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## Meeting with Domestic Abuse Commissioner and Victims' Commissioner

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## **Meeting summary**

A catch up with the Domestic Abuse Commissioner and Victims' Commissioner.

## **Home Secretary objectives**

- To highlight the wide ranging work the Government is undertaking to ensure victims of domestic abuse are supported, including through the £2m funding, the £750m HMT funding, the comms campaign #YouAreNotAlone as well as the progression of the Domestic Abuse Bill.

## **Attendee(s) objectives**

- The Commissioners have indicated they would like to discuss the following:
  - The Domestic Abuse Bill – probably focused on
    - Migrant women
    - Statutory dutyHowever the DA commissioner may also raise priority housing in the current context and the Victims Commissioner may raise rough sex defence a new strangulation offence and a statutory defence for victims of DA.
  - Strategy and cross Government coordination on domestic abuse
  - Funding (including both the HMT funding and the £2m for helplines)
  - Retailers' communications campaign

## **Home Secretary key speaking points**

### **Key points to make**

- Thank you for this meeting today and for the support you have provided during these past few weeks.
- I am acutely aware of the pressures the sector are facing currently, and the continued need to make sure victims of domestic abuse receive the support they need.
- But my message remains clear – there is support available for victims and perpetrators will not get away with their crimes.
- We are continuing to monitor the impact of domestic abuse on victims – and I note that whilst helpline calls are rising, police have seen only small increases, although this varies between forces.
- There are clearly a range of reasons why this might be, and I would like to reassure you that we will continue to monitor incidents and listen to those organisations providing helpline and online support.

### **DOMESTIC ABUSE BILL**

- I am very pleased that the Domestic Abuse Bill will have its second reading tomorrow.
- Despite the additional pressures posed by coronavirus, we are clear that this Bill will bring about huge benefits to victims, and it is vital that we work to continue its progression through Parliament.

### **Migrant Women**

- Restricting access to public funds to those on some migration routes is a fundamental Government policy and is not aimed specifically at victims of abuse.
- The Government introduced the Destitute Domestic Violence Concession (DDVC) in 2012, designed to support people at a time of crisis, for an initial period of three months – in their own right - independently from that of their sponsor. This lifts the prospect of them remaining with their sponsor on whom they may be financially dependent.
- However, we acknowledge that not all migrant victims are eligible to apply for the DDVC and we committed to undertake a review into the Government's overall response to migrant victims of domestic abuse, including those with No Recourse to Public Funds.
- We will be announcing our conclusions during the passage of the Bill.
- It is open to Local Authorities to provide basic support to those in need regardless of status. Charities will also benefit from the £750m announced by the Government

**Statutory duty (on agencies to cooperate with DA Commissioner and respond to recommendations)**

- Want your role to be effective.
- Welcome your views on what may be needed in terms of data sharing and local action planning.
- Have you given thought to how best to monitor developments/services at local level?

**Priority need status for homeless victims**

- It is vitally important that domestic abuse victims who are homeless, or are at risk of homelessness, are supported to find an accommodation solution that meets their needs and reflects their individual circumstances.
- The Homelessness Reduction Act puts prevention at the heart of the local authorities' response to homelessness, irrespective of whether they are a family or single person, what has put them at risk, or if they have a local connection to the area. This means that all victims of domestic abuse who are at risk of homelessness should be provided with an offer of support from their local authority to find appropriate accommodation.
- Under homelessness legislation a person who is pregnant, has dependent children, or is vulnerable as a result of having to leave accommodation due to domestic abuse already has priority need for accommodation.
- These duties, alongside new duties under the Bill, will ensure that all victims of domestic abuse are supported to find accommodation that meets their needs.

**[If needed] Refuges/safe accommodation**

- Our priority is to ensure that refuges services stay open, up and running. We are working across Government to ensure that domestic abuse survivors and their children have the support they need to stay safe during the pandemic.
- I understand from the sector that we are not quite at capacity currently, in terms of bed spaces. However, I am aware that one interpretation of this may be that victims are not easily able to make preparations to leave their homes, which is worrying.
- We are therefore working closely with MHCLG to make sure suitable accommodation remains available.

## **[As Needed]**

### **Rough sex defence**

- It is absolutely right that a person cannot consent to violence that leads to serious injury or death.
- But let me also be clear that there is no such thing as a “rough sex” defence.
- We are, however, looking at how to make the law clear in this area and how that could be best achieved.

### **New law on strangulation ?**

- There are several existing offences that relate to attempted strangulation. These cover a range of seriousness from attempted murder to common assault and battery. In addition, attempted strangulation could be part of a course of action under the coercive and controlling behaviour offence.
- There is also a specific offence under section 21 of the Offences against the Person Act 1861 (the 1861 Act) which makes it an offence to:
  - attempt to choke, suffocate or strangle any person, or
  - to choke, suffocate or strangle a person in an attempt to render that person insensible, unconscious or incapable of resistance.
- The government is of the view that this range of offences covers the diverse circumstances and levels of seriousness that may involve attempted strangulation. A new specific offence may actually limit the circumstances covered and create additional evidential burdens compared to existing offences.
- The government believes that the police and the CPS take the crime of domestic abuse extremely seriously and will always seek to prosecute such crimes where there is sufficient evidence to do so and charge the most serious offence covered by the behaviour.
- We are aware that the CPS have reported that there can be evidential difficulties in prosecuting the section 21 offence, particularly if no CAT/MRI scan has taken place and the only evidence is reddening and minor bruising to the skin. The same difficulties would apply, however, in any specific offence created of attempted strangulation, that is, there would still be a need for proof beyond reasonable doubt that a serious offence was intended.
- Given that in the most serious cases, attempted strangulation can be charged as attempted murder/grievous bodily harm (GBH) with intent, or at least as attempted actual bodily harm (ABH) or GBH, we are not convinced that a specific offence is needed.

### **Statutory defence for victims of DA**

- We have considered the need for this
- Whilst we recognise the fact that many women offenders have themselves been subject to domestic abuse, we remain of the view that a statutory defence is unnecessary in light of the existing full and partial defences available under the current law.
- There is improved understanding and awareness of the nature of domestic abuse throughout the criminal justice system – which will be further assisted by the new statutory definition of domestic abuse in the Bill.
- We will however continue to monitor the use of the existing defences and keep under review the need for any statutory changes.

### **If Needed - Rape review**

- Rape and sexual violence are devastating crimes and the Government is committed to ensuring that every victim has access to the specialist support they need.
- We want victims to have the confidence to report these crimes, knowing they will get the support they need and that everything will be done to bring offenders to justice.
- The decline in the number of rape and serious sexual offences reaching court and being charged and prosecuted has, rightly, been the subject of public scrutiny and concern.
- The Government's review in to the criminal justice response to rape is well underway. We have been gathering and analysing evidence from practitioners across the system which will feed into an action plan.
- I understand that you spoke to my officials alongside officials from the MoJ last week about some initial findings from the review. I'm very pleased that your input and expertise continues to be of value as the work progresses.

## **CROSS-GOVERNMENT WORK**

- I would like to reassure you that there is a huge amount of work going on behind the scenes across Government to support victims during this time.
- I am ensuring that there is coordination between departments, for example making it clear that work must be done to continue to identify vulnerable adults and children who are struggling to get the support they need.
- I am also making sure that wider criminal justice system issues are being gripped. I am clear that domestic abuse cases must be prioritised by the police and courts and can outline below how I am making sure this happens.

### **Police**

- I am really encouraged by the work the police are doing and how seriously they are gripping this issue. My officials are in frequent contact with Louisa Rolfe who is doing some fantastic work to make sure messaging within the police is consistent.
- As I've already said perpetrators must not escape justice. There needs to be visible evidence of this to send a clear message to victims and the public. We will shortly be publishing guidance on the use of DVPOs during coronavirus which we have worked up with the police.

### **Courts**

- And it is absolutely right that the family and criminal courts are prioritising domestic abuse cases.
- However, I understand there appears to be some confusion on the ground amongst both police and victims about courts operating. I have raised this with the Lord Chancellor and am working to ensure that clear and consistent messaging is issued.
- I am also aware that some have expressed concern that summary proceedings will not be possible within the six month statutory time frame.
- We are working closely with MOJ and CPS to consider how to address any potential backlog of domestic abuse cases, including brigading cases and allocating some courts to only deal with domestic abuse cases.
- I have also asked the Lord Chancellor whether it is right to consider an extension of the six month limit.
- I will continue to raise this with MOJ to make sure we don't drop the ball on this.

### **Background info**

This is an MOJ lead. The six month limit is relevant for summary offences which are usually "minor offence" where no jury trial is needed – ie the person pleads guilty. It is possible that DA related matters would fall into this (eg common assault) but offences such as actual bodily harm or Controlling or Coercive Behaviour would not apply (as they are triable either way). You have raised this issue with the Lord Chancellor.

## **FUNDING**

### **HMT funding**

- Thank you for the advice you have provided these past few weeks on additional funding, it is much appreciated.
- Regarding the £750m, I know there is anxiety in the sector over accessing funding as quickly as possible.
- With funding of this scale it is necessary for there to be cross Government coordination of how the funds will be divided and this is in train. Hope to have an early resolution.
- Following this we will be working closely with MHCLG and MoJ to ensure full coverage of the provider services and enabling organisations to bid for funds as efficiently as possible.

### **£2m HO funding**

- I hope to be able to begin releasing funds from the £2m pot I announced to boost organisations' technological capacity very soon.
- This is an interim support measure to help with the initial surge in demand.
- [ if needed - We are looking closely at the information from helplines on current needs to ensure we can maximise the support we can offer.]



## RETAILER CAMPAIGNS

### Comms campaign and codeword/safe space

- I was delighted to see how wide our #YouAreNotAlone campaign has spread – and thank you both for your support in that. It has received over 89 million impressions, which is fantastic.
- A further information pack has been sent out to stakeholders with additional materials for people to use, and we will shortly be issuing advice for employers, using BEIS' and DWP's network of businesses to disseminate guidance.
- **[If needed** – I understand you have had a meeting earlier today on an approach to a code word or safe space scheme in retail outlets. What conclusions were reached ?]
- **[As needed** – it is important that any scheme is easily understood – ideally is consistent across the country to avoid confusion – and most importantly does not put victims at further risk.]

### **Background**

*Having conducted discussions with the DA sector police and retail sector there is no clear consensus on how safe or effective a codewords approach might be. Supermarkets have doubts about their ability to effectively train volumes of staff to respond appropriately at present. We are therefore tending towards a scheme focused on pharmacies in the first instance because of the potential scope for private consultation with a pharmacist in a safe space. There is a meeting on Monday afternoon just prior to your call with the Commissioners to discuss options.*

## **Q&A**

### **Coronavirus**

#### **Q. How quickly will the tech funding reach charities?**

- We are working closely with the sector to distribute the funding as quickly as possible, to places where it will have the most impact, working closely with you both and the sector.

#### **Q. Are you seeing an increase in police stats because people are trapped with their abusers and can't seek help?**

- The Home Office is working closely with the sector, Domestic Abuse Commissioner and the police to monitor domestic abuse incidents at this time. I also launched a public awareness campaign to ensure that those who need support are able to access it safely. This includes the provision of online advice.

#### **Q. Domestic abuse on the rise even before the lockdown?**

- Tackling this terrible crime is an absolute priority, now more than ever.
- No one should suffer in silence, which is why the Government has taken a series of steps to tackle domestic abuse during coronavirus, including:
  - Published detailed guidance with links to support people can access
  - Pledged £2 million of funding for domestic abuse helplines and online support
  - £750 million package of support for charities, including those who provide support for domestic abuse victims
  - And £3.2 billion COVID-19 fund for local authorities to support their services including those for the most vulnerable.

#### **Q. Will perpetrators still be prosecuted?**

- Yes. We are working closely with the police to provide guidance on responding to domestic abuse cases effectively in these unprecedented times.
- We are working with the police to ensure that options to require perpetrators to leave the home, continue to be used effectively and also remain available, and that appropriate alternative accommodation is available for perpetrators who are required to leave the home.
- In our justice system, domestic abuse cases are amongst the highest priority work being dealt with by the courts. Domestic Violence Protection Orders and Non-Molestation orders have been placed in the highest category of work in the magistrates' and family courts, and they continue to be listed for urgent hearings despite the current restrictions.
- HMCTS have issued new guidance which ensures that anyone who needs to may issue an application for a domestic abuse injunction order which can be made to a court by email or other means and avoid the need for physically attending court. HMCTS are also working with Finding Legal Options for Women Survivors (FLOWS) to promote their service, which

has just introduced an encrypted self-referral app in response to COVID-19.

**Q. Will refuges remain open?**

- We will do everything we can to support domestic abuse service providers to keep this vital provision up and running during the COVID-19 emergency.
- MHCLG have published COVID-19 guidance for those running supported living and refuges, to ensure that help is always available, and offers advice on safety, cleaning and isolation.
- The Government is in discussion with refuge providers who are engaged in their own contingency planning to keep specialist domestic abuse safe accommodation and associated support services available to victims in line with Public Health England advice.
- [if asked about use of hotels etc] And we are looking at alternative accommodation to best support the work of refuges and ensure that there are enough places for those in need at this difficult time.

**Q. What do you say to the reported increase in domestic homicides?**

- Any murder is a horrendous crime and a tragedy.
- We can't speculate on any individual cases. Regrettably murder does happen every day and in a variety of circumstances.
- We will need to await the conclusions of police investigations and inquests before we are able to say with certainty what the circumstances of any death were.
- As Women's Aid commented recently, COVID-19 does not cause murder – abusers do.
- We are doing everything we can to ensure that victims continue to be able to reach out for support from domestic abuse providers and the police who will not let up in their efforts to bring abusers to justice.

**Domestic Abuse Bill**

- This Government remains committed to transforming the response to domestic abuse.
- The Government re-introduced the Domestic Abuse Bill in the House of Commons on 3 March 2020.
- Alongside this the Government published a further response to the Joint Committee on the Draft Domestic Abuse Bill following on from the initial response provided in July 2019.
- We are continuing our work to ensure that victims have the confidence to come forward and report their experience, safe in the knowledge that the justice system and other agencies will do everything they can both to protect and support them and their children and pursue their abuser.

- We continue to progress the non-legislative work which supports the measures in the Bill.
- The Bill measures as introduced include:
  - Create an all-purpose statutory definition of domestic abuse, emphasising that domestic abuse is not just physical violence, but can also be emotional, coercive or controlling, and economic abuse;
  - Establish in law a Domestic Abuse Commissioner, to stand up for victims and survivors;
  - Create a domestic abuse protection notice (DAPN) and domestic abuse protection order (DAPO);
  - Extend the extra-territorial jurisdiction of the criminal courts to further violent and sexual offences;
  - Place the guidance underpinning the Domestic Violence Disclosure Scheme (known as “Clare’s Law”) on a statutory footing;
  - Prohibit perpetrators of abuse from cross-examining their victims in person in the family courts;
  - Create a legislative assumption that victims of domestic abuse are eligible for special measures in the criminal court (for example, to enable them to give evidence via a video link);
  - Provision of a new duty on tier one local authorities in England to provide support to domestic abuse victims and their children in refuges and other safe accommodation.

**Q. Will the Minister confirm that the Bill was re-introduced with all the existing measures?**

- The Bill as re-introduced includes all the measures applying to England and Wales contained in last session’s Bill, but also now incorporates the new duty on tier one local authorities in England to provide support to domestic abuse victims and their children in refuges and other safe accommodation.
- Other changes to the Bill give effect to the pre-legislative scrutiny recommendations in respect of the scope of the automatic prohibition on cross-examination in person in family proceedings. Following consultation with the Minister of Justice, Naomi Long, the Bill as re-introduced no longer includes provision for a Northern Ireland domestic abuse offence which will now be legislated for in the Northern Ireland Assembly.

**Q. When will the Bill be implemented?**

- I share the desire to get the Bill onto the statute book as soon as practicable and to implement it quickly; only then will it make a real difference to the victims of domestic abuse.
- It is right, however, that the Bill is subject to proper scrutiny. Subject to progress of the Bill in the House of Commons, I would expect to see the Domestic Abuse Bill introduced in the House of Lords by the summer and for it to be enacted by the autumn. It would then be possible to implement many of its provisions from 2021/22.

## **Domestic abuse facts and figures**

- The 2018/19 Crime Survey for England and Wales estimated that approximately 2.4 million people experienced domestic abuse in the last year, 1.6 million of them women and 786,000 of them men.
- In the year 2018-19, 76.5% of domestic abuse-related prosecutions resulted in a conviction, the highest since 2010.
- Overall, prosecutions and convictions for domestic abuse are both higher than 2010 – by 6 per cent and 13 per cent respectively.
- The police recorded 746,219 domestic abuse-related crimes in the year ending March 2019, an increase of 24% from the previous year.
- There were a total of 7,252 disclosures made under the Domestic Violence Disclosure Scheme (DVDS – also known as ‘Clare’s Law’) in the year ending March 2018, an increase of 16% on the previous year.
- Since 2010 we have committed £100 million to VAWG services through £80 million in the new VAWG Strategy published in March 2016 and a further £20 million announced in Spring 2017 Budget to support organisations tackling domestic abuse.
- Research published by the Home Office suggests that in the year ending 31 March 2017, domestic abuse is estimated to have cost over £66 billion in England and Wales.
  - The biggest component of the estimated cost is the physical and emotional harms incurred by victims (£47 billion), particularly the emotional harms (the fear, anxiety and depression experienced by victims as a result of domestic abuse), which account for the majority of the overall costs.
  - The cost to the economy is also considerable, with an estimated £14 billion arising from lost output due to time off work and reduced productivity as a consequence of domestic abuse.