



The Domestic Abuse Bill

04 February 2021

The Domestic Abuse Bill 2019-2021, sponsored by Priti Patel and Baroness Williams of Trafford, reached the Committee Stage in the House of Lords in early 2021. This vitally important bill has faced delay after delay as a result of two general elections, the prorogation of parliament and now the ongoing coronavirus pandemic. Its scrutiny by the Lords is welcomed.

Prior to the coronavirus pandemic an incidence of domestic abuse was reported every minute in England and Wales. Between March and May 2020 (the first three months of the pandemic) the charity Refuge reported a 66% increase in the number of calls that were made to its helpline. It is a sad fact that a consequence of the coronavirus pandemic has been to force many victims of domestic abuse to spend more time with their abusers and to suffer more abuse and on a more sustained level. Between 23 March and 12 April 2020 there were at least 16 suspected domestic abuse killings – a vast increase on the average of 5 deaths during the same period in recent years.

The Office for National Statistics reports that the police recorded 259,324 offences (excluding fraud) which were highlighted as domestic abuse related in the period from March to June 2020 which reflects an increase of 7% over the same period in 2019. The lockdowns due to coronavirus have brought the plight of individuals suffering from domestic abuse into sharp focus.

The Aims of the Bill

The Bill is focused upon raising awareness and understanding about domestic abuse and the impact it can have on victims and also on their children. It aims to improve the experience of victims within the justice system by protecting them in their endeavours to bring the perpetrators of abuse to justice.

The key provisions

At present there is no statutory definition of domestic abuse. The bill proposes to create such a definition in order to provide clarity that domestic abuse does not just consist of physical violence. Domestic abuse is now widely acknowledged to encompass a much broader range of behaviours including emotional abuse, economic abuse and coercive and controlling behaviour. It is right and proper that a definition is put in place to clarify those behaviours that will constitute such abuse.

The bill provides for the introduction of a new Domestic Abuse Protection Notice and a Domestic Abuse Protection Order. The Notice will provide immediate protection following a domestic abuse incident and the Order will provide longer term protection for victims.

Within the justice system it is often said that abusers are enabled to continue their abuse by being

permitted to cross examine their victim in court. Many victims report this to be a harrowing and distressing experience. The bill proposes measures to prevent that from happening and to improve the experience of victims at court, for example, by providing separate entrances and waiting areas at court and permitting victims to give evidence from behind screens. There will be a statutory presumption that victims of domestic abuse are eligible for special measures in the criminal, civil and family courts.

There will also be a restatement that a person is unable to consent to the infliction of serious harm or their own death. This has been used as a defence by men who have claimed that their victim agreed to engage in sexual acts that ultimately led to their demise, most frequently as a consequence of strangulation.

The bill proposes to require domestic abuse offenders to be subject to polygraph testing as a condition of their licence following their release from custody.

The bill also proposes to put "Clare's law" on a statutory footing. This will enable women to consult the Domestic Violence Disclosure Scheme to find out if their partner has been convicted of abusive or violent offending historically.

Furthermore, the bill proposes that all eligible victims of domestic abuse will be given priority status for homelessness assistance if they become homeless in order to escape their abuser.

Does the bill go far enough?

Domestic abuse campaigners are calling for further changes to be made to the bill. The charity Refuge is seeking for the bill to also make sharing intimate photographs and recordings a crime. Refuge has found that 1 in 7 young women have been threatened in this way.

There is also a concern that the bill does not go far enough to protect migrant women who may fear seeking help from the authorities due to concerns about being deported. There is a suggestion that there should be a firewall to prevent inter-agency sharing of information where domestic abuse is a factor.

Children's charities including the NSPCC and the Children's Society also believe that the bill does not go far enough to support children as it focuses upon accommodation based services (e.g. refuges) but does not focus on community based services, helping those children who will continue to live at home (an estimated 70% of victims will never set foot in a refuge).

When might the bill become law

It is expected that the bill will have completed its passage through parliament by the spring. When it will finally become law is not yet clear.

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