted at work and perpetrators often use workplace resources to threaten, harass or abuse their current or former partner (CAADV 2012). This abuse often affects women's attendance at work as well as their performance at work.

The ways in which domestic abuse continues in the workplace is for example through harassing and abusive emails and/or phone calls. Also the abuse can also take place when a perpetrator turns up at work and/or stalks the victim outside their place of work. The level of harassment is such that women often give up working altogether. The outcome is that women's confidence can be shattered and it may take some time before they are able to contemplate returning to employment.

The website [www.singleparents.org.uk](http://www.singleparents.org.uk) brings together information, advice and first-hand experiences which can help victims of domestic abuse to start to manage and enjoy life again as a single parent. Information on welfare benefits, childcare, the pros and cons of paid work versus voluntary work, full-time parenting or going back into education are available. The organisation One Parent Families runs a Lone Parent Helpline on 0800 018 5026 and their website provides a useful "helpdesk" with basic information on benefits, childcare and other issues. See [www.ncopf.org.uk](http://www.ncopf.org.uk).

It is the case that all employers have a duty of care to provide their staff with a safe and effective work environment and as we have seen employees experiencing domestic abuse can be especially vulnerable. For some employees the workplace will be their safe haven and the only place that can offer routes to safety. Under the Human Rights Act 1998 all public bodies in England and Wales have an obligation to protect the human rights of individuals and to ensure that their human rights are not being violated. Domestic and sexual violence and abuse against women and girls denies them the most fundamental of human rights.

Developing and implementing an effective workplace policy on domestic abuse can help to ensure that employers are complying with health and safety laws as well their duties under the Human Rights Act. There are four main areas of health and safety law relevant to violence at work in England and Wales:

- Health and Safety at Work Act 1974
- Management of Health and Safety at Work Regulations 1992
- Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995
- Health and Safety (Consultation with Employees) Regulations 1996.

A stable income is key to a victim's economic independence and to their chance of leaving a violent relationship. It is crucial, therefore, that all organisations develop their own workplace domestic violence and abuse policy to reflect the needs of their employees and that employers are aware of the steps needed to support their staff. Currently in England and Wales domestic violence and abuse workplace policies are not mandatory but organisations are strongly encouraged to develop them.

(2) Names of organizations in charge, contact information, how to apply for the support in your target area of study

There are many organisations that can offer advice and practical guidance on domestic abuse in the workplace both for employers as well as for victims of domestic abuse and violence. The organisations listed below are the most important ones for accessing information and advice on domestic violence and the workplace.

**1) Department for Work and Pensions <https://www.gov.uk/government/>**

The DWP produces 'A guide for domestic violence and abuse victims about services from the Department for Work and Pensions (DWP)'.

<https://www.gov.uk/government/publications/domestic-violence-and-abuse-help-from-dwp>

**2) Corporate Alliance Against Domestic Violence [www.caadv.org.uk](http://www.caadv.org.uk)**

The Corporate Alliance aims to raise awareness and reduce the social and economic impact of domestic violence in the workplace and signpost organisations that can provide help locally and nationally.

Working together with employers, their vision is to create a work environment where employees have the opportunity to seek practical support and advice and, ultimately, take positive action to end domestic violence. Membership is open to any employer, trade union or representative body in the UK.

**3) The Trades Union Congress (TUC) <https://www.tuc.org.uk/about-the-tuc>**

The TUC is a national voluntary organization existing to make the working world a better place for everyone. They bring together more than 5.6 million working people who make up our 49 member unions. Members of individual Trade Unions can find their Trade Union representative helpful as someone who can help them respond to experiencing domestic violence in the workplace.

**4) Chartered Institute of Personnel and Development (CIPD) <https://www.cipd.co.uk/>**

The professional body for HR and people development has worked with the Equality Commission in England and Wales to produce guidance for employers on supporting employees who are victims of domestic violence and abuse.

Additionally there are specialised national organisations serving individual client groups, as below:

**5) Black Association of Women Step Out (BAWSO) [www.bawso.org.uk](http://www.bawso.org.uk)**

BAWSO are a specialist agency which can provide culturally sensitive and appropriate information and services to black and other minority ethnic groups.

**6) Broken Rainbow [www.broken-rainbow.org.uk](http://www.broken-rainbow.org.uk)**

Broken Rainbow provides support for lesbian, gay, bisexual and transgender people experiencing domestic abuse.

**7) Dyn Project [www.dynwales.org](http://www.dynwales.org)**



The Dyn Project works across Wales to support men who experience domestic abuse.

Man Kind Initiative

**8) The Man Kind Initiative [www.mankind.org.uk](http://www.mankind.org.uk)**

The Man Kind Initiative is a national charity that provides help and support for male victims of domestic abuse.

**9) Men's Advice Line [www.mensadvice.org.uk](http://www.mensadvice.org.uk)**

The Men's Advice Line offers practical advice, information and support to male victims of domestic abuse as well as concerned friends and families

(3) Requirements for application

**1) Department for Work and Pensions (DWP). January 2018.**

A guide for domestic violence and abuse victims about services from the Department for Work and Pensions (DWP).

<https://www.gov.uk/government/publications/domestic-violence-and-abuse-help-from-dwp>

This includes conditions for: Housing Benefit, Jobseeker's Allowance, Employment and Support Allowance, Universal Credit, the benefit cap, removal of the spare room subsidy, Discretionary Housing Payments, Migrant partner support, Child maintenance

To receive additional support from DWP for any of the benefits listed above (except the Child Maintenance Service application fee), you need to talk to a work coach at Jobcentre Plus about the domestic violence and abuse. Women need to find their nearest Jobcentre Plus <https://www.gov.uk/> and call the number listed to make an appointment.

Women will need to provide evidence of any domestic violence or abuse experienced in order to receive support from the DWP. They will need to provide written evidence from a person acting in an official capacity showing that:

- their circumstances are consistent with those of a person who has had domestic violence or abuse inflicted, or threatened, upon them, during the 6 months prior to you notifying the DWP
- they have made contact with the person acting in an official capacity to tell them about any incidents that have occurred in the past 6 months

A person 'acting in an official capacity' can be:

- a health care professional
- a police officer
- a registered social worker
- their employer or a representative of their trade union
- any public, voluntary or charitable body which has had direct contact with you about the domestic violence or abuse

Women must provide their evidence to Jobcentre Plus as soon as possible but no later than one calendar month after first having told the DWP about the domestic violence and abuse.

2) **Trade Unions Congress** England and Wales.

'Domestic Violence: a guide for the workplace', 2002.

<http://wtuclearn.tuc.org.uk/publications/domestic-violence-guide-workplace?language=cy>

<https://www.tuc.org.uk/publications/domestic-violence-guide-workplace>

This guide is available on the TUC web site but is aimed at union representatives and employers who need advice on dealing with the impact of domestic violence in the workplace. It includes facts and figures about the prevalence of this crime, case studies, and advice on drawing up a workplace policy to address the key issues of support, referral, and confidentiality.

TUC: eNote - Domestic Violence (Interactive guide for union reps). This eNote aims to raise awareness among union representatives of the issue of domestic violence, to make them understand the role they need to play in the process and encourages them to put together a suitable workplace policy to deal with such issues.

Individual trade union members will need to contact their trade union representative in order to get their support in tackling the experience of domestic violence in the workplace and in ensuring that their employer works with them in order to provide safe routes out of domestic violence and abuse.

**Corporate Alliance Against Domestic Violence (CAADV)**

Founded in 2005, CAADV is a charitable organisation working on a business-to-business platform to advise companies in addressing and mitigating the risk domestic violence poses to their company and employees. Baroness Scotland, Founder and Patron of the Corporate Alliance sought to establish an effective holistic framework for businesses to engage in eliminating domestic violence.

**Chartered Institute of Personnel and Development (CIPD)**

CIPD and Equality and Human Rights Commission. April 2013. *'Managing and Supporting Employees Experiencing Domestic Abuse'*

[https://www.cipd.co.uk/Images/managing-and-supporting-employees-experiencing-domestic-abuse\\_2013\\_tcm18-10528.pdf](https://www.cipd.co.uk/Images/managing-and-supporting-employees-experiencing-domestic-abuse_2013_tcm18-10528.pdf)

This guidance has been developed by the Equality and Human Rights Commission in Wales, with support from the CIPD. The guidance includes practical tips for employers to recognise when an employee may be affected by domestic abuse. It explains how to respond and offer support, and provides details of organisations to turn to for further information and advice.

Their aim is that every employer in Wales benefits from taking effective action in the workplace to tackle violence against women, domestic abuse and sexual violence and that their staff feel safe and supported at work.

(4) Contents of their support

See Section 3 above.

**Department for Work and Pensions DWP**

*A guide for domestic violence and abuse victims about services from the Department for Work and Pensions (DWP).*

<https://www.gov.uk/government/publications/domestic-violence-and-abuse-help-from-dwp>

This includes conditions for: Housing Benefit, Jobseeker's Allowance, Employment and Support Allowance, Universal Credit, the benefit cap, removal of the spare room subsidy, Discretionary Housing Payments, Migrant partner support, Child maintenance

**TUC, CAADV and CIPD**

**Developing effective domestic violence and abuse workplace policies**

Advice and guidance on the key areas that need to be included within a domestic violence and abuse workplace policy to raise awareness and to enable support to be given to victims:

- A policy statement and/or organization commitment which opposes all forms of domestic abuse  
This can include a commitment to treat domestic abuse seriously, understand the risks and consequences in the workplace, fully support colleagues and take action against perpetrators of domestic abuse.
- A clear definition of what domestic abuse is. This can be set within the wider violence against women context. It is important to recognise that while domestic abuse can affect both sexes, women's and men's experiences of violence are different. It should also be recognised that there can be additional issues for employees because of their gender identity, ethnic background, religion, age, sexuality or disability.
- Statistics to demonstrate the extent and prevalence of violence against women, domestic abuse and sexual violence. National statistics can be used and by involving local voluntary groups it may be possible to get statistics for your region or area.
- Information and examples of the different forms of domestic abuse. This will demonstrate that no single act of abuse or harassment defines domestic abuse. Providing information on and examples of types of physical abuse, emotional abuse, sexual abuse and financial abuse will help gain an understanding of the wide range of activities domestic abuse includes.
- Recognise the signs that an employee might be experiencing domestic violence and abuse: (DoH)
  - Unexplained injuries.
  - Decreased productivity.
  - Frequent lateness or absence.
  - Changes in behaviour.

- Respond by finding out what explains the signs above: (DoH)
  - Understand it can be difficult for employees to make a disclosure of domestic abuse, and your support is important
  - Be sensitive/non-judgemental/ practical/supportive/discrete.
  - Prioritise safety over work efficiency.
  - Allocate private time and space to listen.
  - Do not seek proof of abuse.
  - Do not contact the abuser.
  - Do not compel a victim to accept support.
  - Do not adopt the role of being a support worker yourself.
  - If the employee or any colleagues are in immediate danger, call 999.
- Review and monitor the policy on a regular basis to see how the policy is working for employees and managers. All information should be kept confidential and anonymous.
- Clarify the specific roles and responsibilities for managers. This can include practical steps to encourage the disclosure and discussion of abuse and identify appropriate support.
- A commitment to challenge perpetrators. This recognises that abusive and violent behaviour is the responsibility of the perpetrator. Employees should be aware that misconduct inside and outside of work is viewed seriously - and can lead to disciplinary action being taken. It may also be appropriate to support an employee who is seeking help to address their abusive behaviour.
- An obligation to prioritise confidentiality wherever possible.
- Information about specific issues relevant to victims who are immigrants/foreigners will need to be included in the workplace policy.

(5) Treatment for victims who are immigrants/foreigners

It will be essential to include coverage of the issues relevant to immigrants/foreigners in relation to domestic violence and abuse in workplace policies; such as language/interpretation, visa applications, no recourse to public funds and so on which have been outlined in previous sections of this document.

(6) Any other useful information employment support and vocational training

For those interested in pursuing this further it is possible to look at examples of workplace policies that have been developed in England and Wales, see for example:

Department of Health and Safe Lives. No date. *Responding to colleagues experiencing domestic abuse: Practical guidance for line managers, Human Resources and Employee Assistance Programmes.*

<http://www.safelives.org.uk/sites/default/files/resources/DV%20Employer%27s%20guidance%20FINAL%20Update%203%20-%20SafeLives%20rebranded.pdf>

- (1) Measures to help victims apply for visas or renew the period of stay in your target area of study when the victims who are immigrants/foreigners cannot expect assistance from abusers (including special visa issued for domestic violence victims, etc.)

This section explains the immigration laws relevant to women from abroad who are experiencing domestic violence, **this is not legal advice**. If you are supporting / someone is experiencing domestic violence it is essential that they get legal advice. **N.B. you should not give immigration advice if you are not allowed by law to do so (see next paragraph).**

It is a criminal offence under the Immigration and Asylum Act 1999 for anyone to give immigration advice or services in the UK unless they are regulated by the Office of the Immigration Services Commissioner (the OISC), a regulated solicitor, barrister or legal executive (or European equivalent) or exempted by Ministerial Order.

In order to be granted settlement the victim who has separated from the abuser must:

- Have previously been admitted or granted as the spouse / registered civil partner / same-sex partner or unmarried partner of a person present and settled in the United Kingdom
- Show your relationship was subsisting at the beginning of the time referred to above
- Prove that you were the victim of domestic violence and it was this that caused the relationship to break down before the end of that period

#### **Destitution Domestic Violence (DDV) Concession**

The introduction of the **Destitution Domestic Violence (DDV) concession** is aimed at protecting victims of domestic abuse, by allowing them to notify the UK Border Agency (UKBA) that they need to access public funds while they make a claim for indefinite leave to remain as a victim of domestic violence.

Some spouses are forced to stay in abusive relationships because they are in the country on a spousal visa, and unable to access support services during the two / five years probationary period.

#### **Who is eligible for DDV?**

- Only those who entered the UK or were given leave to remain in the UK as a spouse, civil partner, unmarried or same sex partner of a British citizen, or someone present and settled in the UK; and
- Whose relationship has broken down due to domestic violence; and
- Who are destitute and need financial help; and
- Who are going to make a claim to stay permanently in the UK under the Domestic Violence Immigration Rule (Settlement DV).

The “domestic violence rule” was introduced with the intention of ensuring that someone with a direct route to settlement in the UK as the spouse or partner of a British Citizen or settled person, would not have to remain in an abusive relationship to secure it. The rule was not introduced as a means to grant settlement to all foreign nationals who have suffered domestic violence whilst in the UK, nor should it be

seen as a measure to compensate those foreign nationals affected by domestic violence.

(2) How to apply

**What will happen to the migrant's existing leave?**

Leave to remain under the "domestic violence rule" will last for three months and will replace a migrant's existing leave.

The migrant needs to apply for indefinite leave to remain under the domestic violence rule within the three months or make a different application for leave, if they fail to do so their leave will come to an end and they will be required to leave the UK.

Settlement can be granted to someone who submits their application "out of time", i.e. after the date on which their current leave to remain expires. However, any decision to refuse an out of time application will not carry a right of appeal (under Section 82 of the Nationality, Immigration and Asylum Act 2002).

**What happens if the notification under the DDV concession is successful?**

If the a notification is successful after UK Border Agency checks have been completed, the migrant will be issued with a vignette indicating that they have been issued 3 months temporary Leave Outside of the Rules (LOTR) on exceptional grounds. This endorsement will also allow the migrant access to public funds. Eligible migrants' are granted a limited period of leave and permitted to access public funds to allow them time to find safe accommodation, and complete a substantive application for indefinite leave to remain under the domestic violence provision in the Immigration Rules.

During this three month period, the migrant is required to send in their separate application form for indefinite leave to remain SET(DV) .

The three months leave will replace the leave given to enter or remain as a spouse or partner. If a migrant does not make an application for settlement within the three month period, their leave will come to an end and they will be expected to either apply to regularise their leave in the UK in another category or leave the UK.

Once leave has been granted the migrant can apply to Department of Work and Pensions for benefits.

(3) Any other useful information related to visas

**Electronic Immigration Network**

<http://www.ein.org.uk/>

Electronic Immigration Network (EIN) is the UK's largest specialist provider of information on immigration and refugee law via the internet.

**Immigration Law Practitioners' Association**

<http://www.ilpa.org.uk/>

The Immigration Law Practitioners' Association is a membership organisation established in 1984 by a

group of leading immigration law practitioners to:

- Promote and improve the advising and representation of immigrants
- Provide information to members and others on domestic and European immigration, asylum and nationality law
- Secure a non-racist, non-sexist, just and equitable system of immigration refugee and nationality law practice

The ILPA office does NOT give immigration advice but you can search their directory of members to find an immigration advisor near you.

JCWI (Joint Council for the Welfare of Immigrants)

<http://www.jcwi.org.uk/>

JCWI is an independent national charity established in 1967. JCWI deals with all areas of asylum and immigration law. They are recognised as experts in this field and have almost 50 years' experience of fighting for justice for those who are vulnerable. They are known for dealing with complex immigration issues and challenging government policy and legislation. They represent clients at all stages of the legal process including applications to the Home Office, entry clearance, appeals and judicial review. JCWI employs three solicitors.

#### **Legal Advice**

It is possible to arrange a fixed-fee appointment with a solicitor.

#### **Immigration Advice Service**

<http://www.iasuk.org/>

Immigration Advice Service is an immigration law firm that provides assistance to both individual and corporate clients, including businesses and charities of all sizes, entrepreneurs, overseas investors, families and students. At the Immigration Advice Service, our values are what truly set us apart. Their specialist immigration lawyers and advisors have decades of experience in all areas of immigration law, and are specifically selected for their commitment to immigration and asylum work. Many of their staff members have been through the process of immigrating to the UK themselves, either first hand or with family members and/or friends.

Visa Professional Immigration Lawyers

<http://visaprofessionals.com/>

UK immigration lawyers offer to start with a visa consultation, this process involves assessing your documents, your personal circumstances and your past immigration history.

7 Support provided by domestic violence victim support centers/social agencies

(1) Outline

Some Women's Aid affiliates offer support centres, in addition to their emergency refuge/shelter spaces, for victims of domestic violence. For example, Cardiff Women's Aid has a public Women's Centre where

women drop in at any time during open hours (9am to 7pm). Most clients self-refer and the second most common referral is via the Police closely followed by health care professionals (see Section II (1) 4 above).

There are also other independent/charitable status Women's Centres across England and Wales which provide support for victims of domestic violence, e.g. Brighton Women's Centre, <http://www.womenscentre.org.uk/welcome/>

Another example would be the Gateway Women's centre at Off The Fence which is a service for women experiencing periods of difficulty, abuse, isolation and loneliness. This service comes under the umbrella of Mind. Mind in Brighton and Hove is affiliated to National Mind, and works with other local services and statutory partners.

Finally there is a generalist national organization called Victim Support which provides support for victims of domestic violence across England and Wales.

<https://www.victimsupport.org.uk/crime-info/types-crime/domestic-abuse>

(2) Names of organizations in charge, contact information, how to apply for the support in your target area of study (please give names of 3 organizations)

Anyone who has experienced domestic violence and abuse is able to contact the key organisations involved as mentioned below by phone or online:

**Women's Aid Federation England** <https://www.womensaid.org.uk/>

The 24 hour Freephone National Domestic Violence helpline: 0808 2000 247

(Run in partnership between Women's Aid and Refuge) acts as the gateway to all services across the country and helps women find a space in a refuge/shelter.

Alternatively contact by email: [helpline@womensaid.org.uk](mailto:helpline@womensaid.org.uk)

Women's Aid provides a wide range of services on domestic violence and abuse which have previously been outlined in Section II. 1. above.

**Welsh Women's Aid**

<http://www.welshwomensaid.org.uk/>

Wales Domestic Abuse Helpline: 0808 80 10 800

You can access support through our direct email service: [info@livefearfreehelpline.wales](mailto:info@livefearfreehelpline.wales)

Live chat is available 24 hours.

We can support you in Welsh, English and any other languages using LanguageLine.

Text phone users can contact us via Type Talk on 1800108088010800



You can contact the Live Fear Free Helpline by text 24/7 on 078600 77 333

Calls to the helpline will not show up on landline phone bills.

All calls are confidential. If it is necessary to share information with other agencies, this would only be done with your full consent. The exceptions to this are if your life was in immediate danger or if there was a child at risk. In these circumstances, the authorities would be informed to ensure the safety and well-being of you and your children.

**Victim Support,**

<https://www.victimsupport.org.uk/crime-info/types-crime/domestic-abuse>

0845 389 9528

Or request support by completing the Victim Support form online.

Victim Support has different services in different parts of the country. All of the services are confidential, free and available to anyone who's experienced domestic violence and abuse.

(3) Requirements for receiving their assistances (for each organization picked up in item (2))

There are no specific requirements that need to be met for receiving assistance other than being someone who has experienced / is experiencing domestic violence and abuse.

Additionally Victim Support can help, regardless of whether or not the violence has been reported to the police or anyone else.

(4) Programs and services (for each organization picked up in item (2))

**Women's Aid Federation England**

For programs and service please refer to Section II.1 above

**Welsh Women's Aid**

Welsh Women's Aid provides the following services and programmes. They can listen, provide help and support, and give victims information on a range of options and services in the area, designed to help meet victims' needs, including:

- Emergency Accommodation
- Counselling
- Local support services
- Welfare and Benefits Rights
- Housing Issues

- Legal Issues
- Child Welfare
- Perpetrator Programmes
- Sexual Assault Referral Centres (SARCs)

### **Victim Support**

Victim Support provides the following services and programmes:

- IDVA (Independent Domestic Violence Advocates) services are staffed by specialist caseworkers and supported by specialist volunteers. These workers will help a person to decide what action they want to take and the support and help that suits their needs. IDVAs often support survivors through the criminal justice system if victims choose to report the crime/s, and co-ordinate health and support services.

- There are domestic abuse outreach services, which are provided by specialist caseworkers and volunteers who will work with victims in the community, co-ordinating support and providing direct practical and emotional support. Victim Support works from health services, police stations, hospitals and community centres to provide information and support to a wide number of people.

- Their victims' service supports anyone affected by any crime. Victim Support helps victims decide on the range of support and help that might benefit them.

(5) Treatment for victims who are immigrants/foreigners (including assistance of interpreter, etc.) (for each organization picked up in item (2))

Please refer to Section II.1

(6) Any other useful information related to domestic violence victim support centers/social agencies

Services provided by Women's Centres across England and Wales often provide services for victims of domestic violence and abuse and for victims of sexual assault and rape, such as Rape Crisis centres. Women's Centres offer a range of services and opportunities to women in the community. The Centres' are not centrally managed and so will have different ways of working and main areas of focus, however they will share the common aim of helping to support, encourage and enable women to improve their quality of life and well - being. Individuals seeking support from Women's Centres will have a variety of needs. For example see the services offered by Brighton Women's Centre on their website: <http://www.womenscentre.org.uk/welcome/>.

8 Any other information related to independent (ce) support

The National Centre for Domestic Violence (NCDV) provides a free, fast emergency injunction service to survivors of domestic violence regardless of their financial circumstances, race, gender or sexual

orientation. This service allows anyone who has recently suffered or been threatened with domestic violence to apply for an emergency court injunction. This can sometimes be issued within 24 hours of making contact with us. We work in close partnership with the police, solicitors and other support agencies (Refuge, Women’s Aid etc.) to help victims obtain speedy protection.

#### IV. Legal process regarding domestic violence

##### 1 Protective measures for domestic violence victims

※ Including orders that prohibits the abuser from approaching the victim, and victim’s children or relatives, an order that obliges the abuser to vacate the residence shared as the main home with the victim, etc.

(1) Outline (please specify your target area of study)

N.B. The law relating to domestic violence is complex and especially domestic violence and immigration; this guide provides a basic overview of the relevant law and procedure for general information only. Please note that the law explained here is as it was when published. The relevant law and procedure may have changed since then. If you are affected by any of the issues in this guide you should seek up-to-date independent legal advice. We cannot accept responsibility for any reliance placed on the legal information contained in this guide.

##### **Domestic violence disclosure scheme**

The domestic violence disclosure scheme (DVDS), often referred to as Clare’s law, was rolled out across England and Wales from March 2014. The scheme means that an individual can ask the police to check whether a new or existing partner has a violent past (“right to ask”). If police checks show that a person may be at risk of domestic violence from their partner, the police will consider disclosing the information (“right to know”).

##### **Civil Injunctions (also known as Protection Orders)**

There are two main types of injunctions available under Part IV of the Family Law Act 1996 through the Civil Courts:

##### **A Non-Molestation Order**

A non-molestation order is aimed at preventing an abuser from using or threatening violence against a victim or their child, or intimidating, harassing or pestering a victim, in order to ensure the health, safety and well-being of the victim and their children. A non-molestation order is a court order which prohibits an abuser from molesting another person they are associated with. An order contains specific terms as to what conduct is prohibited and can last for however long is deemed appropriate by the court. Breach of a non-molestation

order is a criminal offence.

### **An Occupation Order**

An occupation order is a court order which governs the occupation of a family home. It can be used to temporarily exclude an abuser from the home and surrounding area and give the victim the right to enter or remain. In certain circumstances, the court may attach a power of arrest to the occupation order. If a victim does not feel safe continuing to live with their partner, or if they have left home because of violence, but want to return and exclude their abuser, they may want to apply for an occupation order.

A power of arrest can be attached to these orders. These powers come into effect if the abuser breaks the order.

Under new legislation, a breach of a non-molestation order is now a criminal offence; however, a victim should still be able to take their abuser back to the civil court for breaking the order, if they prefer.

### **A Domestic Violence Protection Order (DVPO)**

These are obtained by the police (and do not require a victim to support it) where there are no ongoing criminal sanctions but the police are concerned that there have been threats or use of violence. Under the DVPO scheme, the police and magistrates can, in the immediate aftermath of a domestic violence incident, ban a perpetrator from returning to their home and from having contact with the victim for up to 28 days. An alleged perpetrator must be aged 18 years or over.

The scheme comprises an initial temporary notice (**a Domestic Violence Protection Notice, DVPN**), authorised by a senior police officer and issued to the perpetrator by the police, **followed by a DVPO** that can last from 14 to 28 days, imposed at the magistrates' court.

### **A Restraining Order imposed by a Criminal Court**

In addition to the orders above, it is possible for a Restraining Order to be made on conviction or acquittal from any criminal offence, i.e. a restraining order may be made even if no evidence is offered or the defendant is found not guilty. These orders are intended to be preventative and protective – not punitive. The guiding principal is that there must be a need for the order to protect a person or persons.

Restraining orders can provide the same protection as injunctions under the civil law but may be more effective as they carry stronger penalties.

Restraining orders can only be made in respect of the Defendant (not the victim or any witness), even if in the course of a trial evidence indicates that the behaviour of both the defendant and the victim required addressing.

Orders may be made for a specified period or until further order. It is possible for the prosecutor, defendant or any other person mentioned in the order to apply to the original court for the order to be varied or discharged. Breach of a Restraining Order is itself a criminal offence.

(2) Necessary time to obtain the orders

If a victim is in immediate danger, an application can be made to the court on the same day without your abuser being there. This is called a “without notice” or Ex parte application. The court will need to consider whether or not the victim is at risk of significant harm, whether they will be prevented or deterred from applying if they have to wait or whether the abuser is avoiding being served notice to appear before the court.

If the court grants a “without notice” order, the victim will have to return to court for a full hearing once the abuser has been served with notice.

If there are other family proceedings already in progress (for example, for a residence or contact order for a child) the court may wish to hear the whole case together – but they can still grant an emergency order while you are waiting for the full hearing.

The victim will need to make a sworn statement (sometimes called an affidavit) to the court about the physical and emotional abuse experienced. The victim needs to be as precise as possible about all the ways they have been physically and emotionally harmed, the dates and times (if possible) and the effects on the victim and their children.

It is important that the victim or their solicitor provides the court with as much evidence as possible of all aspects of harm caused by the abusive behaviour. It will help if the victim has kept a record of past events, or if there is independent evidence, such as police reports or medical records.

The court has discretion when deciding to make an order, and has to look at all the circumstances, including the likely effect of any order on the health, safety and well-being of the victim and the abuser, the conduct of the victim in relation to the abuser, the victim’s needs and financial and housing resources.

The court sometimes suggests that, instead of an injunction, the abuser should make an undertaking (a promise) to the court not to harass or threaten the victim. While this is supposed to have the same strength as a court order, and breach of an undertaking constitutes contempt of court, in practice, undertakings cannot be enforced as effectively since powers of arrest cannot be attached.

The court should never accept an undertaking where violence has been used or threatened, and the victim does not have to agree to accept an undertaking if they do not want to.

If you are applying for an occupation order and do not have a legal entitlement to occupy the property, the court must apply a “balance of harm” test (that is, a test to determine who will suffer the most harm if an order is not made).

Once an order has been made, the victim should have a copy, and their solicitor should arrange for a printed copy to be handed personally to the abuser. The injunction will not be effective if there is no proof that your abuser received it.

If the abuser has used or threatened physical violence, and the court accepts this at a full hearing of the case, then it must attach a power of arrest to an injunction (unless it believes you will be adequately protected

without this). This means that a copy of the order must be held on record at the police station (the victim or their solicitor should ensure that this happens), and the police can arrest immediately if the order is broken, even without a specific criminal offence having been committed.

A power of arrest may be attached even if the hearing was held “without notice” if the court believes the victim is likely to be at risk of harm otherwise. Occupation orders are slightly different, however, and a separate ‘power of arrest’ will still be needed.

If the abuser breaks the terms of the injunction, and the victim is at all fearful for their safety or that of others, they should call the police.

If the abuser has breached a non-molestation order or if there is a power of arrest attached, the police should arrest the abuser, and are required to bring him back before the court within 24 hours.

If there is no power of arrest, then the victim (with the help of their solicitor if they have one) may have to go back to court themselves and apply for an arrest warrant. The abuser is in contempt of court for disobeying a court order. The court may then fine the abuser, impose a suspended sentence, or commit to prison (rare for a first offence). The court is also likely to add a power of arrest to the injunction in order to strengthen it in future.

If the victim is unhappy about the enforcement process being taken out of your hands, it should still be possible for them to take the abuser back to the County Court or Family Proceedings Court for contempt of court – in the same way as the victim has to do for the breach of an occupation order.

### (3) Term of validity of the orders

How long will an injunction last? The court will normally make orders for a specified length of time e.g. a non-molestation order will normally last for six months. The order will not provide a long-term solution to the victim's problems, but should give them time to seek more permanent solutions.

Where there is not enough evidence to charge an alleged perpetrator and provide protection to victims via bail conditions. If the police still have reasonable grounds for believing that a perpetrator has used or threatened violence towards the victim and the victim is at risk of future violent behaviour, they can issue a DVPN on the spot, provided they have the authorisation of an officer at Superintendent rank.

Then the magistrates’ court must then hear the case for the DVPO itself within 48 hours of the Notice being made. If granted, the Order may last between a minimum of 14 days and a maximum of 28 days. This is designed to allow a victim a window of opportunity to consider their situation, seek support and clarify his/her options for the longer term.

Breach of a DVPO - a constable may arrest an alleged perpetrator without warrant if the constable has reasonable grounds for believing that he is in breach of the DVPO. Section 29(1) contains a duty to remand him in custody and bring him before a magistrates’ court within 24 hours from the time of arrest. The breach of the DVPO will be a civil contempt of court, treated as a breach of a civil order under section 63 of the

Magistrates' Court Act 1980 (MCA). Section 57A of the MCA allows for the transfer of civil proceedings to another magistrates' court.

(4) How to start legal process

Solicitors deal with most applications for injunctions and so most victims would need to contact a solicitor to start the legal process (it is possible for the victim to do this herself with support, however, see section 5 below).

Injunctions are issued by civil courts (the High Court, some county courts and the Family Proceedings Court, which is part of the Magistrates Court).

If the victim is in receipt of certain benefits or on a low income they may be able to apply for Community Legal Service Funding (which has replaced "Legal Aid") to cover some or all of the cost of obtaining the injunction.

If the victim is not in receipt of benefits, the cost of obtaining an injunction is likely to be in the region of £1,500 - £2,500.

If the victim is not eligible for Community Legal Service Funding there is still help available if they do not have access to any money. Some solicitors will allow the victim to pay fees at a later date or in installments or in some cases may offer their services for free.

(5) Whether appointing a lawyer is mandatory or not

No, appointing a lawyer is not mandatory as the victim is able to apply for an injunction without using a solicitor. However, it is the case that solicitors deal with most applications for injunctions

- Rights of Women produce a 'Domestic Violence Injunction Handbook' giving step-by-step advice on filling in the necessary forms and also have a free legal advice line (tel: 020 7251 6577).

- Local domestic abuse outreach workers will be happy to offer help in completing the forms and can support the victim through the application process.

- The National Centre for Domestic Violence (NCDV) is a national organisation which provides a free, fast injunction service to survivors of domestic abuse. They can be accessed via their helpline 0844 8044 999 or visit their website [www.ncdv.org.uk](http://www.ncdv.org.uk) by working closely with local solicitors.

(6) Useful information for victims who are immigrants/foreigners

Finding a solicitor or immigration advisor

Legal Aid Agency

0345 345 4345

Ministry of Justice

<http://find-legal-advice.justice.gov.uk/>

The Law Society

[www.lawsociety.org.uk](http://www.lawsociety.org.uk)

Office of the Immigration Services Commissioner

[www.oisc.gov.uk](http://www.oisc.gov.uk)

Immigration Lawyers Practitioners' Association

[www.ilpa.org.uk](http://www.ilpa.org.uk)

(7) Any other useful information related to protective measures for victims

Although the power to issue a DVPN and subsequent application for a DVPO lies with the police and the criminal justice system, the success of this process is reliant on partnership work with other agencies and organisations including those that contribute to Multi-Agency Risk Assessment Conferences (MARACs) and service providers for Independent Domestic Violence Advocates (IDVAs) or other, similar services.

MARACs are voluntary meetings where information is shared on the highest risk cases between representatives from local police, health, child protection, housing, IDVAs and other specialists from the voluntary and specialist sectors. A coordinated safety plan for each victim is then created.

Independent Domestic Violence Advocates (IDVAs) are independent professional advisors that work with victims from the point of crisis to assess the level of risk, discuss the range of suitable options and develop coordinated safety plans. In some areas different titles are used for organisations and individuals who provide similar support.

2 Possible countermeasures expected to be taken by the abuser when a victim takes protective measures described in 1

※ Including an appeal against the orders described in 1, filing a petition for a ne exeat order, lodging a complaint against the victim on the ground that the victim also used violence on the abuser, etc.

(1) Outline (please specify your target area of study)

Domestic Violence Protection Orders are designed to hand control back to the victim by ensuring they can consider their options in the immediate aftermath of a domestic violence incident. It is one of a raft of measures introduced by this Government to help stamp out violence against women and girls and an important step in doing better by victims.

As a result there is no formal ability to appeal against the orders described in 1 – DVPNs and DVPOs.



(2) Term of validity of the countermeasures

See 1 above

(3) Measures that can be taken by the victim against the countermeasures by the abuser

See 1 above

(4) Useful information for victims who are immigrants/foreigners

See 1 above

(5) Any other useful information related to countermeasures to be taken by abusers

See 1 above

### 3 Legal process for claiming living expense from (to) the abuser

(1) Outline (please specify your target area of area)

The family court in England and Wales can make a wide range of orders to divide matrimonial property including:

- a) transferring property into the victim's name or the husband's sole name
- b) transferring a tenancy into the victim's name or the husband's name
- c) ordering that a property is sold and the proceeds of sale are divided between the couple
- d) placing a legal charge over property or other assets in favour of the victim or the husband
- e) payment of a lump sum to the victim or the husband
- f) varying the victim's pension or the husband's pension so that the victim or the husband benefit from it
- g) ordering the victim or the husband to pay maintenance to the other

Therefore in theory under (g) it is possible to claim living expenses or maintenance from the abuser. However, there are many difficulties for victims of domestic violence and abuse to gain access via the courts to their own assets or to gain assets from their abuser. The main reason that they cannot fully access these is because of the high risks of further abuse and violence from the perpetrator if they re-establish contact with him. Indeed in the worst case scenarios this can result in death as it is still the case in England and Wales that two women a week are murdered by their husband/ex-husband or partner/ex-partner or other close relative. The other major difficulty is the nature of financial abuse often found in domestic violence cases where the abuser retains total or virtually total control of all financial assets and processes.

The CAB network in England and Wales point out that "the challenge for ... financial security can be particularly acute where there are joint-assets that victims struggle to access or dissolve with their partner's consent. We encounter numerous cases of clients seeking help who feel trapped without finance or accommodation, deemed ineligible for state support because of their assets, but requiring state support (through legal aid) to be able to access those assets. The picture can be particularly complicated where there has been financial abuse within the relationship"

[https://www.citizensadvice.org.uk/global/migrated\\_documents/corporate/domestic-abuse-victims---struggling-for-support-final.pdf](https://www.citizensadvice.org.uk/global/migrated_documents/corporate/domestic-abuse-victims---struggling-for-support-final.pdf), p.3).

The process would be to indicate that the victim is intending to make a financial claim against their husband at the end of the divorce petition. This is sometimes referred to as the 'prayer'. It is advisable to indicate all financial claims which might be needed, as if this is not completed correctly and later the victim wants to make certain claims, they may be prevented from doing so. If the victim is intending to make a financial claim it will be complex and therefore please see the Rights of Women information sheet '*A Guide to Financial Arrangements after Marriage Breakdown*'

<http://rightsofwomen.org/wp-content/uploads/2014/10/PDF-guide-to-financial-arrangements-after-marriage-breakdown.pdf>.

(2) Necessary time to obtain the orders

The time taken will vary depending on the complexities involved in each case.

(3) Term of validity of the orders

This will vary depending on the order.

(4) How to start legal process

The forms are designed to be completed without needing a solicitor, but it is essential to seek legal advice from a solicitor or a legal advice line before starting these proceedings. The victim may be eligible to get free legal advice or help from a solicitor under the Legal Help Scheme.

(5) Whether appointing a lawyer is mandatory or not

Not mandatory but very advisable.

(6) Useful information for victims who are immigrants/foreigners

It is important to take advice from the specialist agencies and lawyers working in this field.

(7) Any other useful information related to measures for claiming living expense to the abuser (including administrative measures to claim living expense to the abuser)

#### 4 Divorce process involving domestic violence victim

(1) Outline (please specify your target area of study)

Victims of domestic violence in England and Wales once they have found a safe place to stay short-term, will need to think about what to do in the longer term and one issue may be to permanently separate from their partner. They will need to seek legal advice from a local domestic violence service or a solicitor. If you want to divorce your spouse in England and Wales you have to have been married for at least one year and show that your marriage has "broken down irretrievably." This is the only "ground" for divorce in England and Wales as stated in the Matrimonial Causes Act 1973.

##### **Allegations of harm and domestic violence**

The court should consider whether there has been any domestic violence or harm to you or the child early on in the case. The court needs to think about whether or not the violence or harm affects the decision that the court has to make.

If you have alleged that the other party has been violent towards you or the children and the other party denies the allegations, the court may hold a finding of fact hearing. This is a hearing when the judge will look at all of the evidence and decide whether they think the evidence shows that the alleged abuse is more likely to have happened than not.

In order to make this decision, it is likely that the judge will ask you and the other party to give oral evidence in court and you may be asked questions about what has happened by the judge and the other party or his lawyer. You are also allowed to bring other witnesses that can support your case but you should inform the judge of these witnesses at the first hearing and obtain statements from them before going to court. If the judge has directed that the finding of fact hearing is necessary, they will give directions to you and the other party which you must comply with. If, for any reason, you are not able to comply with the directions in the time given, you should write to the court and inform them of this.

At the end of the finding of fact hearing, if the court decides that the other party has been violent towards you or the children then any order it makes will need to ensure that the child is not at risk of harm. The court's order should also take into account other issues, e.g., whether the perpetrator should attend a domestic violence programme, and how the children have been affected by the perpetrator's behaviour.

The five "Facts" you can use to prove the marriage has irretrievably broken down are:

Adultery

Unreasonable Behaviour

Desertion

Two year's separation with consent

Five year's separation without consent

##### **What constitutes unreasonable behaviour when divorcing in England and Wales?**

Violent and drunken behaviour is obviously classed as unreasonable behaviour. But it is also important to remember that unreasonable behaviour doesn't just have to be physically violent. Many men and women experience ongoing mental abuse (control and coercion) from their spouses which is equally as damaging if

not more so.

It is more sensible to keep the allegations to the bare minimum because you only need to mention a few in order to secure a decree nisi. You might also find this easier as reminding yourself of what has happened will undoubtedly add to the stress and upset you are already feeling. Additionally a detailed version of events may provoke further unreasonable behaviour.

#### **Is there a time limit?**

If a victim wants to use unreasonable behaviour to show that their marriage has irretrievably broken down there are time limits involved. This means that if they want to present a divorce petition on this fact and they are still living with their spouse, they have to do so within six months of the last incident.

At any time within six months of being attacked or mentally abused, they can present a petition for divorce on the fact of unreasonable behaviour. However, if they both continue to live together for more than six months, the victim can no longer rely on this particular episode alone.

This doesn't mean to say though that the victim cannot use this attack as historical evidence of unreasonable behaviour in a future petition, as this incident along with other more recent episodes will strengthen their Divorce Petition and won't affect the financial settlement.

#### **The procedure**

First a divorce petition has to be completed. This is a legal document sometimes called a Form D8, which will set out details of the marriage including when and where the couple were married and of the particular fact that the victim is relying on proving their marriage has broken down irretrievably. This is available, along with "Notes for Guidance", from their local County Court or can be downloaded from [www.hmcourtsservice.gov.uk](http://www.hmcourtsservice.gov.uk).

If the victim has children who are under 16 or still in full time education, they will also need to fill in a Statement of Arrangements for the Children (SAFC or Form D8A), which is available from their local County Court or can be downloaded from [www.hmcourtsservice.gov.uk](http://www.hmcourtsservice.gov.uk). This sets out details of the children, including who they live with and where they go to school. The court will not make any orders in relation to the children in the divorce proceedings. If there are other issues that need to be resolved, such as who a child will live with or child contact arrangements, the victim will need to make a separate application to the court (see Rights of Women legal guides: A Guide to Child Contact, A Guide to Parental Responsibility, A Guide to Residence and When Parents Separate: Some Common Issues).

Once the victim or her husband have started divorce (or judicial separation) proceedings either of you can apply to the court for orders to divide your matrimonial property. This is known as applying for financial relief. The law in relation to these applications is set out in the Matrimonial Causes Act 1973 (MCA 1973).

#### **Costs**

In general the court will not make orders for costs in divorce proceedings; this means that each party will pay their own legal costs. It is difficult to estimate how much a case will cost. This will largely depend on the hourly rate of the solicitor and how long the matter takes to be resolved. If you have experienced domestic violence

and are financially eligible you may be able to access legal aid. For further details please visit <https://www.gov.uk/check-legal-aid> where you can check online for eligibility. Since 1st April 2013 and in very limited circumstances family courts have the power to make a legal services order, which is a new form of interim order requiring one spouse to make provision for the other spouse's legal costs. Contact a solicitor or the Rights of Women advice line for further details.

- (2) General trend of the legal decision about child custody in divorce process involving domestic violence victim

The term "custody" no longer exists in law in England and Wales, it was replaced in the Children Act 1989 with the term "Parental Responsibility". Parental Responsibility means all the rights, duties, powers, responsibilities, and authority which, by law, a parent of a child has, in relation to the child and their property. A child's mother automatically has Parental Responsibility for a child. The child's father will have Parental Responsibility in certain circumstances depending upon the date of birth of the child.

The Orders that the Family Court can make regarding children have had many different names in the past, including "custody", "residence" and "contact". The Court however will now make a "Child Arrangement Order" (CAO). The types of Order that the Court can make are:

1. With whom the child lives (previously called residence).
2. With whom a child spends time (previously called contact).
3. A prohibited steps order. This prevents a person from taking a specific step in relation to a child, for example preventing them from being permanently removed from the country.
4. Specific issue order. This allows the Court to decide on an issue which relates to the child or children upon which the separating couple cannot reach an agreement, for example choice of school.

- (3) General trend of the legal decision about the residence of the child in divorce process related to domestic violence victims

The Family Court Statistics Quarterly (FCSQ) presents key statistics on activity in the family courts of England and Wales with accompanying commentary and analysis. The bulletin provides a summary overview of the volume of cases dealt with by these courts over time, with statistics also broken down for the main type of case involved.

The general trend of the legal decision about the residence of the child in divorce where there has been domestic violence is that the child would reside with the victim of domestic violence, usually the mother.

- (4) General trend of the legal decision about the childcare expenses in divorce process related to domestic violence victims

Not known.

- (5) General trend of the legal decision about visitation in divorce process related to domestic violence victims

Whilst there is a presumption that it is harmful to the child and not in the best interest of the child to be placed in sole custody or joint physical or legal custody with the perpetrator of domestic violence nevertheless the general trend in terms of visitation (termed contact in England and Wales) is that unsupervised contact is routinely ordered to abusive fathers – see expanded history on this issue below.

(6) Useful information for victims who are immigrants/foreigners

It is important to take advice from the specialist agencies and lawyers working in this field.

(7) Any other useful information related to divorce process involving domestic violence victim

#### 5 Legal process for child custody modification

(1) Outline (please specify your target area of study)

In England and Wales child custody law determines who should be responsible for the care and charge of a child, after divorce or separation. The term custody is now more commonly referred to as residency - indicating where the children's main residence is, following a parental break up.

In circumstances such as domestic violence and abuse one parent may be permanently excluded from having access to their child although as we saw in Section 4 in England and Wales contact with the abusive father/parent is the trend. However, the court has the right to change the decision at any point in time, should the parent's circumstances change. The parent is able to re-apply for access at any time, and once an application is made the court may reconsider arrangements after examining evidence.

(2) How to start the legal process for child custody modification

Changing a child's residency arrangements is possible but in cases of domestic violence and abuse this may be difficult and potentially inadvisable. In order to support the change, substantial evidence of the stability of the abuser and the child will need to be submitted. There are many other factors to consider, which may include relocation of a parent, stability of employment, integration of the child into the new environment and so on.

Firstly, look at the original court documentation and study what it says. Usually your lawyer will have provided you with this and if not you can usually obtain a copy from the court.

Secondly, consider the situation at the time. It is not possible to ask for a variation without showing that there has been a change of circumstance so it is important to be able to show what was each side's position when the order was made.

Thirdly, consider the situation now. You will usually know less about the other party's circumstances now – but think through what you know about your own circumstances and how they have changed, what you do know about the other person and what is likely to help get clearer advice and make better decisions about what to do for the best.

Fourthly, seek legal advice on how and whether or not to take the case further.

(3) Whether appointing a lawyer is mandatory or not

It is not mandatory but advisable.

(4) General trend of the legal decision about child custody modification

Generally there is a presumption that it is harmful to the child and not in the best interest of the child to be placed in sole custody or joint physical or legal custody with the perpetrator of domestic violence and hence modifying child custody in these circumstances would be unusual.

(5) Useful information for victims who are immigrants/foreigners

It is important to take advice from the specialist agencies and lawyers working in this field.

(6) Any other useful information related to legal process for altering child custody

## 6 Legal process for getting permission to move to another place with children

(1) Outline (please specify your target area of study)

Parental Responsibility (PR) in England and Wales is defined in the Children Act 1989 (CA 89) as all the rights, duties, powers, responsibilities and authorities which by law a parent of a child has in relation to the child and the child's property.

People with PR can make or be involved in the important decisions necessary in a child's life such as:

- where a child should live
- going abroad, either permanently or on holiday

A victim may be committing an offence if s/he does not seek consent from everyone with PR before taking a child abroad. It is advisable to ensure that any agreements for a child to go abroad, on holiday or permanently, are put in writing and signed by both parents after independent legal advice, perhaps with a financial bond to ensure any agreed return.

### **Who has Parental Responsibility?**

#### **Mothers**

As the biological (birth) mother of a child they automatically have PR for their child.

#### **Married fathers**

If the victim is or was married to the father of the child at the time of the birth, or marries the child's biological father after the birth he will automatically have PR for the child as well. It is presumed in law that if married at the time of a child's birth that child is the biological child of the husband.

#### **Unmarried fathers**

If the victim is or was not married to the father of the child and the child was born before 1st December 2003 the father does not automatically have PR for the child.

He can gain PR:

If the victim is or was not married to the father of the child and the child was born on or after 1st December 2003 and the father is named on the birth certificate then he will automatically have PR for the child.

#### **What is child abduction?**

Child abduction is defined as taking a child under 16 away from the person who usually cares for them and has parental responsibility for them (PR) without their consent.

International child abduction occurs when a person takes a child, or keeps a child, out of the country the child normally lives in without consent from everyone who has PR for the child.

It is a criminal offence for a person connected to a child (such as parents, guardians, or anyone with PR for a child) to take or send the child out of the U.K without either consent from everyone who has PR for the child or permission from the court. Anyone found guilty of child abduction can be sent to prison or fined or both.

#### **What if the victim wants to go on holiday with the children?**

If the victim looks after the children on a day to day basis, then s/he can take them on holiday within the UK. However, s/he will need to make them available for any court ordered contact. If the victim would like to take them abroad, then they must obtain the agreement of your children's father (if he has PR), and anyone else who has PR for the children. They are required to obtain consent even if the children are going away without you, for example on a school trip. It is advisable to ensure that any agreements for a child to go abroad, on holiday or permanently, are put in writing and signed by both parents after independent legal advice, perhaps with a financial bond to ensure any agreed return.

If the victim wishes to take the children abroad and the father will not consent, s/he can make an application to the Family Court for a Specific Issue Order. If the court grants permission for the victim to take the children abroad, they do not need the father's consent.

If the victim has a child arrangements order which states that the children live with the victim, then they can go abroad with the children for up to 28 days without seeking permission from everyone with PR. You must, however, still make the children available for any contact arrangements ordered within the child arrangements order.

If the children's father does not have PR for your children, then the victim does not require his permission to



take their children on holiday either in the UK or abroad.

#### **What if the child's father refuses permission?**

If the child's father refuses to agree to the victim going on holiday abroad with their child, then the victim will need to apply to the Family Court for a specific issue order. This is an order dealing with a particular problem over caring for children between parents.

The victim can make this application on an emergency basis if they have travel plans, but they should be aware that the Family Court may not be able to deal with the case very quickly. A court is unlikely to make an order allowing the victim to go on holiday with their child unless they have heard why the child's father does not agree.

The Family Court can make an order allowing the victim to go on holiday on one occasion, or if there are likely to be further disagreements, can set out an order which allows for regular holidays and school trips.

If the children's father is very worried about the victim going on holiday in the UK or abroad with the children, then he can make an application for a **prohibited steps order (PSO)**. A PSO is an order which stops a parent from doing something or taking particular steps in relation to the child.

(2) How to start the legal process for getting permission to move to another place with children

#### **Moving abroad permanently with children**

Permission of everyone who has parental responsibility will be needed in order to do this. Alternatively a relocation order from the Family Court is needed to relocate to a new country.

If the other parent with parental responsibility does not consent to the relocation, the victim must apply for a **relocation order** in the Family Court. The order will be granted if relocation is in the best interests of the children.

It is important to have a clear plan for what will happen in the country where the victim moves to before making an application for a relocation order. The court will want to make sure that there is a detailed and well thought out plan. This plan should include detailed information on:

The motivation of the victim for relocating. It will be important to demonstrate it is not because the victim wants to deny their child/children a relationship with the other parent.

- Immigration status for the victim and their children, including any applications that need to be made;
- Arrangements for the children's schooling;
- Any family support the victim will have if they move;
- The victim's job prospects, or other details about how they will support themselves and their children financially;
- Information about where the victim and children will live;
- Details about how the victim's children will continue to have contact with their other parent, including telephone contact, contact over the internet and visits or holidays.

As part of looking at the best interests of the children, a court will look at how the decision will impact on the victim as the child's carer. A court is usually concerned if the victim does not intend to help any children maintain a relationship with their other parent, however, in cases of domestic violence and abuse this presumption is now being questioned.

(3) Whether appointing a lawyer is mandatory or not

Whilst appointing a lawyer is not mandatory the issues relating to orders about children can be very complex and therefore it is strongly advised for victims to seek legal advice by telephoning a legal advice line or contacting a solicitor.

(4) General trend of the legal decision related to moving to another place with children

Unable to locate the trend of the legal decision related to moving to another place with children.

(5) Useful information for victims who are immigrants/foreigners

#### **Immigration and family proceedings**

If you or your children's other parent do not have settled status in the UK, then this may also be considered as part of the family proceedings. You can apply to remain in the UK if you have a child arrangements order to spend time with children who live here, or if you are caring for children who have contact with a parent who is British or settled in the UK. In most cases, telephone contact or indirect forms of contact will not be sufficient.

If you are making immigration applications at the same time as a case is being heard in the Family Court, then the information can be given to each court. There is a special procedure for sharing information between the two courts.

It is important to take advice from the specialist agencies and lawyers working in this field.

(6) Any other information related to moving to another place with children

It is advisable to ensure that any agreements for a child to go abroad, on holiday or permanently, are put in writing and signed by both parents after independent legal advice, and this will be stronger with a financial bond to ensure any agreed return.

#### **7 Legal process for changing visitation schedules**

(1) Outline (please specify your target area of study)

Historically, in England and Wales, domestic violence and abuse was viewed by the law and the courts as only affecting those adults involved in the violent relationship. In 2000, the landmark case of *Re L; Re V; Re M; Re H* 2000 2 FLR 334 (*Re LVMH*) dispelled this myth and set out clearly the detrimental impact and consequences that domestic violence can have on children as well as setting out full guidance for the courts on the issue of contact (or visitation) in the aftermath of domestic violence. The case underlined the need for a heightened

awareness of the existence of, and consequences for children of exposure to, domestic violence between parents or other partners. The case reinforced the need for judges to take allegations of domestic violence seriously and proactively consider them by way of a finding of fact hearing.

The following legal principles were established in this case:

- The conduct of both parents towards each other and towards the child, the effect of the violence on the child and the parent with care, and the motivation of the parent seeking contact should be considered. Specifically, the court should determine whether the parent seeking contact is doing so in the best interests of the child or as a means to continue violence towards the other parent.
- When considering interim contact, the court should ensure that the safety of the child and parent with care is secured before, during and after contact.
- Allegations of domestic violence should be investigated by way of a finding of fact hearing. If domestic violence is proved, Sturge & Glaser's (2000) expert advice on the effect of child contact is very important.
- A finding that domestic violence has occurred should not, in itself, be a bar to contact.

The court should apply the welfare checklist and consider the harm the child has suffered and is likely to suffer, if contact is ordered. Domestic violence and the harm it may cause is one factor in the difficult and delicate balancing exercise of discretion carried out by the judge, applying the welfare principle and the welfare checklist in Section 1 (1) and Section (3) CA 1989.

- The court must weigh up the seriousness of the domestic violence, including the risks involved and the impact on the child, with the positive aspects, if any, of contact.
- Where there is conflict between the rights of a child and those of a parent, the interests of the child have to prevail under Article 8 (2) of the European Convention for the Protection of Human Rights and Fundamental Freedoms 1950.

The guidance in this case is the starting point for all cases where domestic violence is raised as an issue, and it is unacceptable for a court hearing allegations of domestic violence to fail to have regard to this case (Re H (Contact: Domestic Violence) [2006] 1 FLR 943).

The C1A form is the first opportunity for victim-survivors to raise allegations of domestic violence in child contact proceedings. This form, which can be submitted at the application or acknowledgement stage, enables victim-survivors to briefly describe any harm child(ren) have experienced, including allegations of domestic violence.

The principles of Re LVMH were reinforced in a Practice Direction for judges, recently updated as Practice Direction 12J – Residence and Contact Orders: Domestic Violence and Harm (PD12J).10 PD12J sets out the process to be followed in contact proceedings where domestic violence is an issue. In brief, this Practice Direction requires that the court:

- enquire about domestic violence at the earliest opportunity even if it is not raised by the applicant or respondent;
- consider the likely impact of allegations of domestic violence on the outcome of proceedings
- instruct CAFCASS to undertake an initial screening assessment;
- order a finding of fact hearing in relation to any allegation of domestic violence before it can proceed to consider any final orders for contact, if any allegations would affect the case outcome;
- where the court considers a fact finding hearing is not necessary, the judge must set out in writing the reasons for this;
- order CAFCASS to prepare a Section 7 report, unless it is satisfied that it does not need consider the victim's safety at court, and this would include considering whether special facilities are necessary to aid the victim in the proceedings;
- carefully consider all proposed agreements on contact and apply the paramountcy principle;
- endeavours to ensure judicial continuity unless it would cause unreasonable delay.

PD 12J further sets out that the court, when deciding on what order to make, should consider the following:

- the effect of the domestic violence on the child and the parent with care;
- the motivations for the application for contact by the non-resident parent and whether their motivation was to have a meaningful relationship with the child or to continue abuse and domestic violence;
- the likely behaviour of the abusive parent during contact and the impact on the child;
- the ability of the father to appreciate the effect of his past violence and the potential for future violence on the child or mother;
- whether the abusive parent has the ability to change and to behave appropriately.

PD 12J requires the court to then consider making directions on how contact should proceed including:

- whether or not contact should be supervised;
- whether to impose conditions to be complied with by the violent father and, if so, the nature of conditions: for example, does the father need to attend a domestic violence perpetrator course or parenting classes whether the operation of the order needs to be reviewed. If the court believes the contact order needs to be reviewed then they should set a date for a review hearing;
- where the court does not consider direct contact appropriate, whether an order of indirect contact would be in the child's best interests. The importance of following the practice direction was noted in the case of *Re Z (Unsupervised Contact: Allegations of Domestic Violence)* [2009] EWCA Civ430 in which the judge made clear that PD12J represents good practice and judges are not entitled 'to take shortcuts which either run the risk of compromising the welfare of children or which fail to follow accepted practice'.

Despite histories of violence, despite children refusing contact or expressing terror and distress, despite in some cases injunctions being in place and criminal convictions for domestic violence related offences, despite women's fears for their children's emotional well-being, findings here support multiple previous studies (e.g. Saunders & Barron, 2003; Harrison, 2008; Thiara, 2010) unsupervised contact was found to be routinely ordered to abusive fathers (Coy, Perks, Scott and Tweedale 2012 *Picking up the pieces: domestic violence and child contact, Rights of Women*).

(2) How to start the legal process for changing visitation schedules

See process outlined in Section 5.2

(3) Whether appointing a lawyer is mandatory or not

It is not mandatory but advisable.

(4) General trend of the legal decision about changing visitation schedules

Unable to locate the trend of the legal decision related to changing visitation schedules.

(5) Useful information for victims who are immigrants/foreigners

It is important to take advice from the specialist agencies and lawyers working in this field.

(6) Any other useful information related to legal process for changing visitation schedules

#### **CAFCASS**

The Children and Family Court Advisory and Support Service (CAFCASS) is an independent body whose role is to advise family courts on the best interests of children.

In cases where domestic violence has been alleged Practice Direction 12J requires judges to instruct CAFCASS to undertake an initial screening assessment. Subsequently, depending on the seriousness of concerns about the risk of harm to the children, the court can order CAFCASS to undertake either a Section 7 report or social services to undertake a Section 37 report. How CAFCASS officers conduct their assessments can be significant for women and children's safety. Women's experiences of CAFCASS have been mixed. Some women felt that officers had 'seen through' their ex-partners' lies and manipulation and understood their concerns about the potential impacts on children of having contact with abusive fathers.

#### **Changes to Presumption of Father's Contact when Evidence of Domestic Violence January 2017**

Senior judges are taking steps to end the presumption that a father must have contact with a child where there is evidence of domestic abuse that would put the child or mother at risk. The reforms are to be introduced in the family courts after campaigning by the charity Women's Aid, which identified that 19 children have been killed in the last 10 years by their violent fathers after being given contact with them by judges. The changes include a demand from one of the most senior family court judges for all the judiciary to have further training on domestic violence and to act to ensure women and children are protected.

Judges need to be more alert to perpetrators of domestic violence using the courts as a way to continue their abuse. Family court judges need to be sure that they understand the new offence of coercion [controlling or coercive behaviour in an intimate or family relationship]. There is a call for judges to be more alert to how violent men could use the access within the courts to assault their former partners, putting forward a proposal for courts to consider more carefully the waiting arrangements before a hearing, and arrangements for entering and exiting the court building.

## 8 Retaining a lawyer

### (1) How to find a lawyer with expertise in dealing with domestic violence

There are a number of organisations that can be contacted when trying to find a lawyer with expertise in dealing with domestic violence. A victim of domestic violence might want to talk to someone who can give you general advice about their options first and in this case a local advice agency such as a law centre or Citizens Advice Bureau will be able to give details of local legal advisers who are experienced in the appropriate area of law. The Citizens Advice Bureau web page:

<https://www.citizensadvice.org.uk/law-and-courts/legal-system/taking-legal-action/using-a-legal-adviser/>.

Rights of Women can be another good starting point as this is the national support organization that helps women through the law, <http://rightsofwomen.org.uk/>. They provide women with free, confidential legal advice by women solicitors and barristers who specialize in domestic violence. They have telephone advice lines available to women throughout England and Wales. For free, confidential, legal advice on family life or other immigration and asylum issues call 020 7251 8887 (telephone) or 020 7490 2562 (textphone). The advice line is open on Mondays 12pm – 3pm and Thursdays 10am – 1pm.

The National Domestic Violence Helpline can be contacted for advice: 0808 2000 247

Resolution <http://www.resolution.org.uk/>. Resolution is a large association of family lawyers and other professionals committed to the constructive resolution of family disputes. Their members follow a Code of Practice that promotes a non-confrontational approach to family problems. They encourage solutions that consider the needs of the whole family - and in particular the best interests of children. There is a search facility to Find a Resolution Member on their web site

The Law Society web site <http://solicitors.lawsociety.org.uk/> provides a search facility which accesses the Law Society data base on the particular legal issue you need advice on – in this case domestic violence. Solicitors are regulated by the Solicitors Regulation Authority [www.sra.org.uk](http://www.sra.org.uk).

The Legal Choices Web site is another option: <http://www.legalchoices.org.uk/types-of-lawyers/>

An immigration advisor is someone who is not a lawyer but who has the knowledge and skills necessary to give advice on immigration law. For information about immigration advisors contact the Office of the Immigration Services Commissioner [www.oisc.gov.uk](http://www.oisc.gov.uk).

### (2) How to find a lawyer who is good at foreign languages

UK in-house lawyers tend to lack language skills. Just 24 per cent of FTSE 250 lawyers speak a foreign language, according to research by legal outsourcing group Obelisk. The three foreign languages most commonly spoken by top in-house teams in the UK are French, German and Spanish, but only a tiny number of respondents were able to converse in Mandarin or Chinese.

The Solicitors Regulation Authority (SRA) [www.sra.org.uk](http://www.sra.org.uk) has a Register of European Lawyers (RELs) as well as

a Register of Foreign Lawyers (RFLs) that could be approached.

International law companies are more likely to employ lawyers with foreign language skills.

### (3) How to ask a lawyer

When a solicitor has been chosen, the victim will need to make an appointment to discuss their case. They should take all relevant documents to the appointment and it may be helpful to prepare a list of questions for the solicitor in advance.

The victim should take a form of identification with them to the interview such as a current passport or driving licence. They should check with the solicitor beforehand exactly what documents need to be taken to the interview.

#### **What should you expect from your solicitor?**

Solicitors must follow professional standards. This means they must:

- treat you fairly
- give you all the information you need so you can decide about the services you need
- tell you how your problem will be handled and the options available to you
- tell you about your right to complain and how to make a complaint
- give you information about costs.

The Law Society produces a useful guide to using a solicitor which you can see on their website at: [www.lawsociety.org.uk](http://www.lawsociety.org.uk). The guide is available in different formats and selected languages on request.

You should make sure you understand what your solicitor has told you and should not be afraid to ask questions. During the case the solicitor should keep you regularly informed of progress. If, at any stage, you are unhappy with your solicitor, you have the right to stop using them and find a new one. You will need to ask them for your paperwork and pay them for any work they have already done.

You can find more information about finding and using a solicitor on the Solicitors Regulation Authority website at [www.sra.org.uk](http://www.sra.org.uk).

### (4) General information about lawyers' fees

The legal adviser should give the client information about the likely cost of the case and how the charge is calculated, for example, a fixed fee, an hourly rate or a percentage fee. Information about costs should be set out in the client care letter.

The legal adviser should always discuss with the client how the service will be paid for and discuss options such as insurance or membership of a union that might help cover the costs

In all cases, the solicitor should discuss how the costs are to be met and whether you are eligible for legal aid. If

the solicitor does not do legal aid work, they should still explain the advantages of legal aid services if the client is eligible, and give them the opportunity of going to a solicitor who does legal aid work.

The legal adviser must keep you informed about the costs throughout the case. If the legal adviser is holding the client's money, it must be kept in a separate client account and the client should be paid a fair and reasonable amount of interest on it.

The Legal Ombudsman Service has produced a useful guide on questions to ask your legal adviser about costs. See the website at [www.legalombudsman.org.uk](http://www.legalombudsman.org.uk).

### **Complaining about a legal bill**

A client should get their bill within a reasonable time after the legal adviser has finished the work needed. The bill is made up of three elements:-

- disbursements - expenses the legal adviser has had to pay out on the client's behalf, for example, fees paid to court and barristers' fees
- fees - for services carried out by the legal adviser on the client's behalf. If the work was court work, the fees chargeable are subject to court rules. If the work was non-court work, the fees must be fair and reasonable
- VAT - this is charged on the fees and some disbursements.

If the bill is too high, it is possible to:

- ask the legal adviser for a detailed bill
- make a complaint to the legal adviser
- make a complaint to the Legal Ombudsman
- ask a court to look at the bill.

The client can write to the legal adviser asking for full details of how some or all of the charges on the bill were worked out. This letter should also include a request for a written reply.

### **Making a complaint to the legal adviser**

The client can complain to the legal adviser about their bill using the firm's written complaints procedure. If this does not resolve the problem, the client can make a complaint to the Legal Ombudsman. The client will not have to pay a fee to complain to the Legal Ombudsman.

### **Asking a court to examine the bill**

The client can apply to the court for it to assess the amount payable to the solicitor. This is known as applying for a detailed assessment. You can ask the court to examine the bill even if a conditional fee agreement has been signed.

Victims of domestic violence and abuse should always get legal advice before they apply for a detailed assessment as they may have to pay the costs of the assessment. It is possible to find a costs lawyer on the Association of Law Costs Draftsmen website at [www.alcd.org.uk](http://www.alcd.org.uk).

If a client has applied to court for an assessment, the Legal Ombudsman may not consider the complaint about the bill unless the proceedings are put on hold by the parties agreeing or by court order. The Legal



Ombudsman may also dismiss a complaint about a bill if it would be more suitable for the issue to be dealt with by a court.

The court can examine the whole bill, and can either approve it or reduce it. The client will have to pay further costs to use this procedure, but if the court decides to reduce the bill by more than one-fifth, the client will not pay the costs of assessment.

The client should apply for an order for assessment within one calendar month from the date you receive the bill. If more than one month has passed, the court may order that the bill be assessed, but if more than twelve months have passed, the court will only make an order in exceptional circumstances. If you have paid the bill in full more than one year before the application, the court has no power to make an order, even if there are exceptional circumstances.

If the client has problems paying a solicitor's bill, the solicitor might insist on immediate payment. They could also charge interest on bills for non-court work after a month. However, they may agree to let you pay your bill in instalments.

An experienced adviser's help will usually be needed to assess whether you should challenge a solicitor's bill, for example, help from a Citizens Advice Bureau (CAB). To search for details of your nearest CAB, including those that can give advice by e-mail, click on nearest CAB.

#### (5) Legal aid

When a person has been a victim of domestic abuse or violence from another person they may be entitled to legal aid for a private family law dispute (Child Arrangements Order, Prohibited Steps Order or Specific Issue Order) if they can't afford to pay legal costs.

Individuals associated with each other include individuals who:

- Are married or in a civil partnership
- Have agreed to marry or enter into a civil partnership
- Have lived together in the same household as a couple
- Have had an intimate personal relationship of a significant duration
- Are relatives (parents, children, siblings, uncles, aunts, cousins, nieces, nephews)
- Are the parents of or have parental responsibility for the same child.

The evidence must show that the person is a victim or is at risk of being a victim of domestic abuse or violence from the other party in the case arising from a family relationship between the person and the other party.

The Legal Aid Agency has produced sample letters that can be used to get the evidence needed, and these can be accessed here

<https://www.gov.uk/government/collections/sample-letters-to-get-evidence-of-domestic-violence>

From 8 January 2018 changes to eligibility requirements for Legal Aid in Family Law private disputes have come into effect. There will no longer be a time limit on abuse evidence, which previously stood at five years.

Additionally, the range of documents accepted as evidence of abuse has been widened to include statements from domestic violence support organisations and housing support officers.

(6) Useful information for victims who are immigrants/foreigners

For information about immigration advisers contact the Office of the Immigration Services Commissioner (OISC) [www.oisc.gov.uk](http://www.oisc.gov.uk).

You can check whether an immigration adviser is regulated by the OISC by contacting the OISC directly on 0345 000 0046.

(7) Any other useful information related to retaining a lawyer

9 Any other useful information related to legal process regarding domestic violence

Pat Strickland and Grahame Allen *Domestic Violence in England and Wales* 21 June 2017

### **Ratifying the Istanbul Convention?**

The Convention on preventing and combating violence against women and domestic violence (the “Istanbul Convention”) was adopted in April 2011. The Council of Europe website explains what the Convention means for state parties:

(...) Governments that agree to be bound by the Convention will have to do the following:

- train professionals in close contact with victims;
- regularly run awareness-raising campaigns;
- take steps to include issues such as gender equality and non-violent conflict resolution in interpersonal relationships in teaching material;
- set up treatment programmes for perpetrators of domestic violence and for sex offenders;
- work closely with NGOs;
- involve the media and the private sector in eradicating gender stereotypes and promoting mutual respect...39

Amnesty International has urged governments across Europe to ratify the Convention.<sup>40</sup> Twenty one states have ratified the Convention so far.<sup>41</sup>

Although the UK signed the Convention in June 2012, it has been criticised for not ratifying it.<sup>42</sup>

The Government has said that amendments to domestic law - to take extra-territorial jurisdiction over a range of offences - are necessary before the Convention can be ratified:

(...) this Government remains committed to ratifying it but have made it clear that we will not do so until we are absolutely satisfied that we fully comply with all articles but amendments to domestic law, to take extra-territorial jurisdiction over a range of offences (as required by Article 44), are

necessary before the Convention can be ratified...43

The Government has also said that the “UK already complies with the vast majority of the Convention’s articles through its comprehensive work to protect women and girls.”

On 27 April 2017, the Preventing and Combating Violence Against Women and Domestic Violence Act 2017 received Royal Assent. It is due to come into force on 27 June 2017.<sup>45</sup> It requires the Secretary of State to lay a report before Parliament setting out the steps to be taken to enable the UK to ratify the Convention and the expected timetable, and to report each year on progress.

This legislation began as a Private Members Bill introduced in the Commons by Dr Eilidh Whiteford, although the Government amended it on Report. Background is in Library Briefing Paper 7829, UK policy on ratifying the Istanbul Convention on preventing violence against women and Lords Library In Focus LIF 2017/22, Preventing and Combating Violence Against Women and Domestic Violence (Ratification of Convention) Bill: Briefing for Lords Stages.

#### V. Information for domestic violence victims preparing to return to your country based on the 1980 Hague Convention

※ A typical case is supposed where a domestic violence victim, who removed children without consent of the abuser, is preparing to return to the country of habitual residence with children after relevant proceedings in accordance with the 1980 Hague Convention.

##### 1 How to know whether an arrest warrant is out against the victim before he/she returns to the country of habitual residence

※ Including measures to obtain official or reliable information about the arrest warrant other than asking the abuser

##### 2 Measures to terminate criminal proceedings against the domestic violence victim before he/she returns to the country of habitual residence

※ Including registering or enforcing orders which may be made by the foreign court when it made return order, any other legal or administrative measures, etc.

##### 3 Measures to secure accommodation, financial support, etc., for a domestic violence victim before he/she returns to the country of habitual residence

※ Including registering or enforcing orders which may be made by the foreign court when it made return order, any other legal or administrative measures, etc.

|   |  |
|---|--|
| 4 | Any other useful information for a domestic violence victim preparing to return to your country based on the 1980 Hague Convention |
|   |  |

|  |
|--|
| VI. Any other relevant information   |
| See below for list of National Support Organisations in England and Wales from the Crown Prosecution Service (CPS) web site. |

CPS Domestic Abuse Guidelines for Prosecutors

<https://www.cps.gov.uk/legal-guidance/domestic-abuse-guidelines-prosecutors>

Date accessed 24/01/18

**ANNEX D - National Support organisations**

24 hr Domestic Violence Helpline

The confidential 24 hour national domestic violence freephone helpline is run in partnership by Refuge and Women's Aid. The helpline provides support, information and a listening ear to women experiencing (or who have experiences) domestic abuse and to those seeking help on a woman's behalf and, if appropriate, refer callers on to refuges and other sources of help and information.

The 24-hour free phone number is: 0808 2000 247

Action on Elder Abuse

Action on Elder Abuse works to protect and prevent the abuse of vulnerable older adults.

Address: PO Box 60001, Streatham, SW16 9BY.

Tel: 0808 808 8141

Email: [enquiries@elderabuse.org.uk](mailto:enquiries@elderabuse.org.uk)

Website: [www.elderabuse.org.uk](http://www.elderabuse.org.uk)

BAWSO

BAWSO provide generic and specialist services for minority ethnic communities, including the provision of temporary accommodation in Wales for those suffering from domestic abuse and all forms of violence; including Female Genital Mutilation, Forced Marriage, Honour Based Violence and Human Trafficking.

Address: 9 Cathedral Road, Cardiff, CF11 9HA

Helpline: 0800 731 8147

Email: [Info@bawso.org.uk](mailto:Info@bawso.org.uk)

Website: <http://www.bawso.org.uk/>

#### Broken Rainbow

Broken Rainbow provides assistance to lesbians, gay men, bisexual and transgender (LGBT) people in Britain who are affected by homophobic, transphobic and same sex domestic violence.

Address: PO Box 68947, London, E1W 9JJ

Broken Rainbow Freephone Number: 0800 999 5428

Helpline Number: 0300 999 5428

Email: [help@brokenrainbow.org.uk](mailto:help@brokenrainbow.org.uk)

Website: <http://www.brokenrainbow.org.uk/home>

#### CAADA (Co-ordinated Action Against Domestic Abuse)

CAADA is working to create a consistent, professional and effective response for all victims of domestic violence in particular those at high risk. They deliver accredited training for IDVAs and MARACs nationally and have developed accredited IDVA standards for IDVA services. They offer ongoing support for those they have trained. Address: 3rd Floor, Maxet House, 28 Baldwin Street, Bristol, BS1 1NG

Tel: 0117 3178750

Email: [queries@caada.org.uk](mailto:queries@caada.org.uk)

Website: <http://www.caada.org.uk/index.html>

#### ChildLine

ChildLine is the free 24-hour helpline for children and young people in the UK about any problem, day or night.

Tel: 0800 1111

Website: <http://www.childline.org.uk/Pages/Home.aspx>

#### Deaf Hope

Deaf Hope is the only sign-language based service designed to help deaf women and children who suffer domestic violence.

Address for SignHealth: 5 Baring Road, Beaconsfield, Buckinghamshire, HP9 2NB

Text 07970 350366

Voice/minicom 020 8772 3241

Email [deafhope@signhealth.org.uk](mailto:deafhope@signhealth.org.uk)

Website: <http://www.signhealth.org.uk/deafhope/>

#### Eaves

Eaves work to expose and address the overlapping issues of domestic abuse, sexual violence, and exploitation of women in the UK.

Eaves Poppy Project was set up in 2003 to provide high-quality support, advocacy and accommodation to trafficked women (women brought into England or Wales to be exploited in some way). This could include but is not limited to sexual exploitation, labour exploitation, forced illicit activities and organ harvesting.

Address: Unit CC01 Canterbury Court, Kennington Business Park, 1-3 Brixton Road, London, SW9 6DE.

Tel: 020 7735 2062

Email: [post@eavesforwomen.org.uk](mailto:post@eavesforwomen.org.uk)

Website: <http://www.eavesforwomen.org.uk/>

#### The Everyman Project

The Everyman Project aims to help men to change their angry, violent or abusive behaviour with respect and dignity for every man, every woman and every child.

Address: Everyman Project, 1A Waterlow Rd, London, N19 5NJ

Advice line: 0207 263 8884

Email: [everymanproject@btopenworld.com](mailto:everymanproject@btopenworld.com)

Website: <http://www.everymanproject.co.uk/>

#### Get Connected

Get Connected is the UK's free, confidential helpline for young people under 25 who need help and don't know where to turn.

Address: PO BOX 7777, London W1A 5PD

Office Phone: 020 7009 2500

Helpline: 0808 808 4994

Text: 80849

Office email: [admin@getconnected.org.uk](mailto:admin@getconnected.org.uk)

Website: <http://www.getconnected.org.uk/>

#### The Hideout

Website to help children and young people understand domestic abuse, and how to take positive action.

Website: <http://www.thehideout.org.uk/default.aspx>

#### IMKAAN

Imkaan is a black feminist organisation dedicated to addressing violence against women and girls. Imkaan supports a network of specialist women's services run by and for black and minority ethnic women.

Address: Tindlemanor, 52 - 54 Featherstone Street, London EC1Y 8RT

Tel: 020 7842 8525

Email: [info@imkaan.org.uk](mailto:info@imkaan.org.uk)

Website: <http://imkaan.org.uk/>

#### Jewish Women's Aid

Jewish Women's Aid is the only specialist organisation in the UK supporting Jewish women affected by domestic violence.

Address: PO Box 2670, London, N12 9ZE

Helpline: 0808 801 0500

Website: <http://jwa.org.uk/>

#### LGBT Domestic Abuse Forum

Lesbian, Gay, Bisexual and Transgender domestic abuse forum (LGBT DAF) is a network providing individuals and organisations with support to develop, implement and improve service for LGBT people who have experienced domestic abuse.

Address: LGBT DAF, Stonewall Housing, 2a Leroy House, 436 Essex Road, London N1 3QP

Tel: 0207 3456316

Email: [info@lgbtdaf.org](mailto:info@lgbtdaf.org)

Website: <http://www.lgbtdaf.org/>

#### Mankind Initiative

Mankind Initiative directly, and indirectly help others to, support male victims of domestic abuse and domestic violence across the UK and within their local communities.

Address: Flook House, Belvedere Road, Taunton, Somerset, TA1 1BT

Phone: 01823 334244

Email: [admin@mankind.org.uk](mailto:admin@mankind.org.uk)

Website: <http://www.mankind.org.uk/>

#### MALE (Men's Advice Line)

A confidential helpline for men who experience violence from their partners or ex-partners or from other family members.

Tel: 0808 801 0327

Email: [info@mensadviceline.org.uk](mailto:info@mensadviceline.org.uk)

Website: [www.mensadviceline.org.uk](http://www.mensadviceline.org.uk)

#### Muslim Youth Helpline

MYH is a charity that provides free and confidential faith and culturally sensitive support services targeted at vulnerable young people in the UK.

Address: MYH FREEPOST RLZS-XJGE-JLBH

Helpline: 0808 808 2008

Office telephone: 0207 435 8171

Email: [help@myh.org.uk](mailto:help@myh.org.uk)

Office email: [info@myh.org.uk](mailto:info@myh.org.uk)

Website: <http://www.myh.org.uk/>

#### Muslim Women's Network UK

The Muslim Women's Network (MWN-UK) is an independent national network of individual Muslim women and Muslim women's organisations across the UK.

Address: The Warehouse, 54-57 Allison Street, Digbeth, Birmingham, B5 5TH

Tel: 0121 236 9000

Email : [contact@mwnuk.co.uk](mailto:contact@mwnuk.co.uk)

Website: <http://www.mwnuk.co.uk/>

#### NSPCC National Child Protection Helpline

Helpline for people concerned about a child at risk of abuse, including children themselves. Offers counselling, information and advice about the care of children, legal issues, sexual, physical or emotional abuse, neglect etc. The helpline is a free and confidential service that is open 24 hours a day, seven days a week.

Tel: 0808 800 5000

Email: [help@nspcc.org.uk](mailto:help@nspcc.org.uk)

Website: <http://www.nspcc.org.uk/>

#### National Association of Gypsy Women

Support group for Gypsy women and travellers experiencing domestic violence. Meadow View, Goldsmith Drive, Rayleigh, Essex SS6 9R5

Tel: 01268 782 792

#### National Stalking Helpline

The National Stalking Helpline provides guidance and information to anybody who is currently or has previously been affected by harassment or stalking.

Email: [advice@stalkinghelpline.org](mailto:advice@stalkinghelpline.org)

Helpline: 0808 802 0300

Website: <http://www.stalkinghelpline.org/>

#### National Youth Advocacy Service

NYAS is a UK charity providing socio-legal services that offer information, advice, advocacy and legal representation to children, young people and vulnerable adults through a network of dedicated paid workers and volunteers throughout England and Wales.

Address: NYAS, Egerton House, Tower Road, Birkenhead, Wirral, CH41 1FN

Telephone: 0151 649 8700

Email: [info@nyas.net](mailto:info@nyas.net)

Helpline: 0808 808 1001

Email: [help@nyas.net](mailto:help@nyas.net)

Website: <https://www.nyas.net/>

#### Paladin

Paladin provide advice and support to high risk victims of stalking, raise awareness of dangers and risks of stalking, provide training to professionals, scrutinise the new stalking laws, campaign on behalf of victims and develop a victim's network of support.

Address: PO Box 64640, London, SW8 9DJ

Tel: 0207 840 8960

Email: [info@paladinservice.co.uk](mailto:info@paladinservice.co.uk)

Website: <http://paladinservice.co.uk/>

#### Rape Crisis

Rape Crisis England & Wales is a national charity and the umbrella body for their network of independent member Rape Crisis organisations.

Address: Rape Crisis England & Wales, BCM Box 4444, London, WC1N 3XX



Freephone helpline: 0808 802 9999  
Email: [rcewinfo@rapecrisis.org.uk](mailto:rcewinfo@rapecrisis.org.uk)  
Website: <http://www.rapecrisis.org.uk/>

#### Refuge

Refuge is a national charity for women and children experiencing domestic violence and other forms of violence and abuse, including sexual violence, trafficking, FGM, 'honour'-based violence, forced marriage, stalking and prostitution. Refuge runs a national network of specialist services, including emergency refuge accommodation; community-based outreach services; culturally specific services.

Address: 4th Floor, International House, 1 St Katharine's Way, London E1W 1UN

Tel: 020 7395 7700

National Domestic Violence Helpline: 0808 2000 247

Email: [info@refuge.org.uk](mailto:info@refuge.org.uk)

Website: [www.refuge.org.uk](http://www.refuge.org.uk)

#### Respect

Respect is a UK-wide membership organisation for practitioners and organisations working with perpetrators of domestic violence and associated work with women partners and ex-partners. Respect's key focus is on increasing the safety of those experiencing domestic violence through promoting intervention with perpetrators.

Address: 4th Floor, Development House, 56-64 Leonard Street, London, EC2A 4LT

Tel: 020 7549 0578

Email: [info@respect.uk.net](mailto:info@respect.uk.net)

Website: [www.respect.uk.net](http://www.respect.uk.net)

#### Rights of Women

Rights of Women works to attain justice and equality by informing, educating and empowering women on their legal rights.

Address: Rights of Women, 52-54 Featherstone Street, London, EC1Y 8RT.

Administration: 020 7251 6575

Textphone: 020 7490 2562

Email: [info@row.org.uk](mailto:info@row.org.uk)

Website: <http://www.rightsofwomen.org.uk/>

#### Shelter

Shelter help millions of people every year struggling with bad housing or homelessness - and campaign to prevent it in the first place.

Address: Shelter Head Office, 88 Old Street, London, EC1V 9HU

Main Switchboard 0344 515 2000

Helpline on 0808 800 4444

Email: [info@shelter.org.uk](mailto:info@shelter.org.uk)

Website: <http://england.shelter.org.uk/>

#### Southall Black Sisters

Southall Black Sisters provide a range of advice and support services to enable black and minority

women to gain the knowledge and confidence they need to assert their human rights. They provide general and specialist advice on gender-related issues such as domestic violence, sexual violence, forced marriage, honour killings and their intersection with the criminal justice, immigration and asylum systems, health, welfare rights, homelessness and poverty.

Address: Southall Black Sisters, 21 Avenue Road, Southall, Middlesex, UB1 3BL

Helpline: 0208 571 0800

General Enquiries: 0208 571 9595

Website: <http://www.southallblacksisters.org.uk/>

#### Stay Safe East

Stay Safe East works to tackle violence and abuse against disabled and deaf individuals including: domestic violence by partners, family members, or by paid or unpaid carers, disability and other hate crime, bullying, anti-social behaviour and harassment, sexual violence, financial abuse and human rights abuses in residential care or supported housing.

Address: 90 Crownfield Road, London, E15 2BG

Tel: 0208 519 7241

Email: [advocacy@staysafe-east.org.uk](mailto:advocacy@staysafe-east.org.uk)

Website: <http://www.staysafe-east.org.uk/>

#### Stonewall

Stonewall works to achieve equality and justice for lesbians, gay men and bisexual people.

Address: Tower Building, York Road, London, SE1 7NX

Info Line: 0800 050 20 20

Office (admin): 020 7593 1850

Email: [info@stonewall.org.uk](mailto:info@stonewall.org.uk)

Website: <http://www.stonewall.org.uk/>

#### Victim Support

Victim Support is the independent national charity that helps people to cope with the effects of crime. It provides free and confidential support and information to help victims deal with their experiences.

Victim Support line: 0845 30 30 900

Email: [supportline@victimsupport.org.uk](mailto:supportline@victimsupport.org.uk) Website: <https://www.victimsupport.org.uk/>

#### Women's Aid

Women's Aid is a key national charity working in England to end domestic violence of women and children. It supports a network of over 300 domestic and sexual violence services across the UK.

Address: PO Box Bristol 391, BS99 7WS

Tel: 0117 944 4411

Fax: 0117 924 1703

National Domestic Violence Helpline: 0808 2000 247

Email: [info@womensaid.org.uk](mailto:info@womensaid.org.uk); [helpline@womensaid.org.uk](mailto:helpline@womensaid.org.uk)

Website: <http://www.womensaid.org.uk/>

#### Welsh Women's Aid

Welsh Women's Aid is the national umbrella organisation representing local Women's Aid Groups

situated throughout Wales. Member groups provide direct services for women and children who have experienced or are experiencing domestic abuse.

Address: Welsh Womens Aid, Pendragon House, Caxton Place, Pentwyn, Cardiff, CF23 8XE

Tel: 02920 541 551

Wales Domestic Abuse Helpline: 0808 801 0800

Website: [www.welshwomensaid.org](http://www.welshwomensaid.org)

#### Youth Access

Youth Access is the largest provider of young people's advice and counselling services in the UK.

Address: Youth Access, 1-2 Taylors Yard, 67 Alderbrook Road, London, SW12 8AD

Tel: 020 8772 9900 (from 9.30 to 1, and 2 to 5.30)

Email: [admin@youthaccess.org.uk](mailto:admin@youthaccess.org.uk)

Website: <http://www.youthaccess.org.uk/>