



## **Response to Joint Committee report on draft Domestic Abuse Bill**

### **Introduction**

1. Surviving Economic Abuse (SEA) is the only charity in the UK dedicated to raising awareness of economic abuse and transforming responses to it. Our work is informed by a group of women who are 'Experts by Experience'. Our four strategic priorities focus on awareness-raising, professional responses, systems change and policy influencing. We made submissions in response to the government's consultation last year, *Transforming the response to domestic abuse*, following which the draft Domestic Abuse Bill was published. We also submitted written evidence to the Joint Committee which conducted pre-legislative scrutiny of the draft Bill and facilitated oral testimony from a survivor of economic abuse in a private session with Committee members.
2. We welcome the Joint Committee report published in June 2019. The Committee took the time to consider a large volume of evidence including from survivors of domestic abuse, and its report contains a detailed consideration of some of the most important aspects of the Bill. Overall SEA agrees with the Committee that the aims of the draft Bill can only be achieved if there are changes to policy and legislation in other areas of government activity. SEA welcomes the recommendation that a Cabinet Office minister leads on implementing the government strategy to combat domestic abuse and would like to see this extended to all forms of VAWG more broadly.
3. This response to the report outlines recommendations which SEA particularly welcomes from the perspective of addressing economic abuse. It will also highlight areas where it believes the report could have gone further in recognising economic abuse as a thread which runs through the experience of many victims, requiring targeted action by the state to support their economic stability and independence if they are not only to survive but thrive.

### **Welfare reform and Universal Credit**

4. SEA is pleased that the Committee agrees with the Work and Pensions Select Committee following its inquiry into Universal Credit, that Universal Credit should not exacerbate financial abuse. We raised this in our oral evidence to the Select Committee back in April 2018. We also welcome the recommendation that the government reviews the impact of its welfare programme on victims of domestic abuse, which is something we called for in our written submission to the Joint Committee. We very much support the recommendation that advance payments

in case of financial hardship be converted into grants that are not repayable. This will be an encouragement to women considering leaving an abuser, as well as those who have left and are trying to rebuild their lives and establish economic safety. Too often fear of debt and economic insecurity lead women to stay with an abuser or return to one.

5. SEA is, however, disappointed that the Committee does not recommend separate payments to joint claimants of Universal Credit by default. This is a missed opportunity to support women's economic independence and stability and undermines the spirit of the government's decision to include economic abuse in the statutory definition of domestic abuse in the draft Bill. As pointed out in our submission to the Committee, the government acknowledges that respondents to the consultation on the draft Bill expressed concern "that payment of Universal Credit for couples into a single nominated bank account risks increasing a perpetrator's economic control over their victim."
6. We also said that the "solution" put forward by the government that victims of domestic abuse can request a "split payment" in such circumstances may not be a practical possibility for many women experiencing control or coercion, and could indeed be dangerous since it challenges the control exerted by the perpetrator, thereby escalating risk. The evidence clearly indicates that separate payments would be the better solution, and SEA strongly believes that the government could try more pro-actively to find ways to enable technology around Universal Credit payments to facilitate the making of separate payments as a default. Similarly, we do not agree with the work-around suggested by the government, that the payment be made to the household's "main carer". This could perpetuate gendered roles within families and is inconsistent with government policies elsewhere which promote shared parenting.
7. The report rightly observes that DWP should do more in its consideration of alternatives to ensure that the benefit system does not force people experiencing domestic abuse to continue to live with the abuser. However, consideration of such alternatives will only be meaningful if underpinned by the principle of women's economic equality. Moreover, the current policy of a single payment in joint claims is not supported by this principle.
8. The absence of a stronger recommendation on separate payments is even more disappointing given that the Committee does recommend a new clause is inserted into the Bill which recognises both the gendered context of domestic abuse and how gender intersects with other inequalities. SEA very much welcomes a recognition of the gendered nature of domestic abuse and this was one of our asks in our submission to the Committee. A recommendation for separate payments of Universal Credit would have been a good way to demonstrate this recognition.

### **Migrant women and temporary concessions**

9. SEA submitted in its written evidence to the Committee that denying women with insecure immigration status access to economic resources including welfare

benefits and accommodation is a form of state economic abuse and contrary to Article 4(3) of the Istanbul Convention. We are pleased to see this addressed in the Committee's recommendation that the Bill include an additional clause, placing a duty on public authorities dealing with a victim or alleged victim of domestic abuse, or making decisions of a strategic nature about how to exercise functions, to have due regard to the need to protect the rights of victims without discrimination on any of the grounds prohibited by Article 4(3).

10. We also welcome the recommendation that the three month time limit for the Destitute Domestic Violence Concession, which enables those on spousal and partner visas to access benefits pending the regularisation of their immigration status, be extended to six months as called for by Southall Black Sisters and supported by SEA.
11. However the report does not take the implementation of the right to non-discrimination to its logical conclusion by recommending that the government extend the Destitute Domestic Violence Concession to all survivors of gender-based violence, regardless of their immigration status, as also called for by Southall Black Sisters and supported by SEA. The Committee acknowledges that the provisions barring individuals from having recourse to public funds can prevent some victims of domestic abuse with insecure immigration status from accessing refuges and other support services. Given this acceptance, the recommendation that the government "explores ways to extend the temporary concessions available under the DVR and DDVC to support migrant survivors of abuse, to ensure that all of these vulnerable victims of crime can access protection and support whilst their application for indefinite leave to remain is considered by the Government", does not go far enough in ensuring relief for these survivors on an equal basis.

### **Access to justice and legal aid**

12. The report recognises the impact of restrictions on legal aid on victims of domestic abuse. It observes that the limited availability of legal aid means that parties are often unrepresented in family cases, and cites Sir James Munby, then President of the Family Division, who describes as "drastic" the reduction in numbers of represented litigants in private law cases after the enactment of the Legal Aid, Sentencing and Punishment of Offenders Act 2012.
13. It is disappointing that the Committee does not follow up this observation with further analysis of the impact of this situation on litigation outcomes for survivors of domestic abuse. SEA raised in its submission to the Committee the issue of victims of economic abuse failing the legal aid means tests because they are assessed as having income or capital which they have no access to or control over. We therefore called for victims of domestic abuse to be exempt from the legal aid means test.
14. The report cites Resolution which gave evidence that in the family courts the victim would often not have a legal representative because they did not meet the legal aid means test and this could result in an imbalance of power if the perpetrator was represented. It further refers to the suggestion by Resolution that

legal aid for representation of both victims and perpetrators might address the family justice problem more effectively than the current proposals on preventing cross-examination of victims by alleged perpetrators of domestic abuse. Some of the wider issues in the family justice system raised by Resolution cited in the report such as perpetrators using repeat applications and dragging out the litigation process, also have links to the lack of legal aid for survivors and SEA's call in its submission to the Committee for increased use of vexatious litigation procedures to prevent these abusive behaviours. In light of this, SEA feels that the Committee missed an opportunity to ensure that the Bill addressed the question of access to justice for domestic abuse victims.

### **Housing, refuge and employment**

15. Along with the Joint Committee we welcome the recently announced commitment by the government to introduce a statutory requirement in the Bill for accommodation support services in England to be provided for survivors of domestic abuse, and to provide an adequate level of additional funding to local authorities to enable them to comply with the new duty. We also agree that further work is required to clarify the details of the duty. Access to housing is a crucial issue for victim-survivors of economic abuse, as the uncertainty surrounding where they can live when separating from an abuser is often a disincentive to leaving. It is also key to women's economic stability post-separation. SEA will provide a response to the ongoing consultation by the Ministry of Housing, Communities and Local Government on the statutory duty.
16. SEA is keen to understand how the proposed duty will link with the legislation on priority need for housing, and to ensure that focus on the duty will not remove attention from according priority need for survivors of domestic abuse without having to prove further vulnerability. The report cites Crisis as pointing out that the new legal duty would not require local authorities to provide a safe and settled home for people who were fleeing domestic abuse. In its written evidence to the Committee SEA called for the "priority need" legislation to protect those fleeing domestic abuse so that they are automatically presumed to be in priority need. In the interests of consistency and closing gaps in the legislative protection of housing rights for survivors of domestic abuse, SEA is disappointed that this has not been included in the Committee's recommendations.
17. Another issue of particular relevance to victims of economic abuse and their access to safe accommodation, is the current situation with regard to working women in refuges. SEA pointed out in its submission to the Committee that women who are employed are required to pay a higher rent for refuge accommodation, which they often cannot afford, resulting in their leaving employment to be able to claim housing benefit which is higher and covers the rent: this situation of perverse incentives leaves a woman with the "choice" of keeping her job and staying with the abuser or finding an escape and becoming unemployed. With its potential to dismantle the economic stability survivors gain through employment, this is another illustration of a policy which undermines the new recognition of economic abuse in the draft Bill.

18. Paid employment is a key source of independent income for women, and those experiencing domestic abuse often struggle to maintain their employment. Women also require time off work to deal with a variety of issues relating to abuse such as making arrangements to leave an abuser or attending court. We would therefore very much have welcomed a recommendation by the Committee on introducing paid employment leave for domestic abuse victims in the Bill, as called for by SEA. This is in place in several states in the USA and has recently been introduced in New Zealand. A legal requirement to this effect sends out a strong message regarding the duty of care and support owed by employers to their employees experiencing domestic abuse.

## **Conclusion**

19. While we welcome the Joint Committee's report, we feel that stronger recommendations could have been made to tackle some fundamental barriers faced by survivors of domestic abuse, and economic abuse in particular. SEA therefore reiterates the calls it has made in its submission to Committee, especially:

- Joint claimants of Universal Credit to be offered separate payments as a default;
- The Destitute Domestic Violence Concession to be extended to all victim-survivors of domestic abuse, regardless of their immigration status;
- Domestic abuse victims to be exempt from the legal aid means test
- Strengthen the use of vexatious litigation procedures to discourage further economic abuse through the court system;
- Recognise domestic abuse victims as in "priority need" for accommodation without the need to prove further vulnerability
- Reform the policy on funding of refuge places so it does not incentivise working women to give up employment;
- Introduce paid employment leave for victim-survivors of domestic abuse;

20. Other key asks for the Bill by SEA and which are directly linked to the economic security of victims include:

- Make economic abuse a stand-alone offence; and recognise post-separation economic abuse as an offence – the current legislation on the crime of controlling or coercive behaviour does not cover post-separation abuse, which often takes the form of economic abuse as perpetrators can control survivors' economic resources long after they have moved away.
- Provide for victims to receive compensation for economic abuse through the criminal justice system, exploring the use of the Proceeds of Crime Act 2002 as a potential vehicle for this.

21. Given the issues outlined above we believe a national inquiry into economic abuse – which SEA has called for – should be within the remit of the Domestic Abuse Commissioner. We hope that such an inquiry will provide an impetus to move forward on many of the specific reforms suggested above. In this context we fully support the Committee's recommendation that the Commissioner should be enabled to undertake a "greater quantity and wider range of in-depth work than the current funding and staffing arrangements would permit".