



## **Domestic Violence and Abuse Bill Consultation**

### **Step Up Migrant Women's response**

May 2018

This document provides suggested answers to relevant questions of the Domestic Violence and Abuse Bill Consultation, with the aim of facilitating the process for organisations interested in highlighting the need for safe reporting of crime for migrant victims with insecure immigration status<sup>1</sup>.

Please note that the answers provided are by no means exhaustive but rather complementary to organisations' responses, as they focus on the issue of safe reporting and firewalling victims' rights above immigration control.

To submit a response to the consultation, please visit:

<https://consult.justice.gov.uk/homeoffice-moj/domestic-abuse-consultation/consultation/intro/>

#### **Step Up Migrant Women UK**

Step Up Migrant Women UK is a BAMER women led campaign which aims to secure safe reporting mechanisms for victims of crime with insecure immigration status.

The campaign was set up by the [Latin American Women's Rights Service](#) (LAWRS) and is supported by over 30 organisations from the women and migrant sectors. This document was prepared in consultation with the campaign's steering group members. Acknowledges go to Southall Black Sisters, Rights of Women, London Black Women's Project, Women's Aid, End Violence Against Women (EVAW), Natalie Bloomer and Samir Jeraj.

For more information, please visit [www.stepupmigrantwomen.org](http://www.stepupmigrantwomen.org), or contact Illary Valenzuela, LAWRS Policy and Communications Coordinator (VAWG) at [illary@lawrs.org.uk](mailto:illary@lawrs.org.uk)

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<sup>1</sup> Insecure immigration status refers to any person who would be expected to prove their right to remain in the UK, as well as those who have a right to remain but may lose it or become destitute as a result of reporting a crime.

## Our response

### Question 1: Do you agree with the proposed approach to the statutory definition?

Disagree

We agree with the definition of domestic violence as incidents and/or patterns of abuse, with the definition of coercive control, and with the inclusion of 'economic' as well as 'financial' abuse with an understanding on how it deprives women of managing resources and becoming economically independent. The definition does not recognise domestic violence as part of Violence Against Women and Girls when domestic violence disproportionately affects women more than men which includes an alarming statistic of women being the majority of victims of domestic homicides in the past 4 years (70%) (Office for National Statistics, 2017). Moreover, it does not address other types of VAWG as abuse towards women and girls such as harmful practices, Honour-Based Violence, Forced Marriage, this delinks with UK government's signing and ratifying the Istanbul Convention as well as the CEDAW convention. Lastly, the definition should also recognise how race, class, sexuality, disability, immigration status, and other intersectional characteristics affect victims' experiences of both abuse and access to justice and support.

### Question 7: Which statutory agencies or groups do you think the UK Government should focus its efforts on in order to improve the identification of domestic abuse? Please tick your top 3 from the list.

Please include '**Police**' in your response.

**Other:** all agencies listed in the consultation document must be able to identify domestic abuse properly, particularly as isolated victims may only have limited contact with agencies. It is impossible to prioritise 3 without leaving vulnerable women at risk.

Nonetheless, recent Freedom of Information requests found that from **45 police forces** around England and Wales, **27 responded that the police had shared victims' details with the home office for immigration control purposes** and only three responded that they did not hand over victims' information (BBC, 2018). The rest of the forces responded with neither a yes or no, or they did not have any information to respond. These figures show that there are no clear rules or guidance for forces in relation to how potential immigration offences of victims of crime should be treated. Some police forces identified that it depended on individual police officers which would refer victims to immigration control while others advised that they would do so only if the victim posed a significant risk. As a result, there is no consistency in practice and victims are reluctant to come forward due to lack of trust in the police.

It is imperative that the government and public agencies understands that when victims leave an abusive situation and report abuse, they are more likely to be harmed or murdered by their perpetrator. It is thus, essential that the UK Government puts in place safe-reporting mechanisms and puts an end to data-sharing policies when victims approach the police. The police should comply with their duty to prevent serious harm and crime and prosecute

perpetrators of this violence.

**Question 8: In addition to improving training programmes and introducing guidance, what more can the government do to improve statutory agencies' understanding of domestic abuse?**

- **Inclusion of a victim-centred approach in the CJS:** UK policies and framework should ensure that victims' experiences inform CJS practices. This approach should acknowledge the experiences of migrant women, many of whom have limited knowledge of the system and access to support to navigate the CJS..
- **Expansion of training to improve understanding of the circumstances and increased vulnerability of migrant women:** Guidance and training must incorporate awareness raising material about the specific issues affecting migrant victims, particularly about how immigration status may be used by perpetrators as a tool of control.  
The Police and criminal agencies under Section 77 of the *Serious Criminal Act (2015)* have a duty to investigate offences in relation to controlling and coercive behaviour. The document recognises immigration status as a tactic by perpetrators of control; however, there are no clear rules protecting victims' from immigration enforcement, which in turn greatly affect the level of unreported crimes.
- **Inclusion of safe-reporting policies to comply with the Human Rights Act (1998)** In order to strengthen the protection of victims' rights, practices of the police and statutory agencies should comply with Articles 2,3,4, 8 of the HR Act by upholding their duty of providing safety for all victims of domestic violence, putting the safety of victims as paramount over immigration control.

**Question 9: What further support can we provide to the public (employers, friends, family, community figures) so they can identify abuse and refer victims to help effectively?**

The government should be outspoken about its zero tolerance to domestic violence and abuse, and send clear messages deterring perpetrators who use their victims' insecure immigration status as a tool for coercion and control. It is crucial that friends, family and community figures are able to trust statutory agencies and encourage migrant victims' to report, ensuring that they will not fall into destitution or be deported as a result of reporting the abuse. Perpetrators must not be able to hide behind 'hostile environment' policies and use them to exert abuse, which often involves making the victim undocumented (e.g. by taking passports away or controlling home office applications).

**Question 11: What more can the Government do to encourage and support effective multi-agency working, in order to provide victims with full support and protection? Please select up to 3.**

- Guidance
- Training

- Effective practice

Other (free text): It is not possible to state only 3 intervention and it is not possible to respond to the question without further information about each category provided. Nonetheless, clear rules, guidance and training on supporting BAMER victims are needed across statutory agencies, in particular migrant women with increased vulnerability due to insecure immigration status and the language barrier. No immigration official should be part of MARAC meetings, social services interviews as part of an agenda that puts deportation as a safety-mechanism for victims and their children.

**Question 12: What more can the Government do to better support victims who face multiple barriers to accessing support?**

In relation to migrant and refugee victims':

**a) Abolish NRPF to all victims of domestic abuse.**

Women who cannot access public funds are refused shelter when trying to flee violence. As a result, women with insecure immigration status often choose to endure a life of violence with their perpetrator, particularly when they have children.

In Imkaan (2008) 'No Recourse, No Duty to Care' report, women with NRPF and those with insecure migrant status are likely to suffer mental health illnesses such as depression, psychosis and suicidal ideation. In this context, their status acts as a barrier which enforces isolation, psychological deterioration, economic dependency and threats with deportation.

**b) Address additional barriers particularly affecting migrant women in statutory guidance and with the implementation of rules to safeguarding all victims.**

Training for police forces and statutory services to support migrant women, with emphasis on increasing awareness of the impact of having an insecure immigration status in relation to:

- A language barrier, issues around accessibility and need for interpreting
- Underreporting in crime due to their immigration status giving impunity to perpetrators
- Lack of knowledge of the system,
- Lack of trust in the police (related to negative experiences with the police either in victims' countries or origin or in the UK)
- Lack of knowledge of circumstances of migrants around the criminalisation of the immigration status
- Lack of trust in the police when acting as immigration officers / and the lack of safe reporting for migrant victims accessing the CJS
- Expanding the Destitution Domestic Violence (DDV) Concession to ensure it is accessible to all migrant women - to ensure they can access housing and benefits
- Provision of additional financial support to refugees and other domestic abuse services to support women with insecure immigration status and NRPF
- improving involvement of foreign spouses in the visa application process, ensuring that they understand their rights and where to go to access help and support
- Ensuring foreign spouses can access information about their partner's previous marriages,

or where their partner has supported any previous spousal visa applications, through the visa application process

- Improving the assessment and response to curtailing spousal visas for foreign spouses when a partner claims that a marriage has ended due to domestic abuse

**Question 15: In addition to reviewing who may be eligible for the Destitute Domestic Violence Concession, what other considerations could the Government make in respect of protecting domestic abuse victims with no recourse to public funds?**

- Expanding of DDVC to all victims of abuse irrespective of types of visa or residency to ensure they have access to housing and benefits.
- Provision of additional financial support to refuges and other domestic abuse services to support women with insecure immigration status and NRPF.
- Provision of temporary visas for women who have entered the UK on spousal visas and are then taken to another country and abandoned there.
- Abolish NRPF for victims fleeing violence and abuse, as it a significant barrier to do so and to find safety and shelter in refuges. Government should abolish NRPF to all victims, as it is a barrier for destitution and further violence by perpetrators.
- Recognising 'threats of deportation' and other uses of insecure immigration status as part of the spectrum of domestic violence and abuse (e.g. making a victim undocumented, misinforming the victim about their legal options and rights, using insecure immigration status as a tool for coercion and control, etc.).
- Implementation of the EU Victims Directive to the Victims code which includes the rights of safety and dignity to all victims of violence regardless of immigration status. The UK should apply the minimum standards of reporting processes.
- Training and updating statutory services in their guidance for victims with no NRPF, to be referred to specialised services, legal aid agencies, and refuges.
- Developing safe and confidential reporting systems for victims with insecure immigration status that provide confidence that their immigration status will not be investigated.
- Support for survivors of VAWG regardless of nationality. Engaging in the commissioning process with non-British national women to hear about their experiences, needs and aspirations to ensure their is also an inclusive strategy : to fulfill the responsibility of safety, health and wellbeing.
- Ending the policy of dispersal for abused female asylum seekers to ensure that support and assistance they may be receiving is not disrupted.
- Creating a single policy framework for protecting and assisting all abused migrant women, regardless of their immigration status.
- Improving involvement of foreign spouses in the visa application process, ensuring that they understand their rights and where to go to access help and support.

**Question 22: Do you agree that courts should be able to require individuals subject to a domestic abuse protection order to notify personal details to the police?**

Yes

**Question 37: How can we continue to encourage and support improvements in the policing response to domestic abuse across all forces and improve outcomes for victims?**

- Clear rules and guidance on no questioning of victims over nationality or immigration status. Questioning over immigration status intersects with racial profiling victims who report violence. Individual police officers currently consider that they are expected to or are taking on the task of acting as immigration enforcement agents due to lack of clear rules. This leads to inconsistent responses and lack of trust in the police, particularly affecting migrant and racially profiled communities. Clear guidance to ensure that the Victim's Code is applied for all victims must be developed and implemented across forces, ensuring that victims' rights, such as being treated with respect and access to specialist services, are not breached by the police.
- No data-sharing of victims for Immigration enforcement purposes: As mentioned by the College of Policing's publication on Major Investigation and Public Protection under the Victims Safety and Support page (2016), it is crucially important that safety plans recognise the specific barriers to reporting linked with insecure immigration status. In accordance with the Human Rights Act (1998), the police must prevent and punish those that commit serious harm and protect victims. Rules of police practice should incorporate the 'no immigration enforcement' and 'no data sharing' rules, in support of a victims' centred approach and a focus on enabling the police to prevent crime, increase reporting of crime, appropriately identify victims and prosecute perpetrators.
- Reporting to other statutory services and areas in the public sector: these barriers do not operate in isolation. At the moment, reporting to other agencies is also hindered by data sharing and hostile environment policies. As a result, migrant victims are reluctant to report crimes due to fear of deportation and destitution.

**Question 58: Please select which of the following you believe should be priorities for improving data collection. Please choose up to 3.**

Other

Data sharing between agencies that allow to identify individuals without the victim's consent should not be allowed.

**Question 59. Do you agree with the proposed model for a Domestic Abuse Commissioner outlined above?**

Neither agree nor disagree

We welcome the introduction of this role. However, it is crucial that the role is performed by a survivor needs' led commissioner with an understanding of violence against women and girls,

as well as how other intersectional elements of identity , are perceived by society, perpetrators and statutory agencies, shaping victims' access to safety and justice. The Commissioner should pay attention and act as a champion to increase awareness of how migrant, disabled, BME women experience and report violence and access justice through the existing system. The commissioner should also have appropriate understanding of the essential role that BAMER specialist services and organisations play in combating VAWG, and ensure that their work is appropriately resourced.

**Question 62: One proposal is that the Domestic Abuse Commissioner could routinely collate, quality assure and share lessons learnt from DHRs. What more could be done to increase awareness of the learning from DHRs?**

DHRs should indicate whether the victim was a migrant, as this element is crucial at informing future policy and practice.