

Response ID ANON-1WEK-1X1R-4

Submitted to **Transforming the response to domestic abuse**

Submitted on **2018-05-31 17:53:59**

Personal details

A I understand that there are two versions of the consultation. If I have already completed the short version I will not answer the following questions again: 6, 7, 9, 12, 24, 25, 26, 32, 35, 39, 43.

Yes

B What is your name?

Name:

Professor Marianne Hester on behalf of the Centre for Gender and Violence Research

C What is your email address?

Email:

marianne.hester@bristol.ac.uk

D What region are you in?

Please select your region:

South West

E Are you responding on behalf of an organisation or as a member of the public?

Please choose an option below:

Organisation

F If relevant, which, if any, best describes you/your organisation?

Please select one of the options that best describes you:

Researcher

If none of the above please specify below:

G If applicable, please give the name of your organisation/ profession.

The name of your organisation, if relevant.:

Centre for Gender and Violence Research, School for Policy Studies, University of Bristol

Introducing a new statutory definition of domestic abuse

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

Disagree

Please explain your answer.:

The issue is not putting a definition into law per se, but that the existing definition the Government is proposing to codify into law is not fit for purpose for two key reasons: (1) It does not recognise the gendered nature of domestic violence and abuse, and (2) It folds in too many different kinds of family violence – child to parent, sibling abuse, honour-based violence (which can involve intimate partner violence, but often has different dynamics (Bates, 2017)). These different forms of violence can be quite different to intimate partner violence, which is by far the most common form that domestic violence takes.

We do not disagree with the Government's idea to codify a definition of domestic violence and abuse into law, but putting the wrong definition into law is deeply problematic. Any legal definition will underpin the measurement, understanding and resourcing of responses to domestic violence and abuse; and so recognising gender in statutory guidance alone is insufficient.

We suggest the Government instead uses the (gendered) definition of domestic violence adopted by the UN, CEDAW and many other countries and international bodies; and situates the definition within the Istanbul Convention Framework.

2 Will the new definition change what your organisation does? Please select 1. (This question is for organisations only)

No it won't change

Explain how it will change what your organisation does.:

3 How can we ensure that the definition is embedded in frontline practice?

Please provide your answer in the box provided:

4 What impact do you think the changes to the age limit in the 2012 definition have had?

Positive

Please explain your answer.:

The extension of age limit to 16 has been important in extending safeguards and support for DVA to teenagers experiencing IPV. Evidence from Bristol University shows that half of young women aged 14-17 in England report having experienced violence and abuse in their own intimate relationships, with high rates of sexual violence and coercion into 'sexting' (Barter, Aghtai et al, 2015: <http://stiritup.eu/wp-content/uploads/2015/06/STIR-Briefing-Paper-2-English-final.pdf>). New evidence emerging from our research centre (Justice, Inequality and Gender-Based Violence project) is finding fresh evidence of high rates of both domestic and sexual abuse amongst young teenagers in their first relationships (<http://www.bristol.ac.uk/sps/research/projects/current/justiceinequality/>)

5 We are proposing to maintain the current age limit of 16 years in the statutory definition – do you agree with this approach?

Agree

Please explain your answer.:

Educating young people on relationships

6 In addition to the changes being made to how relationship education will be taught in schools, what else can be done to help children and young people learn about positive relationships and educate them about abuse?

Please provide your answer in the box below.:

Statutory Sex and Relationships Education in schools is extremely welcome, but is not will not alone and in itself be enough to radically change schools' response to domestic and sexual violence happening in and outside school, or their ability to shape attitudes so as to prevent these crimes in the future.

Recent research and practice evidence shows that programmes need to address gender and other inequalities and be embedded across the curriculum – in both schools and university campuses (Fenton, R. and Mott, H. (2018) Preliminary evaluation of The Intervention Initiative, a bystander intervention program to prevent violence against women in universities", Violence and Victims, in press).

Reporting domestic abuse to statutory agencies

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.

Other - please specify

If you selected other please add your response here.:

All the agencies above are vital in responding to DVA, and can all improve. The idea of ranking them is unhelpful. These professionals should be added to the list above too:

Alcohol and drugs services; mental health services; immigration officers (especially for refugee, asylum-seeker and migrant women).

Our research shows the importance of all professionals in appropriately identifying and responding to DVA. There are already very good National Institute for Health and Care Excellence (NICE 2014) guidelines Domestic violence and abuse: how health services, social care and the organisations they work with can respond effectively on DVA which identify different levels of professional intervention: <https://www.nice.org.uk/guidance/ph50>

Within health services, our research shows different professionals are vital in responding to different elements of domestic abuse: e.g. GPs are key for identifying male patients with depression (who may be victims or perpetrators) (Hester et al, 2017), sexual health services and CAMHS important for identifying rape victims.

Hester, M, Jones, C, Williamson, E, Fahmy, E & Feder, G, 2017, 'Is it coercive controlling violence? A cross-sectional domestic violence and abuse survey of men attending general practice in England'. Psychology of Violence, vol 7., pp. 417-427

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

Please explain your answer:

There is (unfortunately) not one size fits all solution to improving statutory services' responses. Despite great improvements, not all key frontline professionals yet get initial domestic violence training, and they should. DVA training should form part of Continuing Professional Development training too; and statutory services could embed this training into performance management / professional rewards structures.

Our systematic review of training on DV and children shows that three elements are required to make training effective: (a) interactive discussion, (b) booster sessions and (c) involving DV practitioners.

Turner, W., Feder, G., Stanley, N., Firth, A., Szilassy, E., Hester, M. & Drinkwater, J. (2015) Interventions to improve the response of professionals to children exposed to domestic violence and abuse: a systematic review. Child Abuse Review, vol 26., pp. 19-39

Alternative ways to report domestic abuse

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?

Please give answer below:

Research by Williamson and Gregory in this centre show that the majority of friends, family members, neighbours and colleagues are only too willing to help, but frequently 'get it wrong' because of uncertainty about what they are witnessing, confusion about how best to intervene, and insufficient support for themselves (they are neither neutral nor unaffected by the situation). Gregory's research in this area indicates that the service/professionals that informal supporters of survivors are most likely to seek support and advice from is probably the National Domestic Violence Helpline. Although the vast majority don't recognise that this is a source of support available to them. Development of peer-led and digital support to inform and equip this population could present low-cost, effective solutions around identification and referral.

Gregory, AC, Williamson, E & Feder, G, 2017, 'The Impact on Informal Supporters of Domestic Violence Survivors: A Systematic Literature Review'. Trauma, Violence, and Abuse, vol 18., pp. 562-580

It is important to train employers and employees – this should be done by/with specialist DVA organisations with understanding of the dynamics - e.g. the Women's Aid package, rather than generic corporate or employers' organisations.

Improving support services for all victims of domestic abuse and their children

10 We are in the process of identifying priority areas for central Government funding on domestic abuse. Which of the following areas do you think the UK Government should prioritise? Please select up to 3.

Advocacy for victims to enable them to stay safely in their own home (Independent Domestic Violence Advisors or their equivalent), Accommodation services, Perpetrator programmes which aim to change offenders' behaviour and stop reoffending

If you selected other please add your response here:

The top three are: advocacy, (specialist) accommodation, and perpetrator programmes. But all the areas listed are vital in responding to DVA. We strongly object to the idea of ranking critical services - the Government shouldn't be forcing them to compete for resources.

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.

Incentives through funding, Sharing effective practice, Training

If you selected other please add your response here:

All the areas listed are important in encouraging multi-agency working.

Our research in this area in 2000 established Good Practice Indicators for incentivising multi-agency working, and these principles remain core:

- Attention to consistency of services and policies across and within agencies
- Attention to issues of confidentiality and agreement in relation to women and children service users
- Full and active involvement of women's refuge, IDVA, outreach and support services
- Attention to equality issues and effective mechanisms for active consultation with service users
- Clarity of lines of accountability, responsibility and actions taken
- Monitoring of effectiveness and evaluation of inter-agency coordination
- Measurable improvements in resourcing.

Humphreys, C., Hester, M., Hague, G., Mullender, A., Abrahams, H. & Lowe, P. (2000) From Good Intentions to Good Practice – Mapping Services for Families where there is Domestic Violence. Policy Press in association with Joseph Rowntree Foundation, p.53.

Domestic violence co-ordinators in each area are key to ensuring good multi-agency responses.

Commissioners could think about incentivising multi-agency working via joint target-setting and inspection/evaluation of services.

Inspectorates also have a vital role to play in joint inspections of services for DVA.

Supporting victims with specific needs

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

Please give answer below:

We know that BME and migrant women often face multiple barriers to accessing support.

They may have No Recourse to Public Funds/insecure immigration status which traps them in abuse or poverty; face shame/taboo around domestic violence and divorce; have differential understandings or conceptualisations of honour-based violence or forced marriages (Gangoli, Bates and Hester, What does justice mean to BME victims/survivors of gender-based violence? forthcoming).

New evidence from our Justice, Inequality and Gender-Based Violence project confirms findings from HMIC inspection report on HBV in 2015 that migrant women

are less likely to proceed in the criminal justice system (irrespective of their wishes [See Policy Briefing Note 1 on Migrant Women: <http://www.bristol.ac.uk/sps/research/projects/current/justiceinequality>].

We know that LGBT victims/survivors are less likely to access statutory or other specialist support due to concerns about discrimination (Donovan and Hester 2014, Domestic violence and sexuality – what's love got to do with it? Bristol: Policy Press).

In response, DVA services need to have specialist knowledge and support for migrant/BME and LGBT victims/survivors in particular. The issue of women with No Recourse continues to trap victims into poverty and abuse – likely to get worse with 'hostile environment'. The Government needs to look again at finding immigration work-around for victims/survivors in these positions.

Supporting female offenders

13 How can we work better with female offenders and vulnerable women at risk of offending to identify their domestic abuse earlier? Please select your top 3.

Other - please explain

If you selected other please add your response here::

We wish to endorse the answer to this question made by EVAW member organisation Women In Prison.

14 How can we make greater use of women-specific services to deliver interventions in safe, women-only environments? Please select your top 3.

Delivery of health interventions such as mental health and substance misuse treatment at women-only services, IDVAs located or linked to women-only services, Improving access to benefits, finance and accommodation advisors at women-only services

If you selected other please add your response here::

But all these are important suggestions.

In addition, see Hester and Westmarland (2005) on the importance of 'One Stop Shops' for DVA.

Hester, M. & Westmarland, N. (2005) Tackling Domestic Violence: Effective Interventions and Approaches. Home Office Research Study 290, London: Home Office.

Supporting those with difficulties getting financial support

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?

Please give answer below:

The Government should recognise that abusive partners can use women's insecure immigration status as a means to coerce and control them. The DDVC should be extended to at least six months, and there should be a review of the experience of women who have used it to date so that the delays and barriers they encounter can be understood, in order to improve access to and fairness in this system. The DDVC should be extended to all survivors of gender-based violence, so that it is not limited to spouses and is not limited to narrowly defined domestic violence in a marital context.

Emerging evidence from our Justice project finds a worrying picture of families where there is domestic violence 'solving' the problem of women victims on spousal visas by just sending them back home overseas. This seems to be being seen by the police/criminal justice system as an adequate (convenient) solution, despite evidence of violence and abuse taking place. The Government should investigate whether women with No Recourse in this position are just 'disappearing' back overseas, potentially into greater danger.

The Government should also investigate urgently the impact of requiring many critical public services to conduct immigration checks on service users (the "hostile environment") in order to understand how women with insecure immigration status who need police protection from abuse, who want to seek justice, or who may need healthcare, for example, may be deterred from seeking it. Indeed, when reviewing the responses to the next set of questions in this consultation (regarding DVPOs and other criminal justice measures), the Government should consider how women with insecure immigration status currently face a "justice gap" – (1) they are already less likely to access civil protection orders when they and their children may benefit from them; (2) when they report DV, the police are less likely to proceed to a criminal charge; (3) they may have a well-founded fear of being penalised and even deported if they do report and seek sanction of a dangerous partner [See Policy Briefing Note 1 on Migrant Women: <http://www.bristol.ac.uk/sps/research/projects/current/justiceinequality>].

Our current work with EU partners on identifying refugee and asylum-seeking women (RAS) suffering sexual and domestic violence has found a huge gap in confidence amongst front-line professionals in asking RAS women about violence and abuse. We urgently need better training on RAS women and sexual/gender-based violence; and we propose the establishment of a new RAS Women's Advocate, to speak for these women in multi-agency meetings/MARACs etc – a bit like an IDVA/ISVA role but specifically for refugee and asylum-seeking women suffering violence and abuse (EU-funded Addressing Sexual Violence Against Refugee and Asylum-Seeking Women project. See Needs Assessment document at <http://www.bristol.ac.uk/sps/research/projects/current/addressing-sexual-violence-against-refugee-women/training-and-needs/#d.en.379939>)

Keeping victims safe – creating a new domestic abuse protection order

16 Do you agree that the Domestic Abuse Protection Notice issued by the police should operate in broadly the same way as the existing Domestic Violence Protection Notice (except that it would also be able to be issued in cases of abuse which do not involve violence or the

threat of violence)?

Yes

Please explain your answer.:

17 Which of the following individuals/organisations should be able to apply for a Domestic Abuse Protection Order? Please select all that apply.

The victim, Certain persons associated with the victim (for example certain family members) on behalf of the victim, The police (following the issue of a Domestic Abuse Protection Notice or at any other time), Relevant third parties, who would be specified by regulations, on behalf of victims (see Question 18 for further details), With permission of the court, any other person or organisation

If you selected other please add your response here::

Good that a wider range of people should be able to apply for a DVPO.

Again, the principle of greater flexibility of application and conditions in the new Order is welcome. However, need to consider how the victim/survivor's wishes are represented. A trend towards greater criminalisation across all protection orders in recent years has moved the field away from victim-led civil processes. Whilst increased penalties for perpetrators are positive, repeated moves towards criminalisation has had the effect of eroding victim choice over what happens in their case. Women may have very good reasons for not reporting to the police, or seeking alternative resolution, support or justice to the criminal system, and it is important to empower and enable women's choice as well as offering protection.

In addition to allowing more applicants, it is vital that specialist DV/SV advocate support is available to victims. Previous research has shown that victim advocates (e.g. IDVAs, ISVAs) are critical to the success of protection orders. Hester & Lilley (2015) showed that it was the involvement of specialized sexual violence advocates which made a significant difference to victims staying engaged through criminal justice (especially court) processes, and had a significant impact on rape convictions.

Hester, M. and Lilley, S-J (2015) More than Support to Court: ISVAs in Teesside. Bristol: University of Bristol in association with the Northern Rock Foundation.

18 Which persons or bodies should be specified by regulations as 'relevant third parties' who can apply for a Domestic Abuse Protection Order on a victim's behalf? Please select all that apply.

Local authority safeguarding or social care professionals, Providers of probation services, Specialist domestic abuse advisers/ Independent Domestic Violence Advisers (IDVAs), Specialist non-statutory support services (for example refuge support staff), Other - please explain

If you selected other please add your response here::

And:

Education services/schools
Perpetrator programmes

19 We propose that there should be multiple routes via which an application for a Domestic Abuse Protection Order can be made, including:

Yes

If you chose Yes or No, please explain your answer::

We welcome the proposal to make the new Order in any court. Currently there is too much separation between courts in relation to domestic abuse, and often orders and charges/convictions made in one (often criminal or civil) are excluded or ignored in another (often family). For instance, the justice project has found evidence of some solicitors and judges putting victims/survivors off applying for existing protection orders in the civil court because of fears of how it would play in other courts. In interviews conducted for the project, one woman reported being warned by her solicitor that it would look "hostile" in family court, despite her ex-partner having been convicted in criminal court for harassment and having police bail conditions not to contact her: "In the family court my solicitor advised me not to [apply for a NMO] because it would make me look like I was hostile".

The Government's proposals to link the new Order across the courts, and to link the Order to the new definition (i.e. wider than just physical violence) should help prevent situations like these. The Government must issue strong, clear guidance and training especially for judges/magistrates and solicitors to accompany the changes, and make sure that courts do not deter victims from applying for the Order.

The Government's proposals do not replace other orders – restraining, non-molestation. This is good because our justice project (Bates and Hester, forthcoming) has found that Restraining Orders and Non-Molestation Orders in particular are still in demand by victims/survivors. Ministry of Justice data analysed for the project shows a slight increase in use of NMOs since 2007, reversing the trend up to that point: in 2016, 23,627 NMOs were issued in England and Wales. In 2016, there were 25,249 ROs issued in England and Wales. By comparison (although figures on use are currently poor, and therefore hard to assess), there are an estimated 3,000 to 4,000 DVPOs currently issued per year in England and Wales (HMICFRS, 2017). The disparity in use of these different orders shows that it is vital to maintain ROs and NMOs as well as the new Order.

However, the Government has given no indication of how it sees this new Order interacting with the existing ones – this is particularly problematic as the proposed measures take the new DVPO closer to what ROs and NMOs already do (e.g. civil-criminal hybrid, wider range of measures, available on acquittal and conviction, and envisaged in cases where there is a criminal charge at all). Thus, it is likely to generate greater confusion and uncertainty around which Order to apply for, and also with police enforcement – one of the problems the Government says it is trying to address.

The Government therefore needs to clarify some of the differences it sees between these various orders, and issue strong clear guidance to police, solicitors, judges/magistrates, and practitioners as well as to victims/survivors about which are appropriate in which circumstances.

Previous evaluations of joined-up criminal and family courts for DV (Hester et al, 2008) have found that even with a specialist DVA judge presiding, the family and criminal courts made different decisions on the very same case – there are systemic challenges in the way these courts think about DVA which still need addressing.

Hester, M., Pearce, J. & Westmarland, N. (2008) Early evaluation of the Integrated Domestic Violence Court, Croydon, Ministry of Justice Research Series 18/08, London: Ministry of Justice.

20 Do you agree that family, civil and criminal courts should be able to make Domestic Abuse Protection Orders of their own volition during the course of any proceedings.

Yes

If you selected Yes or No, please explain your answer:

Being able to make orders on both conviction and acquittal is important. The Government should also make clear that the new Order can be issued for be issued for a wide range of domestic abuse related offences, not limited to domestic violence specific ones (e.g. stalking, harassment, violence against the person).

In 2009 Restraining Orders were extended to allow their issue on conviction for any offence and on acquittal for some offences. This seems to have been effective: new analysis conducted for the justice project of Ministry of Justice data on ROs issued for a forthcoming paper (Bates and Hester, forthcoming) shows that ROs have steadily increased since 2011. Whilst they are primarily still issued on conviction, around 1 in 10 are issued on acquittal; and whilst most are domestic abuse-related, the range of offences for which they are issued on conviction is varied, with only a small proportion relating to domestic violence-specific harassment or stalking charges.

21 Do you agree that courts should be able to impose positive requirements as well as prohibitions as part of the conditions attached to the proposed order?

Yes

If you selected Yes or No, please explain your answer:

We welcome the introduction of a range of positive requirements and prohibition measures – flexibility to tailor measures to individual cases is important. The justice project has found poor data capture and recording in police data about whether protection orders are in place at all (whether NMOs, ROS, DVPN/DVPO). In 307 out of 400 police domestic violence incidents (77%) analysed, it was not known if an order was in place. Given that around a third of victims/survivors we interviewed reported having one or more protection orders (29%), it is likely that police data is not capturing a swathe of cases where orders are in place. Forces do not seem to systematically record (especially civil) protection orders.

We raise concerns in a forthcoming paper (Bates and Hester, forthcoming) about how police can be expected to enforce orders/breach when they do not necessarily know they are in place. Adding a wider range of conditions to the new Order will mean a greater burden on the police to enforce compliance – making it all the more important that they are aware of the conditions. To make this effective, Government will need to review and put in place mechanisms for making sure police know about orders, are clear about their roles and powers to enforce, and have a robust data and flagging system in place – current arrangements do not seem fit for purpose in this regard.

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

If you selected Yes or No, please explain your answer::

In principle, a positive idea. The Government will need to be clearer about what it wants the police to actually do as a result of any notifications. Are they intended to form part of an evidence base of a pattern of abuse (for example), to help put together a criminal charge, or is it about fuller information to inform DASH risk assessments, or is it about monitoring compliance with any conditions made in an Order? If the latter, this is important information and vital to effective enforcement. On the other hand, from analysis of police case files carried out for our justice project, it is often very clear from police records if a perpetrator has a long offending history with the same and/or previous partners – so it's not likely that adding notification requirements alone are more likely to provide evidence to secure more criminal prosecutions.

23 If you selected 'Yes' to question 22 what personal details should the courts be able to require individuals to provide to the police? Select all that apply.

Name/change of name, Home address/change of home address, Formation of new relationship with an intimate partner, Change of circumstances relating to household - including where a new child is born or otherwise joins the household, Details of child arrangements orders for where and with whom a child is to live and with whom a child is to spend time or otherwise have contact.

If you selected other please add your response here::

24 Do you agree that breach of the proposed order should be a criminal offence?

Yes

If you selected Yes or No, please explain your answer:

In general, this is a welcome development. In 2007 when breach of non-molestation orders were criminalised, there was concern that this would put off victims/survivors from applying for orders for similar reasons the Government raises in this consultation (Burton, 2010; Hitchings, 2005). But this has not materialised – as outlined above, NMOs have continued to be applied for and issued, with the numbers rising steadily if slowly since 2007.

Victims/survivors told the justice project that they welcomed the ‘teeth’ of the deterrent provided by criminalisation of breach. For instance, one interviewee reported that the threat of police enforcement of an NMO alone was effective in reducing abuse:

Well he did breach [the NMO]. He did carry on ringing me and harassing me and that. But then when he got warned by the police, I've not heard nothing since. [case 095]

There is, however, a big caveat. NMOs (and ROs) usually are applied in cases where the couple has separated – and thus where the victim/survivor actively wants the perpetrator to stay away (or comply with other conditions) and wants the support of the police to enforce this. The design of the current DVPN/DVPO was to offer an immediate and temporary ‘breathing space’, and could work for couples who were still together. The proposed changes, and criminalisation of breach especially, may well have an adverse effect in these cases – in contrast to the effect of criminalising breach of NMOs – if applied to couples who remain together rather than those who have separated.

For criminalisation of breach to be effective, the police have to understand their powers and act on breach. Evidence from the justice project, and from successive HMIC inspection reports, is that there is already a good deal of confusion in the police about their powers to enforce existing orders. Several victims/survivors reported to the police but were told that the police did not have the power to enforce (civil-issued) NMOs, and so could not act unless the perpetrator ‘did something direct’, with stalking and harassment behaviour seemingly not being deemed enough in itself (Bates and Hester, forthcoming). Police data from the project shows problems with a (lack of) enforcement of breach of existing orders. So, if criminalisation of breach is to protect victims, better police enforcement is vital.

Burton, M. (2010), Civil law remedies for domestic violence: why are applications for non-molestation orders declining?, *Journal of Social Welfare and Family Law*, 31:2, 109-120

Hitchings, E. (2005), A Consequence of Blurring the Boundaries – Less Choice for the Victims of Domestic Violence? *Social Policy & Society* 5:1, 91–101

25 If you do agree that breach of the proposed order should be a criminal offence, should it be possible for breach to alternatively be punished as a contempt of court?

No

If you selected Yes or No, please explain your answer:

We do not see the point in an alternative criminal charge – victims/survivors won't make this distinction in deciding whether they want to pursue a criminal route or not, and it would likely only have the effect of downgrading the criminal justice response to breaches of protection orders, a process which is already happening (Bates and Hester, forthcoming).

One vital element which is missing from the current proposals on the Order is provision of linked support services for victims. We know that support services are critical to the success of protection orders for DVA – evidence from Germany and Austria is clear that the success of such orders is the requirement in law for the police to link into victim support and advocacy services, and that these are resourced by Government:

ACPO (2009) Tackling perpetrators of VAWG: an ACPO review for the Home Secretary, section 6.2.

26 Do you agree that courts should be given an express power to impose electronic monitoring as a condition of a Domestic Abuse Protection Order?

Yes

If you selected Yes or No, please explain your answer:

There is clear evidence (justice project and MoJ data on breach of protection orders – in Bates and Hester, forthcoming) that orders are regularly breached and enforcement is currently difficult. Electronic monitoring would be a useful addition to the police ‘toolkit’ to monitor and enforce compliance with Orders. Again, there must be a focus on swift and decisive police action where monitoring shows an order has been breached.

Bates, L. and Hester, M. (forthcoming), Application of domestic violence protection orders in the 21st century, in England and Wales.

27 Which particular statutory safeguards relating to the use of electronic monitoring with Domestic Abuse Protection Orders should be put in place?

Please give your answer below:

Anonymous registration

28 How much easier do you think it will be for domestic abuse victims to register to vote anonymously, once the changes summarised above happen?

Easier

29 What further support could survivors receive to prove their safety would be at risk if their name and address appeared on the electoral register? Please put forward one suggestion.

Please give your answer below:

30 Do you have any further comments or suggestions on how to make it easier for domestic abuse survivors to anonymously register to vote?

Please provide your answer:

No

31 Aside from anonymous registration, how else can we keep victims' addresses safe?

Please provide your answer in the box below::

Following data protection law and information sharing protocols. Training of staff about the risks and dangers of information sharing. We have heard stories through the Justice project of services (e.g. social services/courts/schools) inadvertently sharing victims addresses with the perpetrator as part of communications around child contact arrangements. Services should have the facility to put online alerts/flags on any records of victims/survivors of DVA to make sure they take extra care with sharing addresses with any third parties.

The Domestic Violence Disclosure Scheme

32 Before reading this consultation, were you aware of the Domestic Violence Disclosure Scheme (Clare's Law)?

Yes

33 Do you agree the guidance underpinning the Domestic Violence Disclosure Scheme should be put in to law?

Agree

Please explain your answer:

34 How do you think we can best promote awareness of the Domestic Violence Disclosure Scheme amongst the public?

Social media (for example Facebook, YouTube, WhatsApp, Twitter, Instagram)

Use this box to explain your answer or if you selected 'other':

Economic abuse

35 What practical barriers do domestic abuse victims face in escaping or recovering from economic abuse and how could these be overcome?

Please give your answer below:

Findings from our previous work (Radford and Hester 2006) and our Justice project (forthcoming paper from Williamson, E.) show that financial and economic abuse occurs both during and post relationships. Domestic abusers may constrain victim's access to money in many ways, and this will depend on individual circumstances. For instance victims' may be forced to hand over earnings, set up joint bank accounts, take responsibility for rents and mortgage payments – and become vulnerable to debt and bankruptcy through the perpetrator's actions. Post separation the perpetrator may use repeated application to the family courts as a means of bankrupting victims who have earnings above the legal aid threshold, who have small businesses or property. Solicitors and financial advisers have been found to advise women to stay in an owned property so that she does not lose it following separation. This has led to instances where women have moved back with the perpetrator resulting in further domestic abuse and rape. The FSA needs to work closely with the specialist domestic abuse support sector to establish guidelines and training for banks, financial advisers, solicitors regarding potential avenues for financial abuse.

Hester et al. (forthcoming) Children, domestic abuse and justice

Radford, L. & Hester, M. (2006) Mothering through Domestic Violence. London: Jessica Kingsley

Online threats and the role of technology in domestic abuse

36 What more can we do to tackle domestic abuse which is perpetrated online, or through control of technology?

Other - please explain

Use this box to explain your answer or if you selected 'other':

Online channels are not a different form of abuse, but equip perpetrators with new ways to exercise control and exploit victims. It's a huge problem. Over half (56%, 140/251) of the victims/survivors interviewed for our Justice project reported experiencing online stalking and harassment. Research from Barter and Aghtaie at Bristol University with European colleagues for the STIR project in 2015 found that almost half of 14-17 year old girls reported online harassment or abuse from a partner.

<http://stiritup.eu/wp-content/uploads/2015/06/STIR-Briefing-Paper-2-English-final.pdf>).

Improving the police response

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?

Please give your answer below:

There are many strands to improving the policing response! A few key elements:

- There is by and large committed police leadership in responding to DVA, and the College of Policing has been successful in producing good practice guidance and training
- The huge challenge for the police remains consistency – officers are trained or changes to practice filter down, and then officers move and specialist skills and knowledge are lost.
- We know that there are brilliant individual officers: victims /survivors told our Justice project of interactions which made them safer and helped them achieve justice (Bates, forthcoming).
- But equally often victims may encounter untrained officers with unreformed views on DVA, and these interactions do lasting harm. Emerging evidence from the Justice project on procedural justice is showing that the potential negative impact on victims/survivors of a poor policing experience is stronger and longer-lasting than a positive experience (Robinson and Eisenstadt, forthcoming).
- Whilst embedding the response across all officers is important (and core DVA training for all officers, and tools such as risk assessment and practice guidance are key), there is no substitute for specialist DVA officers/units who can advice on individual cases, and champion good practice on DVA across the force. These should be retained.
- Finally, regular HMIC inspections to hold forces to account, examine their data and return to scrutinise progress against promised reforms are vital

Bates, L. (forthcoming). Positive policing: what victims of DVA want and value from the police.

Robinson, A. and Eisenstadt, N. (forthcoming) Procedural justice for victims/survivors of DVA.

Improving victims experiences of the justice system

38 Do you think creating a legislative assumption that all domestic abuse victims are to be treated as eligible for assistance on the grounds of fear and distress (if the victim wants such assistance), will support more victims to give evidence?

Yes

If you selected Yes or No, please explain your answer:

39 Is there more this government could do to explain the range and remit of existing measures for victims to help support them in the criminal justice process?

Don't know /no answer

If you selected Yes, please explain your answer:

40 Do you know of instances in criminal proceedings when an application to prevent cross-examination of a victim by an unrepresented defendant has been denied in a domestic abuse case?

No

If you selected Yes, where possible, please provide evidence or details of the experience to support your answer.:

41 Do you think extending the prohibition on cross-examination in criminal proceedings would support more domestic abuse victims to give evidence?

Don't know /no answer

If you selected 'Yes' or 'No' please explain your answer:

Prosecution without victim's evidence

42 Do you have suggestions for how we can better support prosecutions through to conclusion, including providing better support for witnesses who currently disengage from the process?

Yes

If you selected 'Yes' please explain why and, where possible, providing evidence or details of the experience to support your answer.:

Increase specialist support such as IDVAs and ISVAs. Evidence from our statistical analysis of police and Women's Aid support services data shows that where specialist services are providing advocacy support there is a significantly higher chance of obtaining a conviction or restraining order (Lilley et al, forthcoming). The support of specialist support such as IDVAs and ISVAs (for rape in DVA cases) is crucial for prosecutions (Hester and Lilley, 2017).

Lilley-Walker, S.J., Hester, M., McPhee, D., Patsios, D., Bates, L. and Rumney, P. (forthcoming), Rape, inequality and the criminal justice response in England:

the importance of age, gender and mental health.

Hester, M. & Lilley, S-J. (2017) More than support to court: Rape victims and specialist sexual violence services. *International Review of Victimology*: 1-6

43 What more can police, witness care units and the Crown Prosecution Service do to support victims through the justice process from the point of report onwards?

Where possible, please provide evidence or details of the experience to support your answer.:

As above – in answer to Q42- specialist advocacy support through court is vital.

Close links between police and IDVA is crucial, and has been lost in some areas where IDVA provision is under pressure (Hester et al for HMIC, 2015).

Also vital to keep victims informed about the progress of their case, especially during lengthy investigations, e.g. during delays due to wait times for forensic or digital communications evidence, and/or for CPS charging advice or decisions. We read examples of cases in police files analysed for the Justice project where delays of months – even years – occurred whilst police investigations were followed up, especially waiting for CPS charging decisions/reviews, and victims were left in limbo.

Hester, M.; Gangoli, G; Gill A. & Mulvihill N. (2015) with Bates, L.; Matolcsi, A.; Walker, S-J., Yar, K. (2015) Victim/survivor voices – a participatory research project: A report for Her Majesty's Inspectorate of Constabulary

<https://www.justiceinspectors.gov.uk/hmic/wp-content/uploads/university-of-bristol-hbv-study.pdf>

44 Are there other aspects of the criminal court treatment of vulnerable people which the family court could learn from?

Yes

If you selected Yes, please explain why:

There is a need to ensure cooperation between court jurisdictions. Many women see their perpetrator sanctioned by the criminal courts only then to find that this is ignored and seems irrelevant when they then appear in the family court. There may be no special measures, the court workers may display little understanding of abuse, especially coercive and controlling behaviour, and in adjudications, abusive parents who have convictions may still be given access to children for example. Especially given that the Bill is proposing recognising harm to children in households where there is domestic violence as an aggravated offence, the family courts should specifically consider the appropriateness of making any presumption of shared parental access in families where domestic violence has occurred. (2) Clear prohibition of cross examination by perpetrators in civil / family courts. (3) Special measures in civil / family courts for victims of domestic violence (including screens and video links). (4) Acknowledge ability of perpetrators of domestic abuse, stalking and harassment to misuse or abuse family and civil courts to cause further distress and exercise control their victims, and as such allow family courts to dismiss meritless applications in these circumstances. (5) Strengthen sanctions available for family courts in the case of a breach of restraining or other restrictive orders. In the event of multiple breaches, introduce a presumption against custody.

Coercive or controlling behaviour offence

45 Do you think there is further action the government could take to strengthen the effectiveness of the controlling or coercive behaviour offence?

Yes

Please give further detail.:

It is essential that criminal justice personnel (police, CPS, judges) understand coercive control, and that coercive control may involve a wide range of abusive behaviours used by the perpetrator to exert control over a period of time. Coercive control is not merely psychological abuse, but includes psychological abuse

Aggravating factors in sentencing

46 Do you think the current approach of using sentencing guidelines, as per guidelines issued in February 2018 is effective in ensuring sentences imposed reflect the seriousness of domestic abuse when it involves children?

Don't know /no answer

If you selected Yes or No, please explain why.:

There is ample evidence that men who perpetrate violence against their partners often use child contact and the family courts to continue abuse and manipulation – and, sometimes, to kill their children. There is also ample evidence that the harm to children of witnessing domestic abuse can be wrongly used to hold victims/survivors responsible for the protection of the children from their abusive partner, and to remove children from their care for 'failing to protect' – reinforcing the victimisation of the abused partner, and not holding the perpetrator of violence accountable.

So whilst we would welcome any changes to toughen penalties to hold perpetrators of DVA responsible for their actions, the unintended consequences of further penalising victims of DVA for the effects of their partner's abuse on the children would need to be carefully worked through.

47 Is a statutory aggravating factor needed in order for the court to reflect the seriousness of offences involving domestic abuse and children in sentencing?

Don't know /no answer

If you selected Yes or No, please explain why.:

The recent discussion of 'parental alienation' requires particular care in this context – there is a real danger that abusive fathers may use this concept to further manipulate women when it comes to child contact. New analysis of 400 police DVA cases for our Justice project shows that over half (51%) of men reporting to the police as victims of DVA were named as perpetrators in other DVA incidents; and 62% of these were the perpetrator in all or most of the other incidents (McPhee et al, forthcoming, from the Justice project). This shows the complex challenge the police have in determining victim and perpetrator depending on who reports, and builds on previous work showing that men often make counter-allegations of DVA.

We have concerns that this might be used against women who use violence as retaliation and protection of themselves and their children, and thus appear as perpetrators.

Hester, M (2013) Who does what to whom? Gender and domestic violence perpetrators in English police records. *European Journal of Criminology*, 10 (5) 623-637

48 Please share any other views on how to ensure domestic abuse and its impact on children are taken into account in sentencing?

Please provide your answer below:

The Istanbul Convention

49 Do you agree that taking extraterritorial jurisdiction over these offences is sufficient to satisfy the requirements of the Convention?

Yes

50 If you answered 'No' to question 49 what additional offences do you think we should take extraterritorial jurisdiction over and why?

Please provide your answer below:

The GREVIO will be able to advise if the coercive control legislation should also be included in the list of offences for extra-territorial jurisdiction

51 Do you agree that relying on the civil law remedy in the Protection from Harassment Act 1997 is sufficient to satisfy the sexual harassment requirements of the Convention?

Yes

52 If you answered 'No' to question 51, what do you think is necessary to satisfy those requirements?

Please provide your answer below:

N/a

Preventing reoffending

53 Do you agree we should explore (with the Crown Prosecution Service) further controlled and monitored use of conditional cautions with rehabilitation programmes than is currently permitted for lower-level, normally first time domestic abuse incidents?

No

If yes, please explain your answer suggesting what procedures should be in place to ensure a conditional caution would only be given in appropriate cases with appropriate conditions attached.:

If you answered No please explain your answer.:

The problem with any sentencing for 'first time' or 'lower level' DVA offences is that we know DVA offences are rarely one-off, and that victims experience multiple incidents before reporting to the police, and only around a quarter (24%) report to the police at all (HMIC, 2014). New analysis from 400 police DVA cases for our Justice project shows that only 28% (113/400) of DVA incidents reported to the police were the first report of DVA made against that perpetrator. Of these 113, 37 (33%) were subsequently reported within the following two years as the perpetrator in another DVA incident (30 against the same victim, and 7 against another victim).

These figures starkly illustrate the difficulty with assuming that even 'first time' reports to the police are low-level or one-off. It is hard to see how a reliable assessment can be made of severity on the basis of an incident being a first report to the police.

There is a role for rehabilitation programmes for perpetrators, and these can be effective in specific circumstances, but we know that often coerced attendance can be ineffective. To implement this approach without merely downgrading offences would require a massive investment in perpetrator programmes. Programmes must meet RESPECT standards.

HMIC (2014) Everyone's business: Improving the police response to domestic abuse

54 Do you have any additional evidence on current conditional caution practice which we should consider in relation to this issue?

Not Answered

If you answered Yes, please explain your answer.:

There is a lack of info in police records about breaches generally (Justice project). Thus we are concerned whether breach of conditional cautions would be

followed up.

Managing serial and repeat offenders

55 What changes to current policies or procedures would help police and other agencies to better manage serial and repeat abusers, in particular those who are not subject to a sentence of the court?

Please give your answer below:

Further investment in perpetrator programmes is key. These should be accredited by RESPECT. Programmes need to be targeted at different groups of perpetrators, depending on risk level and levels of individual need. For instance there is promising evidence of behavioural change for serial and repeat perpetrators who have been assigned to the DRIVE intervention for high risk perpetrators (Hester et al. 2017)

Hester, Eisenstadt & Jones (2017) Evaluation of the Drive Project - Year 1 Feasibility Study. <http://safelives.org.uk/node/1214>

Working with perpetrators to change their behaviour

56 What more could be done to work with perpetrators in prisons, particularly offenders who receive a sentence of less than 12 months and do not have sufficient time to complete a domestic abuse programme in custody?

Please give your answer below:

The Drive perpetrator intervention, working to RESPECT standards, has successfully worked with perpetrators who are in prison. The intervention works with the perpetrator individually within the prison setting and once he has been released. (Hester et al. 2017)

Hester, Eisenstadt & Jones (2017) Evaluation of the Drive Project - Year 1 Feasibility Study. <http://safelives.org.uk/node/1214>

57 What more could be done to work with perpetrators in the community (convicted or non-convicted) to change their behaviour?

Please give your answer below:

Further investment in perpetrator programmes is key. These should be accredited by RESPECT. Programmes need to be targeted at different groups of perpetrators, depending on risk level and levels of individual need.

Improving performance using data

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

Other - please explain

If you selected 'Other' please add your response here::

Much data is already available, but could be very valuable if pulled together and made available in a single repository. We would suggest a VAWG data/evidence centre ('Observatory'), perhaps a new online resource. It could be overseen by the new Commissioner, who could be given a specific role to monitor implementation and quality of data collection and reporting.

To this list should be added as a priority: improving police data capture and recording on all protection orders (including the new Order) especially on breach and enforcement, but also capturing whether victims have an order and what the conditions are – to ensure police can actually enforce compliance.

Establishing a Domestic Abuse Commissioner in law

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

Neither agree nor disagree

Please explain your answer.:

This is an important opportunity to ensure good practice and increasing safety for victims across England and Wales. However we are concerned that the Commissioner would not have enough powers to ensure that good practice was adopted across local areas. The post code lottery of obtaining relevant and safe support would thus continue and might undermine the position of the Commissioner.

Any Commissioner should be a VAWG Commissioner, not just domestic violence. We support the consultation response and proposals submitted by EVAW here.

60 Of the proposed powers and resources, which do you consider to be the most important for a Domestic Abuse Commissioner? Please choose up to 3.

Map and monitor provision of domestic abuse services against the National Statement of Expectations, and publish this information to showcase and share best practice, as well as to highlight where local provision falls short of what is expected, Oversee compliance with the Specialist Domestic Abuse Courts Manual, Provide recommendations to both national and local Government to improve the response to domestic abuse, accompanied with a duty on the responsible person/organisation to respond to these recommendations

If you answered other please state other functions the commissioner should fulfil.:

This commissioner's powers should not be limited to specific areas of investigation (specialist courts and DHRs) but rather be based on the needs and rights of all victims of gender based violence, with powers to investigate across public, private and voluntary sectors, powers to commission and gather data, and powers to

require a response from those to whom she/he takes questions or complaints. This role could then become a critical part of our society's commitment to ending gender based violence. Their powers should extend beyond domestic violence to cover all forms of violence against women and girls, given what we know about the interconnectedness of these issues and their impact on the lives of victims.

61 What would be the practical implications of complying with the proposed Domestic Abuse Commissioner's powers?

Please give your answer below:

Learning from Domestic Homicide Reviews

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?

Please give your answer below:

63 How can areas best hold their own local agencies to account in terms of monitoring delivery against DHR action plans?

Please give your answer below:

Sharing best practice across government

64 How can the government better share and promote effective practice on domestic abuse across all public services both in regard to commissioning and delivery of services?

Please give your answer below:

Domestic abuse is relevant across all government departments and achievements against the VAWG strategy and Istanbul Convention should be reported by all departments annually.

65 What role should local areas play in sharing good practice?

Please give your answer below:

Local DVA coordinators should be available across the country.

Equality and confidentiality statements