



DOMESTIC ABUSE BILL – CONSIDERATION OF LORDS AMENDMENTS STAGE

Domestic abuse and the recognition of economic abuse Briefing – April 2021

Key points

- Addressing economic abuse is vital:
 - One in five women in the UK report having experienced economic abuse from a current or former intimate partner.¹
 - Research by Surviving Economic Abuse (SEA) shows that 95% of domestic abuse victims experience economic abuse.²
 - Economic abuse rarely happens in isolation; 86% of those reporting economic abuse also experience other forms of abuse.³
 - Economic abuse is linked to physical safety. Women who experience it are five times more likely to experience physical abuse.⁴
 - SEA's research found that 60% of economic abuse survivors are coerced into debt.⁵
 - One in four women reports experiencing economic abuse after leaving the abuser.⁶
- SEA welcomes the potential of the Domestic Abuse Bill to transform the response for victims of economic abuse. In particular, we welcome the:
 - **Inclusion of 'economic abuse' in the new statutory definition of domestic abuse** - which we led the call for - and
 - Government-drafted amendment **extending the offence of controlling or coercive behaviour in the Serious Crime Act to include post-separation abuse** - a vital amendment which SEA led on.
- We thank the Government for recognising the reality of coercive control following separation and providing protection to victims experiencing this particularly insidious form of abuse.
- Intentions to better address economic abuse by recognising it within the Bill are however still at risk of being undermined by other government policies that inadvertently facilitate it, such as those on legal aid and welfare. SEA welcomes the government's agreement to the amendment to prevent GPs from charging victims of domestic abuse for letters confirming their injuries so that they can seek access to legal aid and other services. It is however necessary to go much further in order to ensure all domestic abuse victims have access to justice. SEA has long called for domestic abuse victims to be exempted from the legal aid means test, which currently takes into account assets and capital that they cannot in practice access due to economic abuse. SEA therefore supports the proposals of the Bar Council in this regard.
- Another key such policy which is sought to be removed through an amendment to the Bill is the No Recourse to Public Funds rule, which denies support to certain migrant victims of domestic abuse. SEA therefore endorses this amendment along with other linked amendments, which seek to ensure equal protection for all domestic abuse victims.
- SEA also supports the amendments on domestic abuse victims who commit offences. These provide the much-needed recognition by law of the factors that push victims of economic abuse and coercive control to commit offences, and the need to take them into account when it comes to conviction and punishment.

What is economic abuse?

This form of abuse is designed to reinforce or create economic dependency and/or instability; limiting women's choices and their ability to access safety. 'Economic abuse' as a term recognises that it is not just money and finances that can be controlled by an abuser (known as 'financial abuse') but also things that money can buy, including food, clothing, transportation and housing. One in five women in the UK report having experienced economic abuse from a current or former intimate partner.⁷ SEA's analysis of successful prosecutions of the controlling or coercive behaviour offence shows that six in ten involve economic abuse.⁸

Given it does not require physical proximity, economic abuse can continue, escalate or even start after separation. Lack of access to economic resources often means a victim staying with an abusive partner for longer than they want to and experiencing more harm as a result. Economic abuse is also linked to physical safety, with women who experience it being five times more likely to experience physical abuse.⁹ Further, lack of access to economic resources post-separation is the primary reason women return to an abusive partner¹⁰ and makes the process of rebuilding an independent life challenging.

Research into economic abuse has shown that one in four women report experiencing it post-separation.¹¹ SEA sees the ways in which economic abuse can continue, escalate or even begin as a form of coercive control everyday through its work alongside victim-survivors. They include:

- spending money from a victim's personal bank account or from a joint account;
- running up bills in the victim's name;
- prolonging the sale of joint property;
- damaging or stealing personal property;
- interfering with the victim's employment and their ability to keep their job;
- refusing to pay child maintenance; and
- continuously taking the victim to court resulting in financial costs

Key amendments/proposals relating to economic abuse: migrant women; women who offend due to domestic abuse; and legal aid

The House of Lords passed two key sets of amendments which signal an enhanced understanding of economic abuse and provide support to victims whose economic resources and routes to assistance have been undermined. **It is vital that these amendments remain in the Bill and SEA urges MPs to support them as the Bill re-enters the Commons.**

Equal protection for migrant women (Clauses 83, 84 and 86)

As mentioned above, the recognition of economic abuse in the Bill must be underpinned by welfare and other government policies which uphold the economic stability of **all** victims of domestic abuse regardless of their status. SEA's research *The Cost of Covid* ([soon to be published](#))¹² on economic abuse during the pandemic, highlights the increased risk of abuse at this time and the heightened need for welfare policies to support women to flee abuse and rebuild their lives instead of sabotaging their ability to do so. Therefore the following amendments led by Southall Black Sisters, the Step-Up Migrant Women campaign and the End Violence Against Women (EVAW) coalition and supported across the sector, must remain in the Bill:

- Extending eligibility under the Domestic Violence Rule to all women with insecure immigration status and extending the time period for the Destitution Domestic Violence Concession to at least six months (clause 84, as amended on Report in the House of Lords). The former would mean that migrant women who are unable to access accommodation

and other support as a result of being classified as having No Recourse to Public Funds, leaving them at risk of homelessness and destitution, would be able to access the support they need to flee abuse and stay safe until a determination was made on their entitlement to remain in the UK.

-Ensuring that the personal data of migrant survivors of domestic abuse given in order to receive support and assistance, is not used for immigration control purposes (clause 83)

-Providing that all victims are protected regardless of their status in line with Article 4(3) of the Istanbul Convention (clause 86)

A welfare and immigration system which does not enable the 'breathing space' and access to safety and support for victims provided for by the above amendments, undermines the broad definition of domestic abuse in the Bill whose spirit is to include within its remit all victims of domestic abuse equally and without discrimination.

This is also in line with a broader understanding which recognises 'institutional economic abuse', where state systems can inadvertently facilitate abuse through, for instance, aspects of the immigration and social security system which create financial dependence on the abuser, or the criminal justice system which can discourage a victim from making a formal complaint of domestic abuse when she is financially dependent on the abuser.¹³

The Support for Migrant Women pilot scheme proposed by the government in response to the demands for these amendments is not a suitable or adequate answer, as pointed out by those leading on the amendments: the funds offered are insufficient to meet the needs of all women who need crisis support; it will delay the provision of much needed assistance; and it will not produce evidence that is not already available.¹⁴ Furthermore, the No Recourse to Public Funds rule has been held in a legal challenge to be unlawful in contexts where a person is at imminent risk of inhuman or degrading treatment contrary to the European Convention of Human Rights, by being prohibited from accessing public funds.¹⁵

Statutory defence for domestic abuse victims (Clauses 76 and 77)

Official figures show that nearly 60% of women in prison are victim-survivors of domestic abuse¹⁶ and this is likely to be an underestimate. Many have been driven to offend by their experience of abuse, yet they have no effective defence. Parliament now has an opportunity to modernise the law through the Domestic Abuse Bill, by introducing legal defences that reflect improved public understanding of domestic abuse. The proposed legislation and surrounding policy framework would encourage earlier disclosure of abuse and access to support. Many of these offences are linked to economic abuse, such as shoplifting and non-payment of council tax and TV licences. Prison for these women creates economic instability, increasing the risk of loss of jobs and homelessness which, in turn, increases risk of abuse.¹⁷ SEA supports the amendments to the Bill, led by the Centre for Women's Justice and widely endorsed by the sector, to improve legal protection for survivors who offend due to their experience of domestic abuse (clauses 76 and 77 and Schedule 4).

Non-means tested legal aid for domestic abuse victims

The legal aid means test under the Legal Aid, Sentencing and Punishment of Offenders Act 2012 operates unfairly on victims of economic abuse. They could be assessed as failing the means tests due to money or assets which they appear to own, but are unable to access or control due to economic abuse. This is evidenced by a survey which SEA conducted with survivors (to be finalised) and which we included in our response to the ongoing Justice Select Committee inquiry on the Future of Legal Aid. Given how commonly economic abuse is experienced alongside other forms of domestic abuse, SEA has long called for domestic abuse victims to be exempted from the legal aid means test. We therefore support the Bar Council's proposal to make non-mean tested legal aid available for all domestic abuse cases.¹⁸

About Surviving Economic Abuse

SEA is the only UK charity dedicated to raising awareness of and transforming responses to economic abuse. Our work is informed by Experts by Experience – a group of over one hundred women who speak about what they have gone through so that they can be a force for change.

For more information about SEA and our work on the Domestic Abuse Bill please contact: cyrene.siriwardhana@survivingeconomicabuse.org

¹ The Cooperative Bank and Women's Aid (2015), *My Money, My Life*.

² <https://survivingeconomicabuse.org/report-finds-that-6-in-10-domestic-abuse-survivors-are-struggling-with-coerced-debt/>

³ The Cooperative Bank and Women's Aid (2015)

⁴ Outlaw, M. (2009) *No One Type of Intimate Partner Abuse: Exploring Physical and Non-Physical Abuse Among Intimate Partners* Journal of Family Violence. 24: 263-272

⁵ <https://survivingeconomicabuse.org/report-finds-that-6-in-10-domestic-abuse-survivors-are-struggling-with-coerced-debt/>

⁶ Sharp-Jeffs, N. (2015)

⁷ The Cooperative Bank and Women's Aid (2015)

⁸ Sharp-Jeffs, N. with Learmonth, S. (2017). *Into Plain Sight: How economic abuse is reflected in successful prosecutions of controlling or coercive behaviour*. This figure is consistent with our ongoing analysis of such prosecutions where currently 117 out of 184 involve economic abuse.

⁹ Outlaw, M. (2009)

¹⁰ ANZ/RMIT University (2016), *MoneyMinded Impact Report: The Role of Financial Education in a Family Violence Context*

¹¹ Sharp-Jeffs, N. (2015)

¹² <https://survivingeconomicabuse.org/about-us/projects-and-policy/the-cost-of-covid-19/>

¹³ Sharp-Jeffs, N. (2021), Understanding the economics of abuse: an assessment of the economic abuse definition within the Domestic Abuse Bill, *Journal of Gender-Based Violence*

¹⁴ <https://southallblacksisters.org.uk/wp-content/uploads/2021/02/SBS-briefing-Pilot-Project-1.pdf>

¹⁵ *R (W, a child) v Secretary of State for the Home Department, Project 17 intervening* [2020] EWHC 1299: <https://www.bailii.org/ew/cases/EWHC/Admin/2020/1299.html> -

<https://southallblacksisters.org.uk/wp-content/uploads/2021/02/SBS-briefing-Pilot-Project-1.pdf>

¹⁶ Ministry of Justice (2014). Thinking differently about female offenders. Transforming Rehabilitation, Guidance Document, London: MoJ/NOMS

¹⁷ Prison Reform Trust (2017). *'There's a reason we are in trouble': Domestic abuse as a driver to women's offending*

¹⁸ <https://www.barcouncil.org.uk/uploads/assets/232a2bd0-8174-4aac-a5bddf5f91a7b655/Bar-Councils-briefing-on-the-Domestic-Abuse-Bill-April-2021.pdf>