

# “There’s a reason we’re in trouble”

Domestic abuse as a driver to women’s offending



## **About the Prison Reform Trust**

The Prison Reform Trust is an independent UK charity working to create a just, humane and effective prison system. We have a longstanding interest in improving criminal justice outcomes for women and our Transforming Lives programme to reduce the unnecessary imprisonment of women in the UK is supported by the Big Lottery Fund.

## **The Transforming Lives programme: reducing women's imprisonment**

About 13,000 women are sent to prison in the UK every year, twice as many as 20 years ago, many on remand or to serve short sentences for non-violent offences, often for a first offence. Thousands of children are separated from their mothers by imprisonment every year. Yet most of the solutions to women's offending lie in the community. The Prison Reform Trust works with national and local organisations to promote more effective responses to women in contact with the criminal justice system. One of our objectives is to reduce the numbers of women in prison who are affected by domestic abuse. For further information and a range of publications see [www.prisonreformtrust.org.uk/women](http://www.prisonreformtrust.org.uk/women)

## **Methodology**

This briefing is informed by desk-based research and meetings with service providers, local authorities and criminal justice agencies across England and Wales, as well as focus groups with women who have personal experience of domestic abuse and offending. Four focus groups were conducted between March and July 2017 with a total of 22 women, organised by Turning Point Scotland's 218 Service in Glasgow, Llamau in South Wales and User Voice in Birmingham and London. Although this report focuses on England and Wales, we have included insights from the Glasgow focus group where relevant.

## **Credits and acknowledgements**

This work would not have been possible without the support of the Big Lottery Fund. The briefing was prepared by Katy Swaine Williams with Jenny Earle of the Prison Reform Trust, assisted by Zoey Litchfield of the Prison Reform Trust and PRT volunteers Laura Castiglione and Lauren Nickolls.

Paramjit Ahluwalia of Garden Court Chambers and Angela Rafferty QC of Red Lion Chambers, on behalf of the Criminal Bar Association, prepared a supplementary briefing on the need for a new defence of duress that would take account of the complex dynamics and effects of domestic abuse. This is summarised here in Section 6 and can be downloaded in full at the web link above.

We are grateful to the women who have shared with us their personal experiences and insights. We aim to do justice to their courage and generosity by making practical proposals for reform that will improve the criminal justice response to women offenders affected by domestic abuse. Our thanks also go to Advance, Black Country Women's Aid, Respect, AVA and all the practitioners, academics and policy makers who have provided information and support for this work, to all those who attended the summit on 17 October 2017, and especially to Dame Vera Baird QC for chairing it.

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Cover image: *Blizzard on the Beach*, HM Prison & YOI Low Newton (women's establishment). Courtesy of the Koestler Trust.

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*I have been astounded by the number of female offenders who are victims of domestic abuse and how that is a significant trigger to their offending.*

Police inspector involved in a women's diversion scheme

*It can take just ten minutes to sit and get to know someone, not just the crime you see. There's a reason we're in trouble.*

Woman with experience of domestic abuse and offending

*Domestic abuse has a devastating and life-long impact on victims. This is why the government is bringing forward a landmark Domestic Abuse Bill to transform how we respond to this devastating crime and break the cycle of harm. We recognise that a significant proportion of female offenders have experienced domestic abuse and the important role of the justice system in addressing the complex needs of female offenders. To this end the government is developing a strategy to improve outcomes for women in the community and custody. We will set out the strategy later this year.*

Rt Hon Amber Rudd MP, Home Secretary, October 2017

*The impact of domestic abuse is far reaching, with victims often experiencing further issues such as mental illness, addiction and homelessness. This government is committed to tackling domestic abuse and supporting all survivors, including female offenders, to ensure they can rebuild their lives.*

*There needs to be a root and branch review of how women are treated in the criminal justice system when they themselves are victims of abuse...there is huge ambition across government.*

Sarah Newton MP, Minister for Crime, Safeguarding and Vulnerability, October 2017

## **Women's experiences: how domestic abuse can lead to women's offending.<sup>i</sup>**

### **Mary's story**

Mary, aged 25, lives with her family in London. She suffers with post-traumatic stress disorder, depression and anxiety as a result of being in an abusive relationship for around two and a half years. Her ex-partner has been convicted of offences against her and there is now an indefinite restraining order in place. Mary smokes cannabis as a form of escapism and suffers with insomnia – she feels it helps her to relax and to sleep. She was studying Law at university but was forced to drop out by her ex-partner, and is now unemployed but not in receipt of benefits.

Mary was convicted of driving whilst disqualified and possession of class B cannabis and received a community order with unpaid work and 20 days rehabilitation activity requirement. This offence occurred as a result of threats made by her ex-partner against her family and her friends if she did not use her mother's car to drive him around, despite her being disqualified. Due to fear of what he might do, she agreed to do this. They were then stopped by the police who conducted a search and found cannabis in the car. This belonged to Mary's ex-partner, but she took the blame.

### **Sophie's story**

Sophie, aged 40, received a six month community order with 10 days rehabilitation activity requirement for common assault, her first criminal conviction.

Sophie had been married for over 13 years and separated from her husband 18 months before the offence. She disclosed both verbal and physical abuse for the duration of her relationship with her husband, and said that the police were often called out to their address by neighbours. Sophie and her husband have two children together, an 11 year old daughter and a ten year old son, and the children were the main reason Sophie did not want to end the relationship. Sophie's offence was against her ex-husband's new partner, whom she assaulted when she saw her and her ex-husband dancing together in a pub.

Sophie said her actions on that evening were the result of anger and frustration built up during her relationship with her abusive ex-husband. She has been diagnosed with anxiety and depression and is receiving counselling.

### **Julia's story**

Advance received a repeat referral for Julia from the local MARAC (Multi Agency Risk Assessment Conference). Julia disclosed that she had been subjected to abuse from her ex-partner for ten years and current partner for the last few years. Julia felt trapped in her home as her partner was always around listening out and waiting for her. He had attempted to strangle her, broken her jaw and her nose and threatened to kill her mother and sister if she went to the police. He had also threatened to get two men round to harm her. He used crack and heroin and was a prolific offender. He had stolen her money and cut himself previously.

Julia had a long history of alcohol abuse and misuse of prescribed medications such as Temazepam and Zopiclone. She and her partner used to drink alcohol together and use other substances such as cocaine and cannabis. Julia paid for all the drugs and alcohol they used together and at times had to steal money from people to do this.

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<sup>i</sup> All stories published by kind permission of Advance, a charity providing domestic abuse services, and services to women offenders, across London. The names of all the women have been changed.

During a violent assault by her partner, Julia stabbed him several times in self defence. She was arrested and charged with attempted murder which was later reduced to grievous bodily harm. Julia received a prison sentence and was on licence and under probation for a couple of years following release.

### **Belinda's story**

Belinda, aged 31, lives in a self-contained hostel after fleeing domestic violence – a relationship that she was in for five years which she describes as the “worst five years of her life.” She was subject to physical, emotional and financial abuse. She has scarring on her face and her body as a result of her ex-partner scalding her with boiling hot water and a scar underneath her eye where he slashed her with a broken glass bottle. She has a diagnosis of ADHD, OCD and depression and suffers with insomnia. Belinda grew up in care with two of her sisters, with whom she has a good relationship, and has rebuilt her relationship with her mother.

Belinda was convicted of assault and received a community order with unpaid work and 30 rehabilitation activity requirement days. This offence involved Belinda's most recent partner, from whom she had experienced physical and emotional abuse. On the night of the offence, the two were at a party and he had consumed excessive alcohol. He attempted to force himself onto Belinda. She punched him in the face, ended the relationship and left the party. He reported the assault to the police with a number of his friends making statements and Belinda was arrested.

### **Summit on domestic abuse as a driver to women's offending Tuesday 17 October 2017 at Big Lottery Fund, London**

The Prison Reform Trust held a high-level summit in London on 17 October 2017, in consultation with Against Violence and Abuse (AVA) and with support from the Big Lottery Fund as part of PRT's Transforming Lives programme to reduce women's imprisonment. The summit was chaired by Dame Vera Baird QC, former Solicitor General and now Police and Crime Commissioner for Northumbria. As she said:

*Domestic abuse can leave long-term and widespread effects on some women who may have endured years of being repeatedly assaulted, threatened, ridiculed, starved of money and isolated from their friends – all done by someone they thought loved them....Putting them in prison seems like a double failure since we didn't tackle the abuse and blame them for its consequences. It is time for a radical rethink.*

Donna Covey CBE, Director of AVA, agreed:

*For far too many survivors of domestic abuse their journey ends in a prison cell rather than a refuge bedroom. We need a new approach that recognises the link between experiencing gender based violence and women's offending.*

As well as hearing from women whose offending had been driven or exacerbated by their experience of domestic abuse, the summit heard from Ministers, academic experts and senior representatives of the police, prosecutors, and members of the judiciary about how to ensure proper account is taken of women's histories of victimisation in decisions to arrest, prosecute, convict and sentence women.

# 1: Introduction and summary of findings and recommendations

Many women in prison have been victims of much more serious offences than the ones they are accused of, with a growing body of research indicating that women's exposure to physical, emotional and sexual abuse, including coercive control, is for some a driver of their offending. A key difference between women and men in prison is that family relationships tend to be a protective factor for men whilst, for women, relationships are more often a risk factor. Baroness Corston's study of women in the criminal justice system a decade ago found that coercion by male partners and relatives is a distinct route into criminality and prison for some women.<sup>1</sup>

The purpose of this briefing is to highlight the links between women's victimisation and their offending and make recommendations that will help break the cycle. Our intention is neither to pathologise nor to exculpate women offenders affected by domestic abuse, but to understand the factors underlying their offending and ensure that these are fully and fairly taken into account in decision-making by criminal justice agencies.

*Unless a court case is in the few areas across the country where we have specialist domestic abuse courts then court staff, CPS, probation, magistrates, judges, etc all will have minimal domestic abuse training.*

Advance domestic abuse charity, London

The co-existence of victimisation and offending is now better recognised, but the links between them are still not well understood by all agencies. There has been some progress both in tackling violence and abuse against women and girls, and in the treatment of victims in the criminal justice system. Improvements in the police response and in aspects of the court process should lead to benefits for women offenders affected by domestic abuse, but challenges remain. The latest figures from the Crown Prosecution Service show a reduction in prosecutions for domestic abuse, and funding cuts to specialist domestic abuse services including refuges leave vulnerable women without support.

The links between domestic abuse and offending by women require more attention in:

- UK and Welsh Government strategies on tackling violence against women and girls, on women offenders, and on victims
- Sentencing guidance
- Frameworks of standards, guidance and training for all criminal justice professionals – police, prosecutors, offender managers, criminal defence lawyers and the judiciary
- Commissioning of specialist, gender-specific support and rehabilitation programmes in prison and the community
- Police responses to women offenders who may be affected by domestic abuse, including through problem solving triage and diversion schemes.

## Summary of our findings

1. There are strong links between women's experience of domestic and sexual abuse and coercive relationships, and their offending. Women can become trapped in a vicious cycle of victimisation and criminal activity.
2. Some women affected by domestic abuse may be coerced into offending in distinct ways, including trafficked women, foreign nationals and those from minority ethnic and religious groups, as well as women with learning disabilities and difficulties.
3. The response of criminal justice agencies to women offenders affected by domestic abuse is key to breaking the cycle of victimisation and offending. Criminalisation and particularly imprisonment compound the problems of women affected by abuse. More specific guidance and training is required for all those involved in criminal justice delivery and administration.
4. Although government strategies to tackle violence against women and girls recognise the vulnerability of many women offenders, there are few specific measures in place to identify and support women whose offending is linked to abusive and coercive relationships.
5. Evidence suggests that where criminal justice agencies work with specialist women's support services to build their knowledge and skills and share information, their responses to women offenders improve.
6. Early intervention and joined-up working are key: problem solving, whole systems approaches in some parts of the country are diverting vulnerable women from the criminal justice system, reducing reoffending and improving outcomes.
7. College of Policing guidance on domestic abuse is helpful, but there is a need for more information and training for police on responding to women offenders affected by domestic abuse. The co-location of domestic abuse specialists in police stations and diversion schemes are welcome initiatives where they exist.
8. Police and Crime Commissioners have a pivotal role in ensuring the police respond appropriately to women offenders affected by domestic abuse, including through the use of out of court disposals.
9. The Crown Prosecution Service guidance on the dynamics of domestic abuse does not specify how decisions to prosecute should be influenced by evidence that an alleged offender's behaviour may have been impacted by abuse.
10. Current legal defences do not include the broader spectrum of sustained psychological, physical and financial abuse that lies behind some women's offending, including where women use reactive violence.
11. Sentencing Council guidelines recognise coercion as a mitigating factor for some offences, but judicial decisions are not always informed about abuse as a driver to women's offending. Pre-sentence reports and adequate legal representation, as well as judicial training and information are important for ensuring due consideration.
12. More community sentencing options are needed for women affected by domestic abuse. The women's problem solving court in Manchester is a good practice model and the SMART Sentencing App being developed by HMPPS will be helpful.

13. There is limited support for women in prison affected by domestic abuse, particularly those serving short sentences.
14. Funding cuts to women's services, including refuges, are a barrier to progress. The patchy availability of support on release from prison, including suitable housing, health and social care services and welfare benefits, leaves women even more vulnerable to abuse and offending.
15. There is inadequate provision of accredited rehabilitation programmes in men's prisons and in the community aimed at changing the behaviour of male perpetrators of domestic abuse and preventing further abuse.

## **Summary of our recommendations**

1. The Home Office and Ministry of Justice should work closely together, in consultation with the Welsh Government, to ensure the women offenders strategy and victims strategy address the links between domestic abuse and women's offending. Clear expectations must be placed on criminal justice agencies to improve their response to women offenders affected by domestic abuse.
2. The police, prosecutors, probation services and the courts should adopt the practice of routine enquiry into women's histories of domestic abuse at each stage of the criminal justice process to ensure informed decision making.
3. The UK Government should invest in problem solving, whole systems approaches to support early diversion and effective community solutions for women offenders affected by domestic and sexual abuse, including out of court disposals.
4. Police guidance and training must include a specific focus on the links between domestic abuse and some women's offending. Police forces should work with the CPS and local domestic abuse specialist services, and where possible enable co-location of domestic abuse specialists in police stations.
5. Police triage and diversion schemes for women involved in low level offending should not automatically exclude women accused of domestic abuse offences.
6. As part of their commitment to tackle violence against women and girls, Police and Crime Commissioners should ensure they place clear expectations on the police to improve their response to women offenders affected by domestic abuse, including through out of court disposals, and should monitor performance.
7. The Crown Prosecution Service should work with specialist domestic abuse agencies to develop guidance, training and monitoring to ensure that women whose alleged offending may be driven by domestic abuse are identified. The public interest may be better served by their diversion into support services.
8. The Domestic Violence and Abuse Bill should include provision for an effective defence for women whose offences arise from coercion within an abusive relationship, and where women use reactive violence against a primary aggressor.
9. The Sentencing Council should consider how best to ensure sentencers take account of the particular vulnerabilities of women affected by domestic abuse and the impact of imprisonment on them and their families.

10. The Judicial College should review the availability and effectiveness of information and training for the judiciary in this area, including judicial directions regarding the treatment of women defendants affected by domestic abuse.
11. The National Probation Service and Community Rehabilitation Companies should adopt a practice of routine enquiry about histories of domestic abuse, supported by training about barriers to disclosure and other relevant factors. Pre-sentence reports should always include information about whether or not a woman's offending is linked directly or indirectly to domestic abuse.
12. HM Prisons and Probation Service and Ministry of Justice should work with women's prison governors, probation services and community agencies to ensure that there are programmes of information and support funded for women offenders affected by domestic abuse, including victim support services, both in prison and on release.
13. The Ministry of Justice should work with the Department for Communities and Local Government, local authorities and the voluntary sector to ensure that women leaving prison are provided with safe accommodation with appropriate support, including specialist refuge accommodation where this is needed.
14. HM Prisons and Probation Service must ensure that safe and effective, accredited programmes aimed at changing the behaviour of male perpetrators of domestic abuse and preventing further abuse are available in all suitable cases, in prison and in the community, and monitor take-up and outcomes.

## 2: Domestic abuse as a driver to women's offending

### 2.1: Key facts

#### Prevalence of domestic abuse in England and Wales

- An estimated 1.8 million adults aged 16 to 59 experienced domestic abuse in the year ending March 2016, most of them (82%) women, and men comprise the vast majority of defendants (92%) in domestic abuse-related prosecutions. In 2014/15, 81 women were killed by a current or former partner.<sup>2</sup>
- In the year ending September 2016, 11 per cent of all offences (447,950) were flagged as domestic abuse related, with violence against the person offences and sexual offences the most likely to be flagged.<sup>3</sup>

#### Lack of funding for specialist women's services

- Recent research by the Bureau of Investigative Journalism suggests that there have been cuts of 24% in local authority spending in England on domestic abuse refuges since 2010.<sup>4</sup> Freedom of Information requests by the Bureau to local authorities across England revealed that over three quarters of councils have reduced the amount they spend on women's refuges since 2010.<sup>5</sup>
- Women from minority ethnic groups report being more likely to seek support from services led by and for women from those groups.<sup>6</sup> Yet there are few organisations either working exclusively with or running programmes for Black, Asian or minority ethnic women offenders and Government budget cuts have reduced their availability.<sup>7</sup>

#### Women offenders who have experienced abuse and coercion<sup>8</sup>

- More than half of women in prison in England (53%) report having experienced emotional, physical or sexual abuse as a child compared to 27% of men, according to a Ministry of Justice survey.<sup>9</sup>
- 57% of women in prison report having been victims of domestic violence as adults.<sup>10</sup> This is likely to be an underestimate.<sup>11</sup> The charity Women in Prison report that 79% of the women who use their services have experienced domestic violence and/or sexual abuse.<sup>12</sup>
- Of the women assessed using OASys<sup>ii</sup>, 67% of those in custody or managed in the community by the NPS, and 61% of those managed in the community by the CRCs, indicated that they had been victims of domestic violence. Over a third of these women were considered to have a problem with their current partner.<sup>13</sup>
- Of young women offenders in custody, 40% have suffered violence at home and 30% have experienced sexual abuse at home.<sup>14</sup>
- Inspectorate reports on women's prisons confirm high levels of prior victimisation in their surveys of the women resident at the time of the inspection. For example, 58% of the women surveyed in HMP Bronzefield, the largest women's prison in the UK since the closure of HMP Holloway, said they had experienced domestic abuse, and 34% said they were experiencing it at the time they were sent to prison.<sup>15</sup>

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ii The Offender Assessment System used by prisons and probation services to assess the risks and needs of offenders.

- Nearly half of women prisoners (48%) report having committed offences to support someone else's drug use, compared to 22% of male prisoners.<sup>16</sup>
- Nearly a third (31%) of women in prison spent time in care as children compared to 24% of men.<sup>17</sup> The majority of children in care are there due to abuse or neglect<sup>18</sup> and girls in care are ten times more likely to receive a caution or conviction than girls in the general population.<sup>19</sup>
- Women can become trapped in a vicious cycle of victimisation and criminal activity. Their situation is often worsened by poverty, substance dependency or poor mental health.<sup>20</sup> Leaving an abusive relationship can be risky – the period when a woman is planning or making her exit is often the most dangerous for her and her children.<sup>21</sup>

## Women's experience of imprisonment

### Mental health need and problematic substance use

- Many women told us that they turned to drugs and alcohol as a way of coping with abuse. Women (49%) are much more likely than men (29%) to report needing help with a drug problem on entry to prison.<sup>22</sup> Women prisoners are also more likely to associate alcohol and drug use with their offending.<sup>23</sup>
- Women's histories of abuse and trauma, mental illness and mothers' guilt, grief and distress at separation from their children increase their suffering. Women in prison are liable to experience intense shame, social exclusion and stigma.<sup>24</sup>
- Women are nearly twice as likely as men in prison to suffer from depression (65% compared to 37%) and more than three times as likely as women in the general population (19%).<sup>25</sup>
- Many women told us about the low self esteem that results from domestic abuse:

*Right in the gutter sort of thing...homeless in the streets, totally, really bad...They just take away everything from you and you don't think you're worth anything...*

### Imprisonment of mothers

- Many women told us they were reluctant to disclose domestic abuse for fear of losing their children to the care system.
- There is a lack of data collection about the primary care responsibilities of women in the criminal justice system, however the Prisoner Crime Reduction Survey found that six in ten women in prison had dependent children.<sup>26</sup>
- Women's imprisonment results in an estimated 17,240 children being separated from their mothers each year.<sup>27</sup> Fewer than one in ten children are cared for by their father when a mother goes to prison and only 5% remain in their own home.<sup>28</sup>

## Self-harm and self-inflicted deaths

*The psychological legacy of victimization ... presents significant management problems within penal institutions. Foremost amongst these is self-harm.*<sup>29</sup>

- According to the Ministry of Justice, women account for 19% of self-harm incidents despite comprising just 5% of the prison population.<sup>30</sup> However one recent study found that women in prison accounted for half of all self-harm incidents.<sup>31</sup>
- In 2016 and 2017, 30 women died in prisons in England. Of these, over half were self-inflicted deaths. The 12 self-inflicted deaths in 2016 were the largest number occurring in a year since 2004.<sup>32</sup>

### 2.2: The links between domestic abuse and women's offending

Most women affected by domestic abuse do not commit offences, but the evidence suggests that for a majority of women in prison, the experience of domestic abuse has been a significant contributory factor. In some cases there is a direct causal link, where women offend under duress from a partner under threat of harm if they do not comply. For other women, there may not be an obvious causal link between the abuse and their offending, but as one researcher argues:

*...while the current policy dilemma seems narrowly to demand a causal relationship between women's victimization and their offending, there are broader justifications for penal policies that recognize prior abuse as a significant and worthy focus of intervention.*<sup>33</sup>

This is because histories of victimisation and criminal involvement “suggest a complex adaptation to traumatic experiences, in which multiple behavioural problems, including antisocial activity, may be intertwined and may perhaps mutually reinforce or exacerbate each other”.

In some cases, the experience of abuse over time may lead women to react with violence against their abuser. Professor Marianne Hester refers to women using ‘violent resistance’ against violent male partners and notes that “women’s use of violence has been found in a number of studies to be defensive or retaliatory rather than initiating”.<sup>34</sup>

Another researcher found that male perpetrators of domestic abuse may use the criminal justice system as an additional means of exerting power, resulting in the victim/survivor’s involvement in crime.<sup>35</sup> This qualitative study found that for some women, retaliation against abusers was part of an attempt to survive their victimisation.

Some women affected by domestic abuse may be coerced into offending in distinct ways, including trafficked women, foreign nationals and those from minority ethnic and religious groups, as well as women with learning disabilities and difficulties.<sup>36</sup>

## Muslim women offenders

One researcher noted in a study of the experiences of Muslim women in prison:<sup>37</sup>

*There were strong elements of coercion and/or manipulation behind the criminality of Muslim women, where some had been groomed into committing crimes. Examples of this were covering for the crimes of male family members or being charged with wider family crimes. Emotional blackmail was key and there was a strong sense that a Muslim woman must 'self-sacrifice' and think of the greater good by 'doing the right thing'.*

*What was more worrying was that many women disclosed suffering blackmail, violence and sexual abuse for long periods of time leading up to their crime. What silences their disclosure about this is fear of worsening the situation that they are already in, fear of rejection, further violence or potential to be ostracised or incur a far worse fate.*

### 2.3: Women speaking for themselves

We discussed with women in focus groups their experience of committing offences on behalf of or to protect a partner, to support a partner's drug use, under pressure from a partner or otherwise in connection with coercive and controlling relationships. Several women said that they had committed many offences in order to support a partner's drug use, including by shoplifting, by selling drugs and other offences which they did not feel comfortable to discuss:

*I had been smoking heroin before I met him. He injected me for the first time as he said he wanted me to be safe. From then I'd just be out of it – he'd go out and steal and then come back and inject me and I'd just be lying there. I was only 18 myself and was with him for seven or eight years. I was completely reliant on him, completely emotionally dependent. He wanted me to watch over and sell the stolen goods. It was the only way to get the money for the heroin. I ended up going to prison for him for theft.*

*They can be quite manipulating, I used to think men looked after me. But I used to go and sell my f\*\*y to look after them.*

*I believe my crime is linked by all the domestic abuse I've been through; I'm violent towards men. That's not looked at like that. It's just looked at as a violent offence.*

Women may take the rap to protect their partner from prosecution:

*...the police were coming and he passed me his knife to put in my pocket because he says to me that the police don't search lasses. I was younger at the time and I put it in my pocket and I got jail for that as well, aye.*

*[My partner] was selling heroin from my house...I got remanded for that, even though I did get high court bail because my lawyer did put forward that he had his own house so obviously he was just using me...and then I lost my house and things and my son went into care so the ripple effect from that was massive.*

Some women felt forced into offending by their partner for fear of physical repercussions:

*He'd make me do things just so that I could get drugs and then it was me running around pregnant trying to get money.*

Women disclosed that while they were involved in abusive relationships they were also involved with problematic drug and alcohol use, to cope with their partner's abuse. For many this became a long term problem which did not end when they escaped the abuse:

*I drink. I used to drink more when I was with him, to cope I think but now I reckon I just drink because I feel so crap.*

Substance use can be a coping mechanism:

*You take the drugs to numb it.*

*I found I couldn't express myself without a drink... He would start criticising me and it was the only time I could actually express myself... you only have the guts to do it because you've had a drink.*

Substance dependency makes some women more susceptible to both abuse and offending:

*I've offended to support a partner's drug use for about six years...Shoplifting, various other things I don't really want to go into.*

Women described the impact of coercive, controlling behaviour by abusive partners:

*I used to get timed going to the shop.*

Women said they felt trapped in these unhealthy relationships. Many women commented that psychological abuse was in some ways worse than physical abuse:

*Sometimes verbal's worse because you've no proof, you know... if someone's constantly, constantly putting you down, you don't know how they're gonna react...you're constantly walking on egg shells, you don't realise how ill you actually get, you know mentally ... You start believing it, because it's just constant.*

They spoke of barriers to supporting the prosecution of their abuser and to leaving the relationship:

*You're too scared to charge him because you know you'll get a worse time when he gets out.*

*Sometimes if it's their house, you feel you've got to stay because you've got nowhere else to go. So you put up with it. You're ashamed to tell your family.*

*You stay together for the sake of the kids, even if you know what they're doing is wrong. And you think well, will the social workers get involved if I charge him and that puts you off a lot of the time.*

### **Black Country Women's Aid – Mariposa Project and New Chance<sup>38</sup>**

Black Country Women's Aid (BCWA), formerly known as Sandwell Women's Aid, is a leading regional charity which supports victims of abuse and violence across the West Midlands. Their specialist Women's Justice Service works directly with women involved with the criminal justice system through projects such as Mariposa, ASSIST and New Chance, with partners like West Midlands Police, Staffordshire and West Midlands Community Rehabilitation Company and Birmingham and Solihull Mental Health Trust.

## 2.4: Economic disadvantage and financial control

Women's economic disadvantage may be severely exacerbated by domestic abuse. As one woman told us:

*We had separate benefit claims but he'd come to the bank with me on my pay day and take the money. If I wanted anything I had to ask then prove what I'd spent it on. I couldn't have anything.*

A 2009 Cabinet Office study of women offenders found that 28% of women's crimes were financially motivated compared to 20% of men's.<sup>39</sup> HM Prisons and Probation Service (HMPPS, formerly NOMS) has in principle recognised that 'long-term poverty, debts and loans with high interest are the reality for many women offenders'<sup>40</sup> but offender management in practice may fail to address the link between these financial pressures and abusive relationships.

### Findings

1. There are strong links between women's experience of domestic and sexual abuse and coercive relationships, and their offending. Women can become trapped in a vicious cycle of victimisation and criminal activity.
2. Some women affected by domestic abuse may be coerced into offending in distinct ways, including trafficked women, foreign nationals and those from minority ethnic and religious groups, as well as women with learning disabilities and difficulties.

### 3: The responsibilities of Government

The vulnerability of women to domestic abuse and the impact this can have on their offending have been recognised by international law as well as domestic policy.

#### 3.1: International law

The UK Government is required under international law to:<sup>41</sup>

- Address structural causes of violence against women, including those in prison, and provide training and capacity-building on gender equality and women's rights for law enforcement personnel and the judiciary.
- Meet standards for the treatment of women offenders affected by violence and abuse, including screening of women on entry to prison for abuse before admission.<sup>42</sup>
- Ensure that where a woman discloses abuse, prison authorities "endeavour to ensure that she has immediate access to specialised psychological support or counselling."<sup>43</sup>
- Ensure abuse is taken into account in sentence plans which should "include rehabilitative programmes and services that match their gender-specific needs..."<sup>44</sup>
- Ensure resources are available for suitable community alternatives to custody for women offenders "with interventions to address the most common problems leading to women's contact with the criminal justice system' which may include 'therapeutic courses and counselling for victims of domestic violence and sexual abuse..."<sup>45</sup>

The UN Special Rapporteur on Violence Against Women (2014) has called on the UK Government to "develop gender specific sentencing alternatives", noting: "Most women in prison do not present a threat to society and the consequences of their incarceration includes enormous personal, economic and social costs."<sup>46</sup>

She recommended that the UK Government should "ensure that women's histories of victimization and abuse are taken into consideration when making decisions about incarceration, especially for non-violent crimes."<sup>47</sup>

#### 3.2: Law and policy in England and Wales

##### England and Wales

The Prime Minister has lent her personal support to the UK Government's Home Office-led strategy to end violence against women and girls (VAWG). This explicitly recognises the vulnerability of many women offenders and the need to improve the response by criminal justice agencies and others to their needs, in order to help break the cycle of offending.<sup>48</sup>

To this end, a high level UK Government task force has overseen work by HM Inspectorate of Constabulary (HMIC), police forces, the Crown Prosecution Service and HMPPS to improve the response to victims of domestic abuse.

Recent legal measures in England and Wales include civil orders and a new criminal offence of 'coercive and controlling behaviour', introduced in December 2015. This is defined as psychological and emotional abuse that falls short of physical violence, and recognises the

profound impact of abusive relationships. The CPS reports that 309 offences have so far been charged and reached a first hearing, while noting that most of victims of controlling or coercive behaviour only reported when a violent act had occurred.<sup>49</sup>

HMIC has led detailed scrutiny of the police response to domestic abuse and has reported improvements, with greater awareness amongst police officers of the importance of collecting evidence at the scene (for example, using body-worn cameras) so that prosecutions can continue even if the victim does not support further action.<sup>50</sup> However, research suggests that many women experience repeated abuse before reporting to the police, and the response can still be inadequate. The CPS has revised its guidance in order to improve the rates of prosecutions and convictions.

In 2014/15, total prosecutions for VAWG reached the highest levels ever recorded<sup>51</sup>, although they have since dropped off.<sup>52</sup> The UK Government has announced plans for a major new programme of work, which will lead towards a Domestic Violence and Abuse Act,<sup>53</sup> to be introduced as a Bill in Spring 2018 following a formal consultation beginning in Autumn 2017.

## **Wales**

The Welsh Government can use some devolved functions to shape their approach to female offending. The Violence against Women, Domestic Abuse and Sexual Violence (Wales) Act 2015<sup>54</sup> and an accompanying strategy<sup>55</sup> aim to improve the public sector response in Wales. This includes a needs-based approach and the appointment of a Ministerial Adviser. A national training framework has been introduced and joint working is being encouraged.<sup>56</sup>

The Welsh VAWG strategy recognises the links between victimisation and offending and states that the Welsh Government is “working with local areas and National Offender Management Scheme (NOMS) in Wales to ensure a more effective joined-up approach to addressing these women’s complex needs.”<sup>57</sup>

### **3.3: The role of gender specific services for women offenders**

A strong, sustainable network of women’s services is key to improving outcomes for women offenders who are affected by domestic abuse. These services enable women to tackle the multiple and complex factors contributing to their offending, while maintaining care of their children. They can ensure effective local co-ordination of probation, health, social care and other interventions. Their value was endorsed for example in a Criminal Justice Joint Inspection Thematic Report.<sup>58</sup>

An explicit commitment to providing gender-specific services in every community is long overdue.<sup>59</sup> Delivering this would involve bringing together all partners (statutory, private sector and voluntary), straddling the divide between centrally and locally commissioned services to meet local need, and providing adequate funding.

Recent research has found that community service provision for women in England and Wales facing homelessness, substance misuse, poor mental health, offending, and complex needs generally is ‘extremely patchy’, with some areas having a range of services available while others have no provision at all.<sup>60</sup>

There have been large scale cuts in local authority spending in England on domestic abuse refuges since 2010.<sup>61</sup> Although the UK Government’s strategy to tackle VAWG recognises the scale of the problem, the Women’s Budget Group argues that it ‘is not backed with sufficient funding for either victims’ services or preventive interventions to reduce the incidence of VAWG in the longer term’.<sup>62</sup> The government initially committed £80m to supporting the VAWG strategy, with an additional £20m

announced for domestic violence services in the 2017 Spring Budget – a total of £100m over five years. However the cost of VAWG to UK society is estimated at £40bn annually.<sup>63</sup>

Women's Aid was commissioned by the Department of Communities and Local Government (DCLG) to deliver the No Woman Turned Away (NWTa) project in 2016-17, providing additional support to women facing difficulties accessing a refuge space. A team of specialist caseworkers supported women seeking refuge, and the project evaluation found that:<sup>64</sup>

*Out of the 404 women supported by the NWTa caseworkers, a quarter were accommodated in a suitable refuge space. The support of the NWTa caseworkers was critical in getting these 103 women into a safe refuge space. A further 20% stayed with friends and family, 8% stayed put as they did not live with the perpetrator, and 7% were in emergency accommodation. Whilst this meant that these women had accommodation, they did not have access to the support and safety offered by a refuge. 7% of survivors gave up their search for a refuge space and stayed put with the perpetrator.*

Women offenders may be ruled ineligible for women's refuges.<sup>65</sup> A 2014 report by Solace Women's Aid and the AVA Stella project found that women with multiple needs and in need of emergency safe accommodation had limited access to women's refuges.<sup>66</sup> This is especially true for women with drug and alcohol problems, and those using methadone can be specifically excluded. Women with mental health problems may be subject to a requirement that they are already in receipt of a diagnosis and support before they can access a refuge place.

### **Barriers for women with multiple complex needs (MCN) accessing refuges**

One women's centre told us that women with multiple complex needs (MCN) are often disadvantaged, due to misconceptions that this means chaotic drug/alcohol use and violent offending. Referrals from organisations working with clients with MCN are routinely treated with suspicion. Homeless victims of domestic abuse are often wrongly assumed to be seeking accommodation rather than fleeing domestic violence. Women who have already managed to flee their situation and obtained temporary accommodation or are sofa surfing, may not be considered to be fleeing from domestic abuse for the purposes of referral. Refuges are not staffed adequately or set up to manage extremely complex women, so the only refuges accepting MCN women with high needs may be a long way away. This may be inappropriate where women are linked in with local services and where their children are being looked after in the local area. All these factors raise the risk that women will become homeless or return to the perpetrator.

Lack of funding has affected the capacity of women's refuges to accommodate women who need higher levels of support. The report by Solace Women's Aid and AVA notes that Joint Strategic Needs Assessments for domestic violence service provision should always include consideration of problematic substance use and mental health. Good practice features in the report, but it also highlights the lack of monitoring and information about what happens to women who are refused access to a refuge, including women from minority ethnic and religious groups, and foreign national women.<sup>67</sup> Women with learning disabilities and difficulties remain a neglected group.<sup>68</sup>

### **3.4: The need for early intervention**

Recognition of the victimisation of many women offenders should inform the policies and practices adopted in relation to both women offenders and victims. The cross-government victims strategy, due for launch in early 2018, is an opportunity to embed improvements.

There is a clear need to intervene before matters get to court, so that wherever possible the underlying problems which may have contributed to a woman's offending can be solved within the community. A number of successful initiatives are profiled in *Fair Cop?* a recent PRT briefing.<sup>69</sup>

The Domestic Violence and Abuse Bill and the Ministry of Justice women offenders strategy are opportunities to provide for increased use of out of court disposals, community orders and specialist services for women offenders affected by domestic abuse. All these interventions have been shown to achieve better outcomes than short prison sentences, and require a degree of investment and coordination from central Government in order to be made widely available and sustainable.

Areas in which women told us they would have benefited from early support included parenting, housing, mental health and problematic substance use. These are often linked with domestic abuse and with each other, and this must be acknowledged in the provision of services.

## Findings

3. The response of criminal justice agencies to women offenders affected by domestic abuse is key to breaking the cycle of victimisation and offending. Criminalisation and particularly imprisonment compound the problems of women affected by abuse. More specific guidance and training is required for all those involved in criminal justice delivery and administration.
4. Although government strategies to tackle violence against women and girls recognise the vulnerability of many women offenders, there are few specific measures in place to identify and support women whose offending is linked to abusive and coercive relationships.
5. Evidence suggests that where criminal justice agencies work with specialist women's support services to build their knowledge and skills and share information, their responses to women offenders improve.
6. Early intervention and joined-up working are key: problem solving, whole systems approaches in some parts of the country are diverting vulnerable women from the criminal justice system, reducing reoffending and improving outcomes.

## Recommendations

1. The Home Office and Ministry of Justice should work closely together, in consultation with the Welsh Government, to ensure the women offenders strategy and victims strategy address the links between domestic abuse and women's offending. Clear expectations must be placed on criminal justice agencies to improve their response to women offenders affected by domestic abuse.
2. The police, prosecutors, probation services and the courts should adopt the practice of routine enquiry into women's histories of domestic abuse at each stage of the criminal justice process to ensure informed decision making.
3. The UK Government should invest in problem solving, whole systems approaches to support early diversion and effective community solutions for women offenders affected by domestic and sexual abuse, including out of court disposals.

## 4: The role of the police

Police were rarely felt to be sympathetic or helpful to the women we spoke to, who felt they did not demonstrate an understanding of the dynamics of abusive relationships. Research confirms that women often encounter a culture of disbelief in the criminal justice system about the violence and exploitation to which they may have been exposed.<sup>70</sup> Women told us they did not have confidence in the police to identify the primary aggressor and provide protection. A number of women reported that they had been repeatedly arrested in incidents of domestic violence where they had not been the primary aggressor. In many cases women were unwilling to support criminal proceedings against their abuser, for reasons including:

- Fear of retaliation from their abusive partner
- A desire to keep the family together for the sake of the children
- Dependency on their partner for money or a home
- Worries that social services might become involved and they might lose their children
- A belief that the violence and abuse was their own fault.

Women told us about the impact of their treatment by the police, both good and bad:

*The police gave me info on refuge once but I was too scared to go. I didn't know if I could do it. And I needed him for the drugs; I didn't think I'd get help.*

*The police will only arrest if it's physical, they don't get that the control is worse so what proof do you have?*

*They used to just arrest us both so I knew they wouldn't help. Going to prison is what kept me safe.*

*They kept us in the same room and asked me in front of him if I wanted to press charges. I couldn't say yes then. They shouldn't have done it like that.*

*Gwent Police was really good. They looked after me. They said it wasn't right what he was doing to me and that made a difference.*

### 4.1: Improving the police understanding of the dynamics of domestic abuse

Improved police responses to violence against women and girls are key to reducing the risks of women's offending. HMIC's examination of the police response to domestic abuse initially reported widespread failings<sup>71</sup>, with some improvements identified a year later.<sup>72</sup>

If victims receive the protection they need this in turn will encourage other victims to come forward. There is much that can be done in this area including:<sup>73</sup>

- Targeting police training, to ensure frontline staff have the skills needed to identify and support victims and potential victims
- Providing strategic leadership to address the culture of disbelief many women experience when reporting crimes of sexual or domestic violence

- Deploying specialist female officers to incidents of domestic violence
- Coordinating a database of specialist service provision to which women can be signposted
- Encouraging the adoption by police of triage schemes that provide alternatives to prosecution for vulnerable women, including women who have experienced sexual or domestic violence.

### Improving the police response to domestic abuse – Hampshire Constabulary

At the Prison Reform Trust’s summit in October 2017, Deputy Chief Constable Sara Glen emphasised the importance of investing in the professionalisation of officers to ensure effective front end decision making, and putting faith in officers who are closest to the problem.

Hampshire Constabulary relies on a local liaison and diversion scheme, with officers working closely with AVA, Women’s Aid, Safer Lives, Hampton Trust and other third sector partners to ensure the police respond to victims’ voices in improving services. Auditing via review panels allows the police to benefit from expert perspectives. Working closely with the CPS is also key in order to ensure that those who need to be dealt with through the court system are, but that there is also a range of options for out of court disposals. DCC Glen questioned whether the criminal justice system is the solution for all domestic abuse cases, commenting:

*You can’t prosecute your way out of vulnerability and domestic abuse needs a range of interventions in partnership. The solution is rarely the criminal justice system when attempting to change behaviour and reduce the impact on children.*

She commented that access to interventions is required before the offending gets so serious that it needs to go through court. This requires investment in community resolutions.

The College of Policing’s guidance on the police response to domestic abuse takes into account the revised UK Government definition of domestic abuse, as well as HMIC’s findings.<sup>74</sup> Domestic abuse service providers told us that there have been improvements, but that practice remains inconsistent between police forces and between individual officers. The high turnover of police staff makes clear guidance and monitoring all the more important.

Liaison and diversion schemes that operate in police custody suites and the criminal courts, helping to identify adults and children with particular needs, are required to develop gender specific pathways for women and have an important role to play.<sup>75</sup>

**The Mayoral Strategy on Violence Against Women and Girls (VAWG) 2013-2017** set out the London Mayor’s aspiration for:

*London to demonstrate leadership in reforming the way the criminal justice system responds to female offenders, particularly in recognition of the fact that a disproportionate number of women in the criminal justice system have been victims of VAWG.<sup>76</sup>*

This approach needs to be mirrored around the country.

## 4.2: Women who use violence in response to abuse

Women told us about being arrested for reactive violence against an abusive partner:

*We went to Cardiff because he wanted to go drinking there. I didn't want to go but I went because it was easier. He started and was pushing me about in the town. I pushed him back and when the police came they took us both for drunk and disorderly. They didn't ask me any questions just put me in a cell.*

*I called the police as my ex was threatening me. He was standing opposite my home. The police said he was 'outside' the area of the restraining order so they couldn't arrest him even though he was screaming abuse. I got angry and kicked off so they arrested me. Of course I'm going to be angry. He's abused me, broken in to my house then stands opposite my house, just down the road enough so they can't get to him and I'm the one lifted. They had no idea what he'd put me through, just saw me as the one kicking off.*

*I shouldn't have done it but I spat on him because he dropped citric acid on the floor and my wee daughter was just at the crawling stage and obviously she could have picked it up...He kicked the door back and grabbed me and dragged us down the hall with the hair of the head and that and ... then he charged me... I never actually went up to the court but I spent the night in the cells... That was the first time I spent the night away from my daughter at the time so that was quite traumatic for me.*

*When the police do arrest you after a domestic incident, maybe because you're the one that's suffering you tend to be the one that's going to kick out at the police. And the chap, you know your abuser tends to be ... dead calm... You just think, 'I'm trapped again, I'm trapped.' And my arrests have been when I feel trapped and then it's just like everything's like a volcano because you think, I'm getting framed here by my abuser and nobody seems to understand...*

HMIC found that in 30% of cases involving domestic abuse-related actual bodily harm, both parties claimed to be the victim. In such cases, it stated, "Information on the previous history is vital if officers are to be able to identify who the victim is in instances of counter allegations."<sup>77</sup> Police are expected to identify the primary aggressor rather than arrest both parties. The College of Policing's Authorised Professional Practice explains:<sup>78</sup>

*It can be difficult for officers attending a domestic abuse incident to establish what has happened. A primary perpetrator of abuse may claim to have been assaulted by the other party and have injuries apparently supporting their account. They may in fact have been caused in self-defence by the primary victim. A manipulative perpetrator may be trying to draw the police into colluding with their coercive control of the victim. Police officers must avoid playing into the primary perpetrator's hands and take account of all available evidence when making the decision to arrest.*

Professor Hester found that there was a 'notable increase in the number of women being arrested for perpetrating domestic violence in the US' following the implementation of a pro-arrest policy there. In her own longitudinal study of domestic abuse cases dealt with by Northumbria Police, Professor Hester found that although there were more arrests overall of men than of women, a disproportionate number of women were arrested given the fewer incidents where they used violence. She concluded:<sup>79</sup>

*Understanding gendered dynamics was central to the ability of the police to accurately identify the primary aggressor. Where the police exhibited such an understanding they were also more likely to question whether they had identified the correct perpetrator in instances involving violence by women... At the same time, the emphasis by the criminal justice system on individual incidents, without a questioning of gender dynamics and constructions, meant that women were three times more likely to be arrested, often for violence used to protect themselves from further harm from male partners.<sup>80</sup>*

Official figures show that between 19% and 28% of women in prison or on community orders with a full OASys were assessed as perpetrators of domestic violence.<sup>81</sup> It is impossible to say what proportion of these are women who have been prosecuted for reactive violence against a primary aggressor.

### **Advance, domestic abuse service in London**

Advance reports that its specialist project in Hammersmith & Fulham ‘has made a significant difference improving the police’s response to the women’. The Independent Domestic Violence Advisor (IDVA) co-located in the police station invests time in training police officers, helping them to understand the dynamics of domestic abuse and patterns of coercive and controlling behaviour, in addition to supporting the women themselves.

Advance can offer a more in depth understanding within Multi-Agency Risk Assessment Conferences (MARACs), particularly on behalf of women who have been labelled as a perpetrator as well as a victim of domestic abuse. Being unfairly labelled as a perpetrator can have negative consequences including loss of housing entitlements, impacts on employability, and damage to relationships with the police and other agencies.

Women who are labelled as both perpetrators and victims of domestic abuse form a significant number of the women receiving support through the Minerva service for sentenced women in London, but there are currently few programmes to support women in these circumstances to better understand what leads to offending and alternatives available.

### **4.3: Access to police triage diversion schemes**

A number of police forces operate schemes aimed at diverting vulnerable women away from the criminal justice system into services that can help them, but approaches vary.<sup>82</sup>

A strong partnership between Surrey County Council and Surrey Police has led to the development of the Transforming Women’s Justice programme, which enables a ‘whole system’ look at the treatment of women offenders in the local area. The approach looks at the whole journey of women through the system – pre-arrest, post-arrest and post-charge. At the heart of the programme is the Women’s Justice Intervention. A joint decision making panel oversees all cases and determines women’s suitability for diversion. Interventions are delivered by Women in Prison through their Women’s Support Centre in Woking. It is too early for outcomes to be seen in terms of reoffending data, but results so far are positive.<sup>83</sup>

Northumbria Police and Crime Commissioner’s Community Remedy is intended to address the reasons for offending, including the context of abusive relationships, and to use educationally based interventions. A new Women’s Pathway will be used with a conditional caution, working with Northumbria CRC and the charity Changing Lives, with funding from the Home Office VAWG Transformation Fund.<sup>84</sup>

Some police triage schemes exclude women accused of domestic abuse related offences. Other schemes such as the Transforming Women's Justice project in Surrey and the Gwent women's pathfinder take a discretionary approach, judging on a case by case basis whether a woman accused of domestic abuse offences may be suitable for diversion. College of Policing training for police to become 'specialist DV investigators' and the introduction of a 'licence to practise' for police officers in this role, may help to build police expertise.

## **Findings**

7. College of Policing guidance on domestic abuse is helpful, but there is a need for more information and training for police on responding to women offenders affected by domestic abuse. The co-location of domestic abuse specialists in police stations and diversion schemes are welcome initiatives where they exist.
8. Police and Crime Commissioners have a pivotal role in ensuring the police respond appropriately to women offenders affected by domestic abuse, including through the use of out of court disposals.

## **Recommendations**

4. Police guidance and training must include a specific focus on the links between domestic abuse and some women's offending. Police forces should work with the CPS and local domestic abuse specialist services, and where possible enable co-location of domestic abuse specialists in police stations.
5. Police triage and diversion schemes for women involved in low level offending should not automatically exclude women accused of domestic abuse offences.
6. As part of their commitment to tackle violence against women and girls, Police and Crime Commissioners should ensure they place clear expectations on the police to improve their response to women offenders affected by domestic abuse, including through out of court disposals, and should monitor performance.

## 5: The role of the Crown Prosecution Service

The Crown Prosecution Service's VAWG Strategy provides a framework for crimes identified as being committed primarily, but not exclusively, by men against women within a context of power and control.<sup>85</sup> CPS legal guidance on Controlling or Coercive Behaviour in an Intimate or Family Relationship states:<sup>86</sup>

*The offence of controlling or coercive behaviour, and other prosecutions related to domestic abuse, should be addressed within an overall framework of VAWG and human rights. The gendered patterns and dynamics involved in these cases need to be understood in order to provide an appropriate and effective response. The recognition of these dynamics does not neglect abuse towards men or abuse perpetrated by women. All CPS polices are gender neutral and all victims should receive the same access to protection and legal redress.*

The Domestic Abuse Guidelines for Prosecutors require familiarity with the Government definition of domestic abuse (see Annex), and specify that care should be taken in identifying the primary aggressor, especially where there are allegations of reciprocal abuse and self-defence.<sup>87</sup> The Chief Executive of Women's Aid welcomed the guidance and offered to work with the CPS to deliver training.<sup>88</sup>

Prosecutors do undertake inhouse e-learning about domestic abuse and coercive and controlling behaviour, which emphasises the need to look at the whole relationship and not just one incident. Local scrutiny panels offer a forum in which prosecutors and domestic abuse specialists can share and review their practice.

Decisions whether to prosecute are based on the Code of Crown Prosecutors and involve both sufficiency of evidence and public interest considerations. Prosecutors are not constrained in what they may consider, but they rely upon information provided by the police and defence solicitors. A more pro-active approach should be considered to reduce the risk of prosecuting women for offences committed as a result of prior victimisation. This could include more specific guidance and protocols for sharing information at local level between the CPS, the police, statutory services and voluntary sector women's services, to prevent vulnerable women falling through the gaps.

### Finding

9. The Crown Prosecution Service guidance on the dynamics of domestic abuse does not specify how decisions to prosecute should be influenced by evidence that an alleged offender's behaviour may have been impacted by abuse.

### Recommendation

7. The Crown Prosecution Service should work with specialist domestic abuse agencies to develop guidance, training and monitoring to ensure that women whose alleged offending may be driven by domestic abuse are identified. The public interest may be better served by their diversion into support services.

## 6: Legal defences for victims of domestic abuse who offend

There is evidence from the USA that half of all women in prison there commit offences to avoid further battering.<sup>89</sup> This begs the question why coerced women do not plead duress, or if they do why are they not successful? Analysis suggests that the legal test for the defence of duress in England and Wales is hard to meet for women experiencing coercive domestic abuse, so that “[n]on-culpable abused women can therefore be left defenceless. The result is that too many coerced women are in prison when they ought not to be.”<sup>90</sup> There are also limited defences available for women who use reactive violence against a primary aggressor.

The Modern Slavery Act 2015 introduced a statutory defence for people who have been compelled to commit an offence as a consequence of human trafficking or modern slavery. A statutory defence for women who commit offences as a result of coercion in an intimate relationship, or who use reactive violence, could be included in the forthcoming Domestic Violence and Abuse Bill. It would need to be set in the context of an appropriate CPS policy and judicial directions about the treatment of defendants affected by domestic abuse.

A supplementary briefing on this subject by Paramjit Ahluwalia of Garden Court Chambers and Angela Rafferty QC of Red Lion Chambers, produced on behalf of the Criminal Bar Association and presented at the Prison Reform Trust’s summit in October 2017, can be downloaded at: [www.prisonreformtrust.org.uk/women](http://www.prisonreformtrust.org.uk/women)

### Finding

10. Current legal defences do not include the broader spectrum of sustained psychological, physical and financial abuse that lies behind some women’s offending, including where women use reactive violence.

### Recommendation

8. The Domestic Violence and Abuse Bill should include provision for an effective defence for women whose offences arise from coercion within an abusive relationship, and where women use reactive violence against a primary aggressor.

## 7: Courts, prisons and probation

### 7.1: The court process and decisions on remand and sentencing

#### Encouraging community sentencing

Most of the solutions to women's offending lie in the community. The use of custodial remand and short prison sentences can exacerbate the problems that led women to offend, and custody is less successful than community sentences in reducing reoffending by women. Short custodial sentences have the worst reoffending outcomes.<sup>91</sup>

**Turning Point's 218 Service in Glasgow**<sup>92</sup> provides an alternative to custody for women in the criminal justice system. The service offers programmes of intensive support and group work to empower the women to address the root causes of their offending. It supports women to break the cycle of offending which results in the 'revolving door' syndrome of continuing involvement in the criminal justice and prison system. The service offers a 12 bed Residential Unit and a non-residential Community Engagement service. As many of the women who access the service have a wide range of mental and physical issues, there is an integrated health team and psychological therapy team.

For women in prison with histories of domestic and sexual abuse, the experience of imprisonment – particularly where it involves separation from children – can be particularly traumatic. High rates of self-harm in some women's prisons reflect this. Prison staff face considerable challenges simply to keep such women safe, let alone help them to break the cycle of offending.

As the Sentencing Council has clearly stated, community orders can fulfil all the purposes of sentencing. The court can impose a community sentence requiring an offender to undergo treatment or engage in particular activities. This may include programmes to support women to escape abusive relationships, to recover from the trauma of domestic abuse, to overcome the practical obstacles to independence and to care for their children. The availability of such programmes is extremely patchy.

The Manchester and Salford Women's Problem Solving Court (PSC) offers a model of good community sentencing practice for women with multiple needs who commit minor offences. It requires a woman to engage with a range of local, gender-specific support services, with a sanction for not doing so, and to attend a four-weekly review with a specialist magistrate. Close communication between the National Probation Service, Community Rehabilitation Companies and women's service providers promotes compliance with the sentence and provides information to the court. A cost-benefit analysis of the PSC's early work found that there was a reduction in offending resulting in considerable savings, with £2.06 saved for every £1 spent.<sup>93</sup>

**Anawim Women's Centre in Birmingham** provides purpose-built accommodation for up to six women leaving prison, thanks to charitable funding from the Jabbs Foundation. Prison in-reach and street out-reach teams are based in the same building with a crèche, a money advice service and a range of support services. The intention is for this facility to be used to encourage and facilitate non-custodial sentencing in the local area.

Anawim also continues to deliver a range of community programmes for women with complex needs, including specified activity requirements, mental health treatment requirements (with its own specialist mental health team) and Community Payback individual placements. Anawim has an Independent Domestic Violence Advisor (IDVA) onsite who works closely with women who are at serious risk of injury or homicide due to domestic violence. The IDVA runs weekly groups including the Freedom programme and 'You can heal your life', based on the popular book by Louise Hay.

## **Ensuring judges and magistrates make well informed decisions**

As the Chief Magistrate has pointed out, domestic abuse cannot be considered unless it is brought to the court's attention in individual cases, and this is the responsibility of probation services and defence advocates.<sup>94</sup> She has noted the fears that will prevent many women from disclosing abuse, and raised a concern that even now there is a lack of awareness about the impact of domestic abuse as a driver to offending by women. Ongoing judicial education is needed about these links. The Chief Magistrate's emphasis on the need for credible community sentencing options has been widely echoed. She and others have also noted the growing problem of unrepresented defendants, particularly in the Magistrates' Court.

The Judicial College Strategy 2015-17 specifies that judicial training should include 'the social context within which judging occurs, including diversity and equality and the ability to relate to people from a variety of backgrounds with different capacities, needs and expectations'.<sup>95</sup> This should entail information for judges and magistrates about the links between domestic abuse and offending by some women, and judicial directions regarding the treatment of defendants who are, or may be, victims of abuse. The Equal Treatment Bench Book is an important resource for understanding gender inequalities.

## **Pre-sentence reports**

In a survey of sentencers' views, one judge commented that while the National Probation Service is good at highlighting previous abuse, judges would welcome an explicit description of how it contributed to the offence.<sup>96</sup> HMPPS are undertaking work to ensure judges and magistrates have the information they need in pre-sentence reports. This includes training offender managers to adopt a gender specific approach and to be alert to the links between domestic abuse and offending. The SMART sentencing tool provides a better prompt for offender managers when writing their reports, to look at the woman's whole life.

## **Sentencing guidance**

The Sentencing Council's definitive guideline on 'Imposition of Community and Custodial Sentences' highlights that custody should not be imposed unless the offences are so serious that neither a fine nor a community sentence can be justified.<sup>97</sup> For offenders on the cusp of custody, consideration must be given to the impact on dependents that would make imprisonment disproportionate.

Sentencing is also dependent on mitigation and whilst mitigating factors are set out in sentencing guidelines, these are not exhaustive and the defence is not constrained in what it can put forward in mitigation. Sentencing guidance recognises coercion as a mitigating factor in theft, fraud and drugs offences<sup>98</sup> and it would be helpful if this were applied more widely. Where a woman is unrepresented, there is a need to ensure that mitigation is not reliant on women putting forward their own evidence of abuse, given the barriers to disclosure, such as women's fear of retaliation by their abuser.

## 7.2: Women's experiences in court

A woman in Wales told us how her fear of an abusive former partner stopped her attending court, leading to her imprisonment:

*I've been to Eastwood Park three times, all for not attending court. I didn't want to go in case he was there. I got ten days, two weeks and ten weeks but served five.*

A number of women told us that they did not believe the courts understood the context of abuse in which they were offending:

*The courts never asked why I was doing it. I needed help not convictions. I wish I'd gone to Llamau sooner. I didn't know they'd help me with everything.*

Some women spoke about the experience of being in court as degrading and distressing, saying they did not want their personal experiences to be discussed in a public forum. In some cases this led them to plead guilty to avoid having to go through the trauma of a trial:

*The only background the courts have ever had for me is my previous... They don't have any idea of who you are, where you came from, what you've done, you're just that person on the paper.*

*You tend to plead guilty.*

One woman felt that her experience of abuse was used against her:

*Through my domestic violence and drug use, I've been arrested for solicitation and for shoplifting and they used all that against me, they've made me look like a cheap whore in that courtroom.*

A woman in Scotland had recently had a positive court experience, receiving a community sentence which included attendance at Turning Point's 218 Service:

*...if it wasn't for the judge giving me a chance to come back here [to the 218 Service], I got my probation, my whole life's started falling into place because of that judge keeping me out of jail... I've never felt so positive about something in my entire life...*

A number of women spoke about the positive impact of probation workers on their lives:

*My probation worker has been brilliant. I don't know where I'd be without her. She's sorted my benefits, got me help and sent me here.*

### Magistrates' Information Pack

Prison Reform Trust, in partnership with the Association of Directors of Adult Social Services and Rethink Mental Health, has produced an online resource entitled 'Mental health, autism and learning disabilities in the criminal courts'. Developed for magistrates, district judges and court staff it now includes information on the needs and circumstances of women defendants. This could be a helpful resource for police and prosecutors, as well as magistrates.<sup>99</sup>

## Training for criminal justice professionals about the needs of women offenders<sup>100</sup>

Prison Reform Trust commissioned Together for Mental Wellbeing to deliver training to criminal justice professionals in London on the treatment of women offenders. Sixty four people attended the training including police officers, Serco staff, Justices of the Peace, magistrates, court probation officers, offender managers and two restorative justice facilitators from the London CRC. Participants said that the training was helpful:

*I now think of what might be going on in the women's life outside of custody that might influence their behaviour in custody.*

*It will help me in sitting as a JP, to ensure that we give probation enough time to understand women's complex needs (exploring other records, GP, etc) and to consider timing of appointments given to women.*

In London women told us that it would be helpful if domestic abuse support workers were visibly available in the courts. They stressed the importance of offender managers being aware of women's personal circumstances:

*I reckon it needs to be picked up by probation. You know when you go to court? When you go to prison, they don't know nothing about you. So, they don't know that you've got domestic violence history; they don't know anything like that. There needs to be some sort of transition that like this person is a victim of domestic violence or this crime linked.*

*There needs to be a domestic violence worker with the woman, with the court system, with the prison. There must be a link. So, if you're getting picked up for a crime, is it related to domestic violence?*

One woman suggested:

*Everyone should do group work or training to learn about abuse, especially emotional, even the judges so at least when they see someone they can understand where they're coming from.*

## Findings

11. Sentencing Council guidelines recognise coercion as a mitigating factor for some offences, but judicial decisions are not always informed about abuse as a driver to women's offending. Pre-sentence reports and adequate legal representation, as well as judicial training and information are important for ensuring due consideration.
12. More community sentencing options are needed for women affected by domestic abuse. The women's problem solving court in Manchester is a good practice model and the SMART Sentencing App being developed by HMPPS will be helpful.

## Recommendations

9. The Sentencing Council should consider how best to ensure sentencers take account of the particular vulnerabilities of women affected by domestic abuse and the impact of imprisonment on them and their families.
10. The Judicial College should review the availability and effectiveness of information and training for the judiciary in this area, including judicial directions regarding the treatment of women defendants affected by domestic abuse.
11. The National Probation Service and Community Rehabilitation Companies should adopt a practice of routine enquiry about histories of domestic abuse, supported by training about barriers to disclosure and other relevant factors. Pre-sentence reports should always include information about whether or not a woman's offending is linked directly or indirectly to domestic abuse.

### 7.3: Rehabilitation and support for women in prison and the community

Commissioning principles adopted by Her Majesty's Prison and Probation Service (formerly NOMS – National Offender Management Service) are intended to 'ensure that resources are targeted on areas that are most likely to make a difference to women's lives, both with regard to reducing reoffending, and to helping women live safer, more fulfilling lives in the community'.<sup>101</sup> They note the requirement to take account of the particular needs of women offenders under the Offender Rehabilitation Act 2014.

For women offenders affected by domestic abuse, this guidance recommends the use of advocacy services in the community, including legal advocacy, the use of short term trauma-focused counselling and cognitive-behavioural approaches to managing trauma, as well as social support, particularly in the form of emotional support.

Detailed guidance for practitioners and managers in prisons and the National Probation Service sets out the key principles for effective working in this area.<sup>102</sup> Although the guidance is primarily aimed at identifying whether the offender is a perpetrator of domestic abuse, it includes recognition that some offenders may themselves be victims:

*Prison and Probation staff ... need to be alert to offenders who are also victims of domestic abuse and may need support in accessing services. Information about local services should be available in each setting and there are resource suggestions throughout this guidance.*

#### Trauma-informed practice

Research and practice materials published by the One Small Thing project, founded by Lady Edwina Grosvenor and run by the Centre for Crime and Justice Studies, explain how 'trauma-informed' practices may be used in women's prisons. There are potential benefits for every stage of the criminal justice process, including the police, courts and probation services: [www.onesmallthing.org.uk](http://www.onesmallthing.org.uk)

Despite the NOMS guidance, programmes offering the chance of rehabilitation and support for women offenders affected by domestic abuse are not consistently available either in prison or in the community. Women told us:

*All of my sentences have been really short so you can't go to any of the groups like Freedom programme, Counselling or Stepping Stones. I'd be gone as soon as they start so I couldn't go on them.*

*There is no like Women's Aid in the prison is there? Like to go... once people have settled in, like to go round and talk to the women. You know to get a bit of an idea for experiencing domestic violence.*

#### 7.4: Resettlement and housing

*There are particular challenges for homeless women, who are at greater risk of sexual violence, prostitution or engaging in unhealthy relationships in order to access accommodation...*

House of Commons Communities and Local Government Committee Report 2016<sup>103</sup>

One of the recognised pathways to reduce reoffending is accommodation, and for women this means addressing needs and vulnerabilities in relation to domestic and sexual abuse.

**Llamau's Llwybrau project** looked specifically at support for women who have already offended, or are at risk of offending, and have also experienced domestic abuse. It assessed the feasibility of utilising existing Domestic Abuse One Stop Shops to support women offenders. The report highlighted the importance of good working relationships between local authorities and housing organisations, including social and private landlords, and the need for all agencies to have an understanding of women's offending and the criminal justice system and to be able to access specialist knowledge when required: [www.llamau.org.uk](http://www.llamau.org.uk)

Lack of suitable accommodation makes women vulnerable to abuse, makes them more likely to be remanded into custody, makes it more difficult for them to comply with post-release supervision requirements, and to be reunited with their children. Spending time in prison increases the risk of homelessness, while a lack of stable accommodation increases the likelihood of offending and reoffending.<sup>104</sup> These issues are considered in more detail in the Prison Reform Trust briefing *Home Truths*.<sup>105</sup>

The Department for Communities and Local Government (DCLG) has a £20 million Domestic Abuse Fund to provide accommodation-based and specialist support to victims of domestic abuse. Some of the funded projects, including the London Borough of Barking and Dagenham and Nottingham City Council, are using their allocation to support female offenders.

**Housing for Women's Re-Connect Project** provides refuge for women leaving prison with multiple and complex needs, including mental health, substance and alcohol misuse, and safety from domestic abuse. Supported by the Big Lottery Fund, the project provides a home for up to five women in London over six months and intensive practical and emotional support with the aim to improve their self-confidence and health, reduce reoffending and bridge the gap to independent living. Women are referred to Re-Connect by prisons near London (HMP Bronzefield and HMP Downview) through their resettlement teams. The project is person-centred and will support a woman with a wide range of presenting issues in her life both practically and emotionally. This intensive specialist service offers a period of stability from which a woman can progress to independent living.

The UK Government's 'Priorities for Domestic Abuse Services' set out what local authorities need to do, including support for victims 'with the most complex needs and multiple disadvantage'.<sup>106</sup> The DCLG is setting up a cross-government group to take forward the Government's commitment in the Violence Against Women and Girls Strategy to provide support for victims with complex needs, including female offenders.

**The Independent Monitoring Board (IMB) at HMP & YOI Bronzefield**, the largest women's prison in the UK, reported that 50-60% of women were leaving prison with No Fixed Abode, noting:<sup>107</sup>

*Although a letter is given to local authorities, they do not see women coming out of prison as a priority. There is a desperate shortage of hostel and social housing. So many of these women could end up on the streets living rough and open to abuse. Many of these women are vulnerable with addiction problems, learning difficulties and mental health problems.*

On leaving prison, women often have no choice but to return to an abusive partner. If they disclose the abuse, women may qualify as being in priority need for rehousing. However many do not have the confidence to talk about it or are fearful that child protection agencies may become involved.<sup>108</sup> Agenda (Alliance for Women and Girls at Risk) recommended in evidence to the Communities and Local Government Committee Homelessness Inquiry (2016) that women fleeing domestic abuse should be entitled to housing automatically, rather than having to meet any additional test of vulnerability.<sup>109</sup>

A new statutory duty to prevent homelessness requires councils to intervene sooner to prevent women becoming homeless and to do more to help those without a home, whether or not they have been designated as 'priority need'.<sup>110</sup> This is welcome, but there is concern that Government funding to support the implementation of this duty is insufficient.<sup>111</sup>

### **Safer London's Pan London Reciprocal**

Safer London administers a pan-London reciprocal agreement for the housing of domestic abuse victims/survivors. The programme, which began in January 2017, enables domestic abuse survivors to transfer their tenancy to another London borough, ensuring safety and preventing homelessness. As at October 2017, 31 local authorities and 32 housing providers across London were signed up to the scheme, over 100 referrals had been made and 20 women had moved into permanent accommodation: <http://saferlondon.org.uk/pan-london-housing-reciprocal/>

The All-Party Parliamentary Group for Ending Homelessness has recommended that the Department for Communities and Local Government should implement an equivalent scheme throughout England for survivors of domestic violence. It has also been proposed that women leaving prison who are returning to London should be referred to the scheme, if they would be at risk if they moved back to their home area.

In July 2017 the All-Party Parliamentary Group for Ending Homelessness recommended measures to reduce homelessness for care leavers, prison leavers and survivors of domestic violence.<sup>112</sup> Those affected by domestic abuse may need to move area:

*Many women are likely to have experienced domestic and/or sexual abuse which could mean that returning to the family home is not safe.*

Their proposal that local authorities should accept all survivors of domestic violence as having the necessary local connection for rehousing is helpful for women leaving prison as they are likely to be released at some distance from their original home area.<sup>113</sup>

Women in London told us that it would be helpful to have support on release from prison from a peer mentor with experiences similar to their own.

The Prison Reform Trust's 2016 briefing *Leading change: the role of local authorities in supporting women with multiple needs* suggests practical ways in which local authorities in England can prioritise and address the needs of vulnerable women:<sup>114</sup>

*You are relying on people moving on from their old lifestyle and going to another one, and that's a massive void. You need to have someone to hold your hand through that period, so you know that if you are letting go of alcohol, drugs or a bloke, there is going to be something there to replace it.*

Alison Jarvis, Merseyside CRC volunteer and former offender

Women's refuges should be resourced and enabled to provide for women with mental health and substance misuse problems.<sup>115</sup> However the availability of specialist refuge accommodation for women affected by domestic abuse is increasingly scarce<sup>116</sup> and proposed changes to the funding arrangements are causing widespread concern.<sup>117</sup>

The cycle of victimisation and offending can be broken by ensuring all women leaving prison receive an offer of suitable accommodation and gendered, trauma-informed support to meet their health and social care needs.

## Findings

13. There is limited support for women in prison affected by domestic abuse, particularly those serving short sentences.
14. Funding cuts to women's services, including refuges, are a barrier to progress. The patchy availability of support on release from prison, including suitable housing, health and social care services and welfare benefits, leaves women even more vulnerable to abuse and offending.

## Recommendations

12. HM Prison and Probation Service and Ministry of Justice should work with women's prison governors, probation services and community agencies to ensure that there are programmes of information and support funded for women offenders affected by domestic abuse, including victim support services, both in prison and on release.
13. The Ministry of Justice should work with the Department for Communities and Local Government, local authorities and the voluntary sector to ensure that women leaving prison are provided with safe accommodation with appropriate support, including specialist refuge accommodation where this is needed.

## 8: Rehabilitation of male perpetrators

*He just keeps coming back and forth. The restraining order says he's not allowed to come near me or my village. He doesn't care and turns up all the time, even now. He ignores the order, he's even been to prison for breaking it but doesn't care. The police come out and take him away, but he's always back a couple of days later so what's the point?*

Woman affected by domestic abuse

Accredited perpetrator programmes for men, undertaken with the aim of changing their behaviour, are not suitable in every case but should be available as part of sentencing where appropriate. The End Violence Against Women campaign welcomed Ofsted's recent recognition that agencies need to focus on perpetrators, commenting:<sup>118</sup>

*There is a growing evidence base about what kinds of interventions actually work with perpetrators of domestic violence. We need those who commission and fund this work, including national government and also police and crime commissioners, local authorities and others, to guarantee that they will invest in developing this evidence base and only support work which is safe and effective. Such work puts women and children's needs at the heart of the intervention and does not treat offenders in isolation as this report finds some public services doing (including probation and adult mental health). National standards for perpetrator work are available and should be made statutory.*

### 'Key Change' production by Open Clasp<sup>119</sup>

In 2015, community theatre group Open Clasp performed 'Key Change' at the Edinburgh Festival fringe, exploring the troubled lives of women prisoners. The play was developed together with women in HMP Low Newton near Durham, drawing on the women's own stories to build up a fictional narrative that reflects their experiences. Director Laura Lindow commented:

*Domestic violence emerged time and time again... So when they created these fictional characters they couldn't help but reflect some of the violence in their own lives.*

Actors from Open Clasp then performed the play in three male prisons. The response was "incredible", with many of the men left in tears. "They understood that the play isn't an accusation," Lindow said. "One of the men afterwards said: 'It reminded me of the man I once was and the hurt I've caused others but also the man I have become.'"

The play was subsequently performed in parliament and was live-streamed online to mark the UN's International Day to End Violence Against Women & Girls from 25 November to 10 December 2017.

HMPPS guidance helps staff assess whether an offender may be a perpetrator of domestic abuse and how to manage risk, protect victims and refer offenders for interventions.<sup>120</sup> It notes that for women offenders, the experience of domestic abuse can be a predictor of a future violent offence, and the lack of programmes designed for women who are identified as perpetrators. The guidance includes an HMPPS commitment to:

- develop and provide role-specific training to increase the level of knowledge and understanding about domestic abuse and its causes, impact and treatment,
- promote the importance of identifying domestic abuse at an early stage and reinforce the value of early intervention, and

- provide effective interventions for perpetrators of domestic abuse in prisons and through working with providers of probation services and other partnership agencies, always taking account of victims' safety.

The Home Office guidance for commissioners of services aimed at tackling violence against women and girls advocates a 'proactive and robust' approach to challenging perpetrators, both in terms of the risk imposed to victims/survivors and in terms of interventions to change their behaviour. This includes having a clear plan to ensure that perpetrators are brought to justice and that community interventions are considered.<sup>121</sup>

Despite reported increases in the number of successful prosecutions for domestic abuse, the Ministry of Justice quotes a 7% reduction in starts on probation accredited Domestic Violence programmes in five years, from 5,100 in 2009/10 to 4,727 in 2014/15.<sup>122</sup> In 2014/15, Domestic Violence programmes accounted for only 3% of all prison accredited programme starts (290), the same number as in 2013/14.<sup>123</sup> Given the prevalence of domestic abuse related offences, HMPPS should enquire whether sufficient programmes are available to ensure that all suitable candidates are offered the opportunity to take part.

The Ministry of Justice has described the evidence on the effectiveness of some perpetrator programmes as 'mixed/promising' and recommends:

*Future evaluations of programme effectiveness require clear explanations of how domestic violence is defined, identified and measured.*<sup>124</sup>

The 2016 literature review by the Institute of Education concluded that while no clear impact of domestic violence perpetrator programmes (DVPPs) has been identified, and effects on further victimisation have been small:<sup>125</sup>

*When deciding whether to commission or fund DVPPs, consideration should be given to how the programme is expected to work, the outcomes that are being sought, and how success is best measured.*

The 2015 final report of Project Mirabal, which evaluated the outcomes of voluntary perpetrator programmes, recorded a number of measures of success which offer promising evidence of positive outcomes for victims/survivors.<sup>126</sup>

It is important that safe and effective, accredited perpetrator programmes should be made available in all appropriate cases, both in prison and in the community. The Respect Accreditation Standard provides a benchmark for the provision of quality interventions with men who use violence against female partners: <http://respect.uk.net/>

## Findings

15. There is inadequate provision of accredited rehabilitation programmes in men's prisons and in the community aimed at changing the behaviour of male perpetrators of domestic abuse and preventing further abuse.

## Recommendations

14. HMPPS must ensure that safe and effective, accredited programmes aimed at changing the behaviour of male perpetrators of domestic abuse and preventing further abuse are available in all suitable cases, in prison and in the community, and monitor take-up and outcomes.

## **Women's experiences: the response of criminal justice agencies<sup>iii</sup>**

### **Positive impact of police diversion to specialist services**

Victoria was referred to New Chance following a domestic incident. She had called the police during an altercation with her partner, and whilst she was on the telephone he claimed that she had attacked him with a kitchen knife. The police attended, arrested Victoria and gave her a Simple Caution. She was referred to New Chance on a voluntary basis and her charge was NFA'd (No Further Action). When Victoria attended her New Chance appointment she was identified as being a victim of sporadic domestic violence, living in a complex situation and feeling trapped in a relationship un conducive to her emotional health or wellbeing, because she has two children. Following Victoria's arrest, Social Services were alerted by the police and the children were placed on a Child in Need Plan. Victoria received support from Women's Aid Independent Sexual Violence Advisor (ISVA) and counselling services, and New Chance is offering practical and emotional support. Numerous positive changes have emerged since Victoria's engagement with services including her partner having to address his behaviour.

### **Criminal conviction results from coerced offending**

Kerry was referred to the Mariposa service after a conviction for handling stolen goods. She had already been engaged with BCWA's domestic abuse support service for about three years. Incidents that she reported to them included verbal abuse and physical assaults, including one where Kerry was stabbed with a screw driver.

Kerry had never been in trouble with the police before this offence. She said her partner had threatened her with violence if she didn't take the stolen goods to someone's home. She took this threat very seriously as she already knew what he was capable of doing to her. On the way to the address, she was caught with the stolen goods and arrested. She believed her partner had deliberately informed the police of her actions.

Whilst attending Mariposa, Kerry completed the Changes Programme and the Healthy Relationships Programme. She did not have time to complete any other programmes as her court order was coming to an end.

### **Positive impact of intervention following multiple prosecutions**

Anna was prosecuted for failure to secure the school attendance of her teenage daughter, Louise. She came to the Mariposa service as part of a community order. Anna had previous convictions for the same offence and was in the process of being prosecuted again when she attended the service. Anna had not engaged with school support and meetings, and Louise's school attendance had been consistently very poor. Punitive action by the courts had left Anna and her daughter distressed and afraid of the real possibility of Anna going to prison, added to which Louise continued to miss out on education.

On attending the service for the first time, Anna disclosed historic domestic violence which had been witnessed by her daughter. They had never called the police or informed the authorities for fear of repercussions. Louise had stopped attending school after an incident where she was followed home by the perpetrator of the abuse. What had been perceived by the school and local authority as obstruction and refusal to engage was in fact a response by Anna and Louise to their abuse and an attempt to protect themselves.

Anna and Louise were identified as being at high risk and immediate support was put in place. With the support provided to Louise through the MARAC, she disclosed the abuse she had also experienced. The perpetrator is now in prison for offences committed against Louise, who is attending college.

## Annex – UK and Welsh Governments’ definitions of domestic abuse

### UK Government definition of ‘domestic violence and abuse’<sup>127</sup>

Any incident or pattern of incidents of controlling, coercive or threatening behaviour, violence or abuse between those aged 16 or over who are or have been intimate partners or family members regardless of gender or sexuality. This can encompass but is not limited to the following types of abuse:

- psychological
- physical
- sexual
- financial
- emotional

Controlling behaviour is: a range of acts designed to make a person subordinate and/or dependent by isolating them from sources of support, exploiting their resources and capacities for personal gain, depriving them of the means needed for independence, resistance and escape and regulating their everyday behaviour.

Coercive behaviour is: an act or a pattern of acts of assault, threats, humiliation and intimidation or other abuse that is used to harm, punish, or frighten their victim.

This definition, which is not a legal definition, includes so called ‘honour’ based violence, female genital mutilation (FGM) and forced marriage, and is clear that victims are not confined to one gender or ethnic group.

The UK Government intends to introduce a legal definition of domestic abuse as part of the forthcoming Domestic Violence and Abuse Bill.

### Violence against Women, Domestic Abuse and Sexual Violence (Wales) Act 2015

Domestic abuse is defined in section 24 of the Act as *‘physical, sexual, psychological, emotional or financial abuse... where the victim of it is or has been associated with the abuser’*.<sup>128</sup> Being associated with another person for these purposes is defined as persons who are or have been married to each other; who are or have been civil partners of each other; who live or have lived together in an enduring family relationship (whether they are of different sexes or the same sex); or who live or have lived in the same household.

Section 24 of the Act includes an additional definition of *‘gender-based violence’ which includes ‘violence, threats of violence or harassment arising directly or indirectly from values, beliefs or customs relating to gender or sexual orientation’; FGM and forced marriage. Sexual violence is defined as ‘sexual exploitation, sexual harassment, or threats of violence of a sexual nature’.*

## Useful organisations

**Advance** is a London-based women's domestic abuse service providing crisis intervention, emotional and practical support to women and girls aged 13 and over. Advance also provides help at their women-only Minerva service to women who have committed crime.

**Agenda** campaigns for systems and services to be transformed; to raise awareness across sectors; and to promote public and political understanding of the lives of women and girls facing multiple disadvantage.

**AVA (Against Violence and Abuse)** helps survivors get support and help by providing training, developing toolkits and e-learning for professionals, and using influence and networks to ensure survivors' voices are heard. AVA works with children and young people to prevent violence and abuse and carries out research.

**Bawso** is an all Wales, Welsh Government Accredited Support Provider, delivering specialist services to people from Black and minority ethnic backgrounds who are affected by domestic abuse and other forms of abuse, including female genital mutilation, forced marriage, human trafficking and prostitution.

**Galop** is a national charity offering emotional and practical support for LGBT people experiencing domestic abuse. It runs a **National LGBT Domestic Abuse helpline (0800 999 5428 / [help@galop.org.uk](mailto:help@galop.org.uk))** and can refer people in London to the London Domestic Abuse Partnership for a range of face to face support services.

**Hibiscus Initiatives** aims to improve the quality of life for those who are marginalised by language and culture by increasing awareness of the prison system and their rights by enabling them to access and exercise these rights. They provide a wide range of services to Black, Asian, Minority ethnic, Roma and foreign national women in UK prisons. Their goal is to ensure that the transition from prison back into the community is as smooth as possible.

**Howard League for Penal Reform** is a national charity working for less crime, safer communities and fewer people in prison. It has the only frontline national legal team specialising in the legal rights and entitlements of children and young people in custody.

**Imkaan** is a UK-based, black feminist organisation dedicated to addressing violence against women and girls. As a second-tier, human rights organisation, with national membership, Imkaan represents the expertise and perspectives of frontline specialist women's services that work to prevent and respond to violence against women and girls.

**Refuge** provides services for women and children who have experienced violence; protects women by advocating for a strong criminal justice response to perpetrators; and prevents future violence through education, training and awareness-raising. In partnership with Women's Aid, Refuge runs a **Freephone 24-Hour National Domestic Violence Helpline: 0808 2000 247**

**Respect** is the UK membership organisation for work with domestic violence perpetrators, male victims of domestic violence and young people's violence in close relationships. They have a phonenumber for anyone concerned about their own or someone else's behaviour towards their partner. The Respect Accreditation Standard is the bench mark for the provision of quality interventions with men who use violence against female partners. **Men's Advice Line (0808 801 0327)**

**Safe Lives** combine insight from services, survivors and statistics to support people to become safe, well and rebuild their lives. They also support people dealing with domestic abuse. They advise and train people and organisations, including police forces, they gather evidence to understand what's working and highlight best practice and approaches across the UK.

**Southall Black Sisters** is a not-for-profit, secular and inclusive organisation, established in 1979 to meet the needs of Black (defined here as Asian and African-Caribbean) women. Its aims are to highlight and challenge all forms of gender related violence against women, empower them to gain more control over their lives; live without fear of violence and assert their human rights to justice, equality and freedom.

**Welsh Women's Aid** is the national charity in Wales working to end domestic abuse and all forms of violence against women. They are a federation of specialist organisations in Wales (working as part of a UK network of services) that provide lifesaving services to survivors of violence and abuse – women, men, children, families – and deliver a range of innovative preventative services in local communities. **Free helpline: 0808 80 10 800**

**Women in Prison** supports women to avoid and exit the criminal justice system and campaigns for the radical changes needed to deliver support services and justice for women.

**Women's Aid** is a grassroots federation working together to provide life-saving services and build a future where domestic violence is not tolerated. In partnership with Refuge, Women's Aid runs a **Freephone 24-Hour National Domestic Violence Helpline: 0808 2000 247**

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Many women in prison have been victims of much more serious offences than those for which they have been punished. The purpose of this briefing is to raise awareness of the links between women's experience of domestic abuse and their offending, and to make recommendations that will help break the cycle and ensure women receive the help they need. The factors underlying some women's offending must be fully considered in decision-making by criminal justice agencies to ensure an effective response. The briefing brings together research evidence and women's voices to make a compelling case for change.

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