

Written evidence submitted by Sisters For Change (DVA0098)

EXECUTIVE SUMMARY

- In England and Wales, 1.2 million women experienced domestic abuse in the last year, yet the arrest rate for perpetrators of abuse fell by 15% across England in 2016 and less than 1 in 4 domestic abuse investigations resulted in a criminal charge.
- There is currently no legal definition of domestic abuse and no criminal offence of domestic abuse in England. The Government proposes to use the existing cross-government definition of domestic abuse as the basis for the new statutory definition. This definition will not recognise the gendered nature of domestic abuse.
- The Government has indicated no intention of introducing a new criminal offence of domestic abuse.
- The Domestic Abuse Bill should ensure UK compliance with international standards on violence against women and girls (VAWG), including the UN Convention on the Elimination of Discrimination Against Women and the Istanbul Convention.
- Specialist BME violence against women support services offer a critical point of access for BME women victims of violence for support and assistance in accessing statutory services such as health, social services and criminal justice authorities. Without them, the further isolation or exclusion of BME women victims from formal systems of support and redress remains a very real risk.
- The Domestic Abuse Bill should ensure that migrant women and those with insecure immigration status who are victims of domestic abuse have access to protection and support services.
- The current multi-agency arrangements for responding to high-risk cases of domestic abuse has no basis in law, which means that public authorities have no legal obligation to attend multi-agency conferences or to implement action plans agreed to protect high-risk victims. This stands in stark contrast to the Government's arrangements for protecting the public from the risk of serious harm by sexual and violent offenders and its approach to safeguarding children at risk of abuse.
- Localism has led to a diverse, inconsistent array of domestic abuse and VAWG services and a failure to ensure accountability. The Domestic Abuse Bill must ensure that the UK Government focuses greater efforts on improving and standardising local authority and PCC responses to and commissioning of domestic abuse and VAWG services.
- The remit of the new Commissioner established to oversee the new domestic abuse legislation should include both domestic abuse *and* VAWG across the United Kingdom. This is critical to ensure more joined-up and integrated strategies to tackle domestic abuse and VAWG across Government departments and the Devolved Administrations.
- The new Commissioner should have the *power to compel* public bodies at both the national and local level to work together and share information, as well as have the *enforcement authority* to investigate issues and complaints on behalf of victims or frontline service organisations.

ABOUT SISTERS FOR CHANGE

1. This submission is made by Sisters For Change (Registered Charity No. 1165647), an international NGO working to eliminate discrimination and violence against women and girls worldwide through legal empowerment and social accountability strategies. Sisters For Change works to generate systemic change in how governments combat violence, structural change to give women voice and agency in justice mechanisms and social change to end the social acceptance of violence against women and girls.
2. In 2016-2017, Sisters For Change conducted a legal accountability project investigating local authority and criminal justice responses to violence against Black, Asian and minority ethnic (BME) women and the adequacy of support services provided to BME women victims of violence. The project focused on an in-depth review of six local authority areas across five regions in England conducted in partnership with five specialist front-line BME VAW service providers.¹ In November 2017, SFC published the report of its findings. The report, *Unequal Regard, Unequal Protection: Public authority responses to violence against Black and Minority Ethnic women in England*,² (SFC Report 2017) presented a comprehensive evaluation of current practices of commissioning and funding of BME Violence Against Women (VAW) service providers and a detailed legal analysis of the weaknesses and failings in public authority and criminal justice responses to BME victims of violence. It made 16 concrete and practical recommendations to improve public authority responses to violence against BME women and girls and ensure compliance with legal obligations under the Human Rights Act 1998, Equality Act 2010 and child and adult safeguarding legislation. SFC's report was disseminated to over 100 MPs, Peers, Government officials and regional stakeholders, including Police & Crime Commissioners and Local Authority VAW Strategy and Commissioning managers.
3. Since the Government's announcement of its intention to introduce a Domestic Abuse Bill, SFC has been involved in legal advocacy work around the Domestic Abuse Bill, highlighting limitations in the current legal framework and advancing substantive evidence-based recommendations for legislative reform in order to ensure an *inclusive and effective* Domestic Abuse Bill which improves public authority responses to domestic abuse and secures better support and justice outcomes for women victims of domestic abuse, including BME and migrant women.
4. During April and May 2018, SFC convened a number of roundtables on *Securing an inclusive and effective Domestic Abuse Act* with participants including Zoe Billingham, HMICFRS Lead on Domestic Abuse and CSE; Angela Whittaker, National Police Domestic Abuse Portfolio Co-ordinator; Sophie Linden, London's Deputy Mayor for Policing and Crime; Claire Waxman, London's Victim's Commissioner; Dame Vera

¹ London Black Women's Project (formerly Newham Asian Women's Project) based in Newham, East London; Panahghar based in Coventry and Leicester; Ashiana based in Sheffield; The Angelou Centre, based in Newcastle-upon-Tyne and Apna Haq based in Rotherham.

² The Report is available online here: <http://sistersforchange.org.uk/unequal-regard-unequal-protection/>

Baird QC, Police & Crime Commissioner for Northumbria; MPs and Peers; officials from the JCHR, Home Affairs Committee and Women & Equalities Committee; local government representatives; and legal and policy experts from the women's sector across England, Wales, Scotland and Northern Ireland.

5. SFC submits this written evidence to assist the Home Affairs Committee's scrutiny of the Government's current proposals regarding its forthcoming Domestic Abuse Bill and consideration of what other policies should be pursued for the Government's strategy to be most effective.
6. The submission will address the following matters included in the Terms of Reference of the Committee's Inquiry on domestic abuse:
 - Scope and proposed definition of domestic abuse
 - Securing the equal protection of BME and migrant woman
 - Improving public authority responses to high risk victims of domestic abuse
 - Ensuring sufficient quality services for domestic abuse victims
 - Powers and functions of the new Commissioner

INTRODUCTION: DOMESTIC ABUSE IN ENGLAND & WALES

7. In England and Wales, 1.2 million women – or nearly 8% of the female population – experienced domestic abuse in the last year³ and yet the arrest rate for perpetrators of abuse fell by 15% across England in 2016 and less than 1 in 4 domestic abuse investigations resulted in a criminal charge.⁴ Of the 900 women in England and Wales killed by men between 2009-15, 64% were killed by current or former partners and 8% by their sons.⁵
8. The austerity and localism agendas have resulted in spending cuts that have weakened all forms of support services for women victims of violence. Between 2011-2012 alone, the domestic and sexual violence sector suffered average funding cuts of 31%, but BME service providers were hit even harder, experiencing an average loss of 47% of funds.

SCOPE OF FORTHCOMING BILL

9. Before commenting on the proposed statutory definition, we would like to urge the Home Affairs Committee to press the Government to reconsider its position and make

³ Office of National Statistics, Statistical Bulletin, *Domestic abuse in England and Wales: year ending March 2017*, citing the Crime Survey for England and Wales year ending March 2017. ONS Bulletin available here: <https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/bulletins/domesticabuseinenglandandwales/yearendingmarch2017>.

⁴ HMIC, *PEEL: Police effectiveness 2016 – National overview*, p.18. HMIC National Review available here: <https://www.justiceinspectorates.gov.uk/hmicfrs/publications/peel-police-effectiveness-2016/>

⁵ *The Femicide Census: 2016 findings. Annual Report on cases of Femicide in 2016*, published December 2017. Available here: <https://www.womensaid.org.uk/what-we-do/campaigning-and-influencing/femicide-census/>

the forthcoming Bill a Violence Against Women and Girls Bill rather than a Domestic Abuse Bill. This would reflect both the government's commitment to eliminating violence against women and girls (VAWG) as set out in its current national VAWG strategy and the UK's international legal obligations under the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) as well as the Council of Europe Convention on preventing and combating violence against women and domestic violence (the Istanbul Convention), which the Government has committed to ratify. This approach also aligns with the approach adopted in Wales in the Violence against Women, Domestic Abuse and Sexual Violence (Wales) Act 2015.

DEFINITION OF DOMESTIC ABUSE BILL

10. There is currently no legal definition of domestic abuse or domestic violence and no criminal offence of domestic abuse or domestic violence in England.
11. The Government proposes introducing “a statutory definition of domestic abuse which aims to affirm the current government definition of domestic abuse and links to some of the other powers that may be included in the draft bill”.⁶ Somewhat confusingly, the Government's consultation document also states that the new definition will not “automatically replace all other existing definitions, or apply to other legislative provisions, already set out in statute”.
12. The existing cross-government definition is gender neutral. The Government does not propose to recognise the gendered nature of domestic abuse, which affects women and girls disproportionately – 95% of high risk victims of domestic abuse referred to a multi-agency risk assessment conference in 2017 were women⁷ – and is deeply rooted in structural inequality between women and men.
13. The Government does not propose to introduce a new criminal offence of domestic abuse. This stands in marked contrast to Scotland which introduced for the first time a domestic abuse offence in Scotland in the new the Domestic Abuse (Scotland) Act 2018.⁸

International law: domestic abuse as a gender-based violence against women

14. The UK ratified the UN Convention on the Elimination of All Forms of Discrimination against Women 1979 (CEDAW) in 1986 and ratified the complaints mechanism⁹ in 2004. CEDAW Article 2 establishes that the overarching obligation of States parties is to

⁶ In line with the existing definition, the new statutory definition will include familial and intimate partner abuse and include both single incidents and patterns of behaviour. This is important to provide legal protections to victims of abuse from extended family members: research demonstrates that this is of particular relevance for BME women. Unlike the existing definition, the new statutory definition will include a more expansive concept of ‘economic abuse’ (rather than simply financial abuse).

⁷ SafeLives data: <http://www.safelives.org.uk/practice-support/resources-marac-meetings/latest-marac-data>.

⁸ The Act received Royal Assent on 9 March 2018 and is anticipated to come into force later this year.

⁹ CEDAW Optional Protocol 1999, A/RES/54/4. States Parties to the Protocol allow the CEDAW Committee to hear complaints from individuals or to inquire into “grave or systematic violations” of the Convention.

pursue a policy of eliminating discrimination against women, including gender-based violence against women, defined as “violence that is directed against a woman because she is a woman or that affects women disproportionately.”¹⁰ Family violence and domestic abuse is recognised as one of the most insidious forms of violence against women.”¹¹

15. The CEDAW Committee,¹² uses the expression ‘gender based violence against women’ to make explicit the gendered causes and impacts of this violence and to strengthen the understanding of such violence as a social – rather than individual – problem, requiring comprehensive responses, beyond specific events, individual perpetrators and victims/survivors.¹³
16. States parties to the Women’s Convention are required to have an effective and accessible legal and services framework in place to address all forms of gender-based violence against women. Importantly, the obligations of States parties apply to all women without discrimination, citizens and non-citizens alike, including refugee women, women seeking asylum, migrant women and stateless women, within a State’s territory. States must act to eliminate intersecting forms of discrimination (based on race, ethnicity, religion or belief, status, caste, sexual orientation) and the compounded negative impact of discrimination and violence on different groups of women.¹⁴
17. The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (the Istanbul Convention) applies to all forms of violence against women, including domestic violence. It is important given the UK Government’s intention to ratify the Istanbul Convention and its need to be compliant with it. The Istanbul Convention explicitly recognises that domestic abuse affects women disproportionately and requires States parties to pay particular attention to women victims of gender-based violence in implementing the Convention.¹⁵ In addition, the Convention recognises that States parties may wish to take special measures to prevent and protect women from gender-based violence and provides that such measures will not be considered discrimination: “the fact that women experience gender-based violence, including domestic violence, to a significantly larger extent than men can be considered an objective and reasonable justification to employ resources and take special measures for the benefit of women victims only”.¹⁶

¹⁰ It includes acts that inflict physical, mental, or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty: UN CEDAW Committee General recommendation No. 19 on violence against women, A/47/38, 1992 (CEDAW GR 19), para.9.

¹¹ CEDAW GR 19, para.23.

¹² The expert body responsible for interpreting and monitoring the implementation of CEDAW.

¹³ UN CEDAW Committee General recommendation No. 35 on gender-based violence against women, updating general recommendation no.19 CEDAW/C/GC/35, 14 July 2017 (CEDAW GR 35), para.9.

¹⁴ CEDAW GR 28, para.s 12 and 18.

¹⁵ Istanbul Convention, Article 2.

¹⁶ Explanatory Report to the Istanbul Convention, Council of Europe Treaty Series No. 210, Istanbul, 11 May 2011, para.55, applying the approach of the European Court of Human Rights in its case-law relating to ECHR Article 14, see, e.g. *Abdulaziz, Cabales and Balkandali v UK*, Application No.s 9214/80, 9473/81, 9474/81, 28 May 1985.

Recommendations for the Domestic Abuse Bill

18. The new statutory definition of domestic abuse should recognise the gendered nature, causes and impacts of domestic abuse, which affects women and girls disproportionately. This is critical to strengthen the understanding of domestic abuse as a social – rather than individual – problem, requiring comprehensive responses, beyond specific events, individual perpetrators and victims/survivors.
19. The Domestic Abuse Bill should ensure UK compliance with international standards on VAWG, including the UN Convention on the Elimination of Discrimination Against Women and the Istanbul Convention, in particular the obligation to combat violence against women without discrimination and to provide protection and support to all women, citizens and non-citizens alike, including refugee women, women seeking asylum, migrant women and stateless women.
20. The new statutory definition should recognise all forms of domestic abuse, including those disproportionately experienced by BME women or migrant women, or abuse which has a particular cultural dimension, such as so called ‘honour-based violence’, female genital mutilation (FGM), forced marriage, dowry-related abuse and transnational marriage abandonment. This ensures UK compliance with international standards on VAWG.¹⁷
21. The Bill and the statutory guidance underpinning the new definition of domestic abuse should make clear that public authorities will be held responsible where they fail to:
 - comply with their due diligence obligations to take all appropriate measures to prevent, investigate, prosecute, punish and provide reparations for gender-based violence against women and girls; and
 - act to eliminate intersecting forms of discrimination and violence (based on race, ethnicity, religion or belief, status, caste, sexual orientation).

SECURING EQUAL PROTECTION FOR BME AND MIGRANT WOMEN

22. BME and migrant women experience higher rates of domestic homicide and are 3 times more likely to commit suicide than other women in the UK,¹⁸ and 50% of BME women victims of violence experience abuse from *multiple* perpetrators.¹⁹ In addition, 40% of BME women live in poverty²⁰ and BME women are more likely than other women to be living in a deprived area, have experience of the State care system and to suffer from

¹⁷ Including CEDAW and the Istanbul Convention, Article 4 (obligation to combat gender-based violence against women without discrimination).

¹⁸ UN Special Rapporteur on violence against women, its causes and consequences. Statement at the conclusion of a country mission to the United Kingdom 2014, 15 April 2014 available at: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14514&>

¹⁹ R.Thiara & S. Roy, *Vital Statistics*, Imkaan, 2010.

²⁰ Z. Moosa & J. Woodroffe, *Poverty Pathways: Ethnic minority women's livelihoods*, The Fawcett Society, 2009. Poverty extends to two-thirds of Bangladeshi and Pakistani women.

discrimination and racism. Austerity policies have had the highest impact on black and Asian women – by 2020 black and Asian women living in the poorest 33% of households in the UK will have experienced an 11.5% reduction in individual income as a direct result of Government fiscal, tax and benefit changes. This is nearly double the drop experienced by white women from the same income bracket.²¹ Of BME women who experience violence, only 37% make a formal report to the police, on average only 9% make an application for a non-molestation order despite 56% suffering from post-separation harassment, and 1 in 4 have insecure immigration status, giving them limited access to welfare and housing benefits.²²

23. In many aspects, BME women's experience of violence and their consequent support needs are different from other women. This results from a lived experience in which the factors identified above – race, ethnicity, language, family structures, social exclusion, income and immigration status – cause multiple and intersecting forms of discrimination and harms. A further salient difference is that the average length of domestic abuse suffered by a BME women victim is 8 years, while the national average is 2.3 years.²³
24. Due to this complex range of characteristics and needs, providing support for BME women victims requires more time, knowledge and specialist skill than that often required to support other women.²⁴ BME VAW services offer a critical point of access for BME women victims of violence for support and assistance in accessing statutory services such as health, social services and criminal justice authorities. Without them, the further isolation or exclusion of BME women victims from formal systems of support and redress remains a very real risk.
25. Specialist BME VAW service providers estimate that approximately 50% of their casework relates to victims with insecure immigration status (e.g. where a non-British woman marries a British national and comes to the UK on a two-year spousal which subsequently lapses). This means that the majority have no recourse (access) to public funds (NRPF), meaning that victims of violence cannot access welfare, housing and other social benefits. Given the complex pattern of need and the specialist economic, linguistic, legal and immigration services often required to support BME women victims of violence effectively, it is no surprise that an overwhelming majority - 89% - of BME women victims say they prefer receiving support from a specialist BME VAW service.²⁵
26. For migrant women victims of domestic abuse or victims with insecure immigration status, there is evidence that currently, immigration enforcement is coming before

²¹ Women's Budget Group, *New research shows that poverty, ethnicity and gender magnify the impact of austerity on BME women*, November 2016.

²² R.Thiara & S. Roy, *Vital Statistics*, Imkaan, 2010.

²³ SFC Report 2017, p.26.

²⁴ For further information, see SFC Report 2017, pp.26-27.

²⁵ Ravi K Thiara & Sumanta Roy, *Vital Statistics: The experience of BME women and children facing violence and abuse*, Imkaan, 2010.

protection of migrant women victims of domestic abuse due to the current ‘hostile environment’ in the UK. The UK Government’s imposed restrictions on access to refuge and other support services for women with insecure immigration status increases their vulnerability, leads to destitution and is linked to rising rates of homicide and suicide.

Recommendations for the Domestic Abuse Bill

27. The Domestic Abuse Bill must recognise the different lived experiences of different groups of victims – specifically BME women – and the different needs, protections and support services that each group requires.
28. The Domestic Abuse Bill should ensure that migrant women and those with insecure immigration status who are victims of domestic abuse have access to protection and support services. In particular, consideration should be given to widening the scope of those who can apply for the Destitute Domestic Violence Concession, which should be extended beyond its current duration of 3 months to at least 6 months.
29. The non-legislative package accompanying the Domestic Abuse Bill must include provision of a central ring-fenced fund for specialist BME VAW service provision in recognition of the reality that current local authority VAW commissioning models tend to fund larger, ‘generic’ service providers and fail to recognise the importance of the pathway provided by specialist BME VAW service providers for victims to gain access to statutory services and legal redress.

IMPROVING PUBLIC AUTHORITY RESPONSES TO HIGH RISK VICTIMS OF DOMESTIC ABUSE

30. The current mechanism for responding to high-risk domestic abuse cases is the multi-agency risk assessment conference (MARAC).²⁶ A MARAC is a voluntary, confidential meeting where information on high-risk cases of domestic abuse is shared between local statutory agencies (police, health, housing, children and young people’s services, domestic abuse specialists) with the aim of developing an effective action plan to reduce the risk of further harm to the victim and her family. 95% of high-risk domestic abuse victims discussed at a MARAC are women.²⁷
31. The multi-agency arrangements for protecting high-risk victims of domestic abuse have no statutory basis. This means that engagement of public authorities and agencies is completely voluntary, with no authority having any legal responsibility for co-ordinating or overseeing MARAC meetings, for implementing action plans to safeguard victims, or for monitoring cases. This lack of accountability fatally undermines the protection of

²⁶ The risk assessment process and MARAC procedures were developed by Coordinated Action Against Domestic Abuse, a national organisation supported by the Home Office. CAADA recently changed its name to Safe Lives.

²⁷ SafeLives (2015), *Insights IDVA National Dataset 2013-14*; SafeLives (2014), *MARAC national dataset 2014* referenced on Safe Lives website: <http://www.safelives.org.uk/policy-evidence/about-domestic-abuse#top> 10.

high-risk victims of domestic abuse. At a Roundtable held by Sisters For Change in April 2018 with criminal justice authorities, senior public protection officers voiced concern that the current non-statutory arrangements for dealing with high-risk domestic abuse cases was inadequate and in urgent need of evaluation and revision.²⁸

32. Further, the current MARAC model does not adopt a victim-centred approach – domestic abuse victims whose cases are referred to MARACs are not entitled to attend or submit a written statement to the MARAC. Likewise, a victim’s representative or advocate is not entitled to attend the meeting. This stands in marked contrast to the approach of the Victims’ Code,²⁹ which amongst other entitlements, gives victims the right to read a Victim Personal Statement in court in criminal cases. The lack of victim-centred approach has resulted in many domestic abuse victims and specialist BME service providers resisting referrals to MARACs.
33. The Government has adopted multi-agency arrangements in two other areas of public protection and safeguarding: public protection arrangements and child safeguarding arrangements. Both have been placed on a statutory footing to ensure effective multi-agency co-ordination and collective legal responsibility across relevant public authorities:

i. Multi-agency public protection arrangements

The multi-agency public protection arrangements (MAPPAs) established for the purpose of protecting the public from serious harm by sexual and violent offenders are set out in legislation through the Criminal Justice Act 2003.³⁰ The 2003 Act provides for the establishment of MAPPAs in each of the 42 criminal justice areas in England and Wales. The Act designates the police, prison and Probation Trust in each area as the ‘Responsible Authority’ with the legal duty to ensure that the risks posed by specified sexual and violent offenders are assessed and managed appropriately. Other agencies have a legal duty to co-operate with the Responsible Authority. The responsible authority for each area is required to keep the arrangements under review, monitor their effectiveness and make any changes that appear necessary.³¹ for responsible authorities on the discharge of their public protection duties recognises that a MAPPA is not a statutory body *in itself*, but a mechanism through which public authorities discharge their statutory responsibilities and protect the public in a co-ordinated manner. Agencies at all times retain their full statutory responsibilities and obligations and must ensure that these are not compromised by MAPPAs.

ii. Multi-agency child safeguarding arrangements

²⁸ SFC Roundtable with criminal justice stakeholders, 25 April 2018.

²⁹ The Code was established by the Domestic Violence, Crime and Victims Act 2004 and came into effect in 2006. The Code was revised in December 2013 to clarify victims’ entitlements and the obligations of criminal justice agencies.

³⁰ Criminal Justice Act 2003, ss. 325-327B.

³¹ The Statutory Guidance for responsible authorities on the discharge of their public protection duties recognises that a MAPPAs is not a statutory body *in itself*, but a mechanism through which public authorities discharge their statutory responsibilities and protect the public in a co-ordinated manner: Ministry of Justice, *MAPPAs Guidance 2012 Version 4.2 [updated November 2017]*, para.1.3

A new system of multi-agency child safeguarding arrangements was introduced under the Children and Social Work Act 2017. This new system was put in place following a review, which concluded that child safeguarding arrangements were inadequate and a new model was required to ensure collective responsibility across public authorities.³² The new system follows in many respects the MAPPA model discussed above. In broad terms, the new legislation replaces Local Safeguarding Boards with new local safeguarding arrangements led by three safeguarding partners (local authorities, police and clinical commissioning groups); establishes a new national Child Safeguarding Review Panel; and transfers the responsibility for child death reviews to new Child Death Review Partners.³³ Statutory guidance on transitional arrangements has been issued for safeguarding partners and relevant agencies.³⁴

Recommendations for the Domestic Abuse Bill

34. In the same manner that public protection arrangements and child safeguarding arrangements have been placed on a statutory footing, the multi-agency arrangements for the protection of high-risk victims of domestic abuse should be set out in law. Local authorities, police and health services designated (and resourced) as the responsible authority with the duty to manage and co-ordinate the protection of high risk victims of domestic violence and oversee effective implementation of protection plans within their local areas. Other relevant agencies under a statutory duty to co-operate with the police in discharging this function.
35. The arrangements for the protection of high-risk victims of domestic abuse should be victim-centred, with victims or their nominated representative given the opportunity to submit an oral or written statement before a protection plan is finalised.

ENSURING SUFFICIENT QUALITY SERVICES FOR DOMESTIC ABUSE VICTIMS

36. Since 2010, England has experienced a profound and fundamental restructuring in who is responsible for the commissioning and provision of public services, including domestic abuse and VAWG support services, and how funding is allocated for these services. The Localism Act 2011 changed the power of local government in England by devolving decision-making to local authorities. It was followed in 2012 by the creation of Police & Crime Commissioners (PCCs),³⁵ community-elected officials responsible for the monitoring the local police force. On 1 October 2014, the Government devolved the commissioning of most victims' services to the 42 PCCs.³⁶ In parallel, from 2009/10 to

³² HMG, *Changes to statutory guidance: Working together to Safeguard Children; and new regulations*. Government consultation launched 25 October 2017, p.4.

³³ Children and Social Work Act 2017, ss.16, 12 and 14 respectively, inserting a new s.16E, s.16A and s.16M in the Children Act 2004.

³⁴ HMG, *Local safeguarding - transition arrangements. Statutory guidance for local authorities, LSCBs, safeguarding partners, child death review partners, and the Child Safeguarding Practice Review Panel*, April 2018.

³⁵ The role of PPC was established under the Police Reform and Social Responsibility Act 2011. The Act also established the Mayor's Office for Policing and Crime in London.

³⁶ There is an elected PCC for each of the 40 police force areas across England & Wales, except Greater

2014/15, Government funding³⁷ for local authorities fell by 28% in real terms, with that reduction reaching 37% by 2015-16³⁸ and set to reach 56% by 2019-20.³⁹

37. The impact of both localism and austerity policies is that local authorities and PCCs have been given significant new powers – and responsibilities – for commissioning and delivery of services (among them, domestic abuse and wider VAWG services), at a time of huge cuts to resources. The crises around adult social care, child sexual exploitation, supported housing and refuges have made national news and initiated a national debate on whether local authorities are fit to deliver their increased responsibilities. The Public Inquiry and investigation into the Grenfell Tower disaster in London has raised even more serious questions regarding public authorities’ compliance with their obligations under the Human Rights Act 1998.

38. The current lack of consistency of service provision and lack of clear accountability of local government works to the detriment of women victims of domestic abuse and stands in direct contrast to the vision articulated in the Government VAWG strategy, which outlines a local operational model “overseen by strong local leadership, with a single person clearly accountable for provision, and underpinned by pooled budgets so that funding can follow women’s needs rather than being artificially constrained by service boundaries.”⁴⁰

Recommendations for the Domestic Abuse Bill

39. Localism has led to a diverse, inconsistent array of domestic abuse and VAWG services and a failure to ensure accountability. The Domestic Abuse Bill should ensure that the UK Government focuses greater efforts on improving and standardising local authority and PCC responses to and commissioning of domestic abuse and VAWG services.

40. The non-legislative package accompanying the Domestic Abuse Bill should include a requirement that the Home Office provides guidance to local authorities on minimum standards of service provision, specifically for protected, vulnerable and minority groups to ensure local authorities can be held more accountable if they discriminate or fail to protect all women victims of violence.

POWERS AND FUNCTIONS OF THE NEW COMMISSIONER

41. To support and oversee the introduction of new legislation or statutory guidance, the UK Government has created in law various independent Commissioners – for example, the Children’s Commissioner for England established under the Children Act 2004; the

Manchester and London, where PCC responsibilities lie with the Mayor.

³⁷ Figures relate to central government funding provided in the form of an annual grant from the Department of Communities and Local Government to local authorities. Other sources of local authority income include Council Tax, Business Rates, income from services and other grants.

³⁸ National Audit Office, *The impact of funding reductions on local authorities*, November 2014

³⁹ David Phillips, *Local government and the nations: a devolution revolution?* Institute For Fiscal Studies, 2016.

⁴⁰ Home Office, *Ending Violence against Women and Girls, Strategy 2016 – 2020* (March 2016), p11

Commissioner for Victims and Witnesses established under the Domestic Violence, Crime and Victims Act 2004 (with the first Victims' Commissioner appointed in 2010); the Anti-Slavery Commissioner created under the Modern Slavery Act 2015. In the context of domestic abuse legislation, Wales set a precedent earlier this year by appointing two part-time National Advisors for Violence against Women, Gender-based Violence, Domestic Abuse and Sexual Violence with the task of advising the Welsh Government on how most effectively to implement the Violence against Women, Domestic Abuse and Sexual Violence (Wales) Act 2015.⁴¹

42. The powers of these Commissioners or Advisors varies considerably – the Victims Commissioner, for example, has a mandate to “encourage good practice” but has no enforcement authority to ensure compliance with the Code of Practice for Victims. In a similar vein, the Anti-Slavery Commissioner has just resigned citing lack of independence as a factor in his departure. A more effective model to consider in the context of the establishment of the Domestic Abuse Commissioner can be found by looking at the powers granted to the Equality and Human Rights Commission (EHRC), a useful comparator given the similarity of mandate in terms of challenging discrimination and protecting human rights. The EHRC’s powers include providing advice and guidance, publishing information and best practice, and undertaking research, but EHRC also has a range of *enforcement powers* that it can use when advice or consultation prove ineffective. Specifically, EHRC can use the courts to clarify the law and challenge policies and practices; conduct inquiries and investigations; order assessments of public bodies and issue compliance orders.⁴²
43. It is important in this context to consider the requirements set out in the Istanbul Convention on establishing a “Co-ordinating Body” to oversee and monitor state policies and measures to combat VAWG given the UK Government’s intention to ratify the Istanbul Convention. Article 10 of the Istanbul Convention requires States to establish one or more official bodies (the Co-ordinating Body) responsible for the (1) co-ordination, (2) implementation, (3) monitoring and (4) evaluation of state policies and measures to prevent and combat all forms of VAWG, including domestic violence. The explanatory report to the Istanbul Convention specifically states that key criteria for a successful body includes “powers to compel disclosure of information and witnesses” and to issue compliance/ enforcement notices.⁴³

Recommendations for the Domestic Abuse Bill

⁴¹ However the roles are limited to providing “independent, balanced input, offering expertise and advice” and the advisors have no office or staff to support them in their role, being supported instead by Welsh Government staff and accommodated in offices provided by Welsh Ministers.

⁴² For further information see EHRC website: <https://www.equalityhumanrights.com/en/our-powers/inquiries-investigations-and-wider-powers>.

⁴³ Article 11 further defines that the Co-ordinating Body must co-ordinate the systematic collection of disaggregated data on all forms of VAWG at regular intervals, and support scientific research on root causes and effects, incidences, conviction rates and the efficiency of measures taken to implement the Convention and Article 9 states that the Co-ordinating Body must establish effective mechanisms to engage and consult with VAWG non-governmental organisations.

Scope of a new Commissioner role

44. The definition and remit of the new Commissioner should include both domestic abuse and VAWG across the United Kingdom. This is critical to situate the role within the Government's National VAWG strategy and ensure more joined-up and integrated strategies and policies to tackle domestic abuse and VAWG across Government Ministries/ departments and the Devolved Administrations. It is also common sense if part of the remit of the Commissioner is to embed government guidance, such as the National Statement of Expectations, and to take responsibility for recommendations resulting from Domestic Homicide Reviews (DHRs). Finally, it is critical to ensure the Commissioner's role serves as a bridge between *all* victims of VAWG and domestic abuse and the Government to make certain "the victim's and survivor's voice is part of the response."⁴⁴

Commissioner's duties and powers

45. The new Commissioner should have the *power to compel* public bodies at both the national and local level to work together and share information, as well as have the *enforcement authority* to investigate issues and complaints on behalf of victims or frontline service organisations. This is especially important in relation to departments and agencies where progress on domestic abuse has been slow, such as health and education; the Family Courts; or where the rights of victims are being curtailed, for example in the cases where immigration enforcement is prioritised over victim support for migrant women victims of violence.

46. A major omission from the Government's Consultation is to recognise the need to ensure that all Government departments screen new legislation and policy for its impact on VAWG/ domestic abuse, including family law legislation relating to child custody arrangements and contact rights; immigration legislation which may have a disproportionate impact on women victims of domestic abuse; changes in welfare legislation and benefits which may exacerbate economic abuse or adversely impact women survivors of domestic abuse with sole custody of children etc. This process should mirror the requirements for impact assessments relating to gender and race equality and would provide a potent signal of the Government's real commitment to embedding a cross-government approach to tackling domestic abuse and VAWG.

Commissioner's relationship with local authorities

47. It is critical that the new Commissioner has a clear mandate to work with local government and local authority bodies to ensure that adequate VAWG/ domestic abuse strategies and plans are developed and implemented to address and meet local needs and demographics (based on adequate evidence and data collection). This is especially

⁴⁴ VAWG service provider speaking at Sisters For Change Roundtable on *Securing an inclusive and effective Domestic Abuse Act*, Westminster, 8 May 2018.

critical in order to improve local authority responses to BME and migrant women victims of violence.

Commissioner's role in ensuring UK compliance with international standards

48. The Commissioner should also be tasked to ensure UK compliance with international standards and mechanisms, including the UN Convention on the Elimination of Discrimination Against Women and the Istanbul Convention, and raise awareness about these standards across government and the public sector and use public authority failures against these standards as a way to push for change and reform.

Funding of the role

49. The Government's Consultation currently proposes an annual budget of £1 million for the Commissioner, plus an office of 15 staff. This is inadequate if the Commissioner's mandate is to work across the key areas outlined above. If the Government does not reconsider additional funding, it risks making the Commissioner little more than a symbolic flag-bearer, rather than a role that can deliver the Government's ambition of "transforming the response" to domestic abuse in Britain.