

DOUBLE STANDARD

EXECUTIVE SUMMARY

ENDING THE UNJUST CRIMINALISATION OF VICTIMS OF VIOLENCE AGAINST WOMEN AND GIRLS

CREDITS AND ACKNOWLEDGEMENTS

The full report, of which this is a summary, was written by Katy Swaine Williams with assistance from Harriet Wistrich and Nogah Ofer of Centre for Women’s Justice, Marchu Girma and Ghadah Alnasseri of Hibiscus Initiatives, Pragna Patel, and Latham & Watkins solicitors. The case analysis on duress was written by Dr Alice Storey and Dr Sarah Cooper with research assistance from Georgia Cartwright and Melisa Oleschuk, all of Birmingham City University Law School. Our thanks go to the women who agreed to provide anonymised case summaries and to those who took part in our practitioners’ roundtables.

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SUMMARY OF METHODOLOGY

Our report draws together relevant recent literature, new legal analysis, insights from two virtual discussions with practitioners, and case studies from CWJ’s legal enquiry service.

KEY FACTS

At least 57% of women in prison and under community supervision are victims of domestic abuse. The true figure is likely to be much higher because of barriers to women disclosing abuse.

63% of girls and young women (16–24) serving sentences in the community have experienced rape or domestic abuse in an intimate partner relationship.

Of 173 women screened at HMP Drake Hall, 64% reported a history indicative of brain injury and for most this was caused by domestic violence.

Women are more likely than men to commit an offence to support someone else's drug use (48% to 22%).

Around half of arrests of women for alleged violence result in no further action, indicating widespread inappropriate use of arrest.

Women in prison have high levels of poverty and unmet need for housing, healthcare and addiction recovery support.

Women make up only 4% of the prison population. Women were sent to prison on 5,011 occasions in 2020 – either on remand or to serve a sentence.

Arrest rates in 2014/15 were twice as high for Black and 'mixed ethnic' women as for white women. Migrant women are over-represented in prison, particularly on remand.

Most women are imprisoned on short sentences, and most are imprisoned for non-violent offences.

An estimated 17,000 children experience their mother's imprisonment each year. 600 pregnant women, on average, are held in prison each year.

Rates of self-harm in women's prisons have risen by 20% in the last decade.

99 women have died in prison in England and Wales since 2010. Nearly two in five deaths were self-inflicted.

ABOUT THIS EXECUTIVE SUMMARY

This is a summary of our full report setting out evidence of the unjust criminalisation of victims of violence against women and girls (VAWG) in England and Wales for alleged offending resulting from their experience of abuse, and the reforms in law and practice that are needed to address this. The report is primarily focused on women, but we seek to draw out learning relating to girls where possible; many of the issues faced are common to both. See the full report for all references.

I am being punished by the system that was supposed to be there to help and protect me.

Naomi, domestic abuse survivor

INTRODUCTION

Research shows that women and girls' alleged offending is frequently directly linked to their own experience as victims of domestic abuse and other forms of violence and exploitation. This can occur where victims use force against their abuser in self-defence, where they are coerced by their abuser into offending, or where they offend under duress of circumstance. Allegations against victims are sometimes deliberately used as a tactic by perpetrators to extend their control. In this way, the criminal justice system can be led to collude in the abuse.

The government recognises this and aims to divert women and girls from the criminal justice system and from custody where appropriate. Yet whereas legislative reforms have been introduced to provide effective defences for other groups of victims facing similar circumstances, including trafficking victims and householders facing an intruder, no such protections have been introduced for women and girls whose alleged offence takes place in the context of domestic abuse. Barriers in law and practice prevent proper account being taken of contextual abuse, resulting in wasteful use of public resources, failures to protect victims, and profound injustice for women and girls who have often been failed multiple times by the same system which should be there to protect them from harm.

There is limited quantitative data available to shed light on women and girls' inappropriate criminalisation in the context of domestic abuse, which hampers progress. Childhood victims of criminal and sexual exploitation experience lifelong harms caused by having a criminal record as a result of that exploitation, despite their recognition as victims.

This is an area of law, policy and practice which, self-evidently, primarily affects women and girls. The failure to implement reforms creates a double standard, and is a telling example of structural gender discrimination within the criminal justice system. Achieving equality and justice for women and girls as both victims and alleged offenders requires a transformation of this approach.

POLICY CONTEXT

The government's 2018 Female Offender Strategy established its aim to divert women from the criminal justice system where possible, and acknowledged the links between women's experience of abuse and their criminalisation. The government also aims to transform the response to domestic abuse, having recently passed the Domestic Abuse Act 2021, and aims to improve the response to victims through its forthcoming Victims' Law.

Research shows that women's specialist services are essential for an effective response to women involved in offending, who are highly likely to be victims of abuse. As the National Audit Office has pointed out, significantly greater investment is needed to ensure adequate services are available everywhere.

The government-commissioned review of sentencing in domestic homicide cases, due to report in 2022, includes consideration of the impact of existing defences in homicide cases. Legislation is needed to address the ineffectiveness of existing defences for victims of abuse accused of a wide range of offences.

There is also much that could be done without legislation, to achieve improvements in practice by all criminal justice agencies. However, we are yet to see a strategic attempt to address failings that leave victims of VAWG unprotected and unfairly criminalised. There is a degree of complacency, which has seen government ministers arguing that existing checks and balances are sufficient, and that legislative reform would be contrary to the public interest. More worrying still are government proposals that risk increasing victims' criminalisation, particularly for Black, Asian, minoritised and migrant women, and young women and girls.

HOW VICTIMS ARE CRIMINALISED DUE TO THEIR EXPERIENCE OF VAWG

The report draws on a range of research, and CWJ's own casework, identifying the different ways in which victims of VAWG can be criminalised.

This is happening to women all the time.

Domestic abuse service provider

Male perpetrators of domestic abuse may use the criminal justice system as an additional means of exerting power, while for some women, physical retaliation may be part of an attempt to survive their victimisation. Police officer perpetrators of abuse may use their privileged position as a weapon to criminalise their victims. Women with learning disabilities are particularly vulnerable. Women and girls facing multiple disadvantage experience disproportionate and often overlooked forms of violence and abuse, and are often criminalised as a result. Convictions under the law of joint enterprise frequently fail to take account of contextual coercion and abuse.

Intersectional discrimination leads to additional disadvantage for Black, Asian, minoritised and migrant women in contact with the criminal justice system. In research by Muslim Hands with 60 Muslim women in prison, 79% of women reported experiencing domestic abuse, with abusive and controlling experiences being linked to the offence in some cases. Gypsy, Roma and Traveller women face distinct barriers to disclosing domestic abuse:

... GRT women are often reluctant to report domestic abuse to the police, or to social workers, due to long held mistrust of the authorities.

Traveller Movement

Proper consideration of contextual abuse in criminal justice proceedings can be hampered for Black, Asian, minoritised and migrant women by many factors, including concepts of honour and shame.

Many times if they do [disclose abuse] and they take that risk, that sort of slander and social stigma can also be transfer on to their children...

Women's service provider

The hostile environment for migrants presents another barrier to disclosure of abuse, carrying with it the risk of destitution and deportation, as well as institutional cultures of disbelief and indifference. Experts told us about failings by the police and other criminal justice agencies in interpreting signs of abuse of minoritised women, and the impact of poor quality interpreting in court. The Domestic Abuse Act 2021 excludes migrant women from protection, leaving them more vulnerable to abuse. Proposals in the Nationality and Borders Bill would unfairly criminalise migrant women who are victims of trafficking, modern slavery, or domestic abuse and expose them to destitution and deportation without due process.

Young women and girls' experiences of violence, abuse and exploitation can drive them into the criminal justice system in distinct ways, and care experienced young women may be particularly vulnerable. Provisions in the Police, Crime, Sentencing and Courts Bill threaten to increase the unjust criminalisation of young women and girls who are judged to have 'ought to have known' that someone in their company was in possession of a bladed article or offensive weapon.

WHAT NEEDS TO CHANGE IN PRACTICE

The criminal justice process currently fails to:

- Identify where suspects and defendants are victims of abuse;
- Protect and support such victims; and
- Take proper account of their experience of abuse in criminal proceedings against them – particularly in decisions to arrest, detain, prosecute and convict. Problems also arise in relation to sentence progression, rehabilitation, parole and recall.

The case studies below have been taken from recent legal enquiries received by CWJ, unless otherwise indicated. All names have been changed.

DECISIONS TO ARREST, CAUTION OR PROSECUTE

1. Counter-allegations by victim's abuser of use of force

Maia: migrant woman with two young children, convicted of assault offences against her husband in response to his allegations against her, despite third party evidence (including MARAC) of his prolonged physical and emotional abuse of her, including use of her immigration status as a means of control. Separated from her children due to bail conditions. Conviction overturned on appeal. No action taken against husband.

Training and guidance is needed for all police forces on how to identify the primary aggressor in the event of counter-allegations of use of force. Where police get it wrong and arrest the true victim, this causes trauma and may have far-reaching impacts on child custody decisions, housing and other aspects of a survivor's life, even when the case is closed soon after. Research suggests there is still widespread inappropriate use of arrest in these circumstances and that, despite College of Policing guidance, local police force guidance is inconsistent. Police lack training and expertise in ensuring a trauma-informed response to victims and showing an understanding of the dynamics of domestic abuse.

There is not much training for police on the frontline about trauma responses.

Women's service provider

Despite CPS legal guidance on self-defence and counter-allegations in domestic abuse cases, qualitative research makes clear that inappropriate prosecutions frequently take place. Participants at our roundtable described a cursory approach by prosecutors:

It is just a box ticking exercise, particularly in the lower-level cases.

Lawyer

2. Counter-allegations of harassment and Non-Molestation Orders

Nina: rape victim prosecuted for alleged breach of Non-Molestation Order which her abusive ex-partner had obtained against her in the family court following her allegation that he had raped her. Prosecution later dropped due to lack of evidence. Proceedings against perpetrator dropped and later reopened. Victim is now engaged in family court proceedings to remove NMO against her and put in place NMO against perpetrator.

There is no guidance for police and prosecutors to interrogate counter-allegations of harassment made by domestic abuse perpetrators against their victims. Nina's case shows how abusers can misuse applications in the family court to extend control over their victim.

3. Manipulation of criminal justice and family law processes by police officer perpetrators

Margaret: Margaret was arrested several times as a result of the actions of her police officer husband in the context of bitter disputes in the Family Court, and received several convictions and a caution. One day during an argument she called 999. Police officers attended and allowed her husband to leave with their baby daughter. Shortly after this Margaret was served with a Non-Molestation Order that her husband had obtained on false allegations that she had been violent to him. She sent him a text message begging to see her daughter. She was arrested for this and given a caution for breaching the order. She was subsequently charged and convicted of three counts of assault on the basis of her husband's false claim that she had slapped and kicked him. During the trial it was her word against his; he said in court that he was a police officer and could not lie or he would lose his job. She was also found guilty of four breaches of the order for sending pleading messages about the baby. She was sentenced to 18 months' probation.

As part of a separate project on police perpetrated domestic abuse, CWJ are aware of a number of cases in which a police officer perpetrator appears to have abused his powers or contacts within the police in order to criminalise their victim, as in Margaret's case.

4. Coerced offending

Naomi: Naomi was in an abusive relationship for twelve years. The abuse continued after she had ended the relationship. On one occasion, Naomi's ex-partner beat her over the head with a large plastic water pipe and dragged her over gravel by her hair, in front of their five year-old daughter. He was arrested but the police took no further action.

Naomi's abuser bred horses and pressured her to help him with the paperwork. He had no phone or bank account and could not read or write. During their relationship she took responsibility for the animals on paper after he was banned from keeping horses. She had no part in looking after the animals which he kept some miles away. When the local authority prosecuted him again for animal welfare offences, although they knew she was not the owner, she was prosecuted as 'co-keeper'.

"At the time, I was oblivious as to the extent of my abuse, or that it was abuse and only mentioned it to my solicitor as an aside."

On her first appearance in court, Naomi was seated next to her abuser as co-defendant. She subsequently pleaded guilty in order to avoid the trauma of appearing in court again alongside her abuser, because she needed to look after her young daughter, and in order to avoid the risk of imprisonment.

It is recognised in CPS legal guidance and Home Office statutory guidance on coercive and controlling behaviour that victims may be coerced by their abuser to commit offences. In these cases, where women are not arrested at the scene of a domestic abuse incident, it is even less likely that contextual domestic abuse will be taken into account in decisions to arrest or prosecute. Police and CPS guidance and training is needed on considering whether there is contextual domestic abuse in relation to alleged offences by victims other than counter-allegations of use of force. This should include the fact that it is extremely difficult for most survivors of VAWG to speak about their abuse. Introducing a statutory duty on police and other public authorities to ensure frontline staff make trained enquiries into domestic abuse, with support for victims, would also be helpful.

...there is still a lot of pressure and stigma that might prevent a woman from seeking help or even admitting that she is a victim of domestic violence.

Working Chance

An approach modelled on the process followed in relation to potential victims of trafficking could address this. Learning should also be drawn from specialist domestic abuse court processes, in which specialist Court Co-ordinators support the police and prosecutors to work towards a just outcome.

The Code for Crown Prosecutors sets out that applying the public interest test should include an assessment of the level of culpability of the suspect, and states:

A suspect is likely to have a much lower level of culpability if the suspect has been compelled, coerced or exploited, particularly if they are the victim of a crime that is linked to their offending.

However, research makes clear that, whether or not such assessments take place, prosecutions nonetheless frequently occur. The Code needs to be revisited to set out what is required in order to take account of contextual domestic abuse in decisions to prosecute.

5. Police actions criminalise victims

Edie: Edie was working for a local authority when she was sexually assaulted by a colleague during a social event. She reported this to her employer, an investigation took place and the colleague was dismissed. A few months later she reported the rape to the police. She was called in for a meeting at which the police effectively threatened Edie with arrest for making a false allegation, saying, “You don’t have a criminal record and we’d like to keep it that way”. Frightened by this, Edie withdrew her allegations and the case was closed.

CPS guidance is available for cases in which prosecution is being considered in relation to apparently false allegations of rape and other sexual offences. The guidance states, 'Prosecutions for these offences in the situations above will be extremely rare and by their very nature they will be complex and require sensitive handling.' However, Edie's case suggests this guidance is not consistently followed in practice.

Najma: stalking victim arrested and detained by the police overnight after she showed frustration with the police for apparently not taking her case seriously. Najma had been stalked by her ex-partner and he had been arrested and placed on pre-charge bail conditions. He breached the conditions several times, but the police took no action. The police asked for Najma's phone to download data, and subsequently lost it. They did not ask her ex-partner for his phone. Najma was arrested and detained after she attended the police station to give a further statement and they refused to take it. She appeared in court the following morning and the prosecutor and judge agreed that they did not know why she had been arrested. She was released from custody and is currently bringing a claim against the police for false imprisonment.

Najma's case illustrates failure by the police to implement a trauma-informed response to victims of gender-based violence. There is a need for better training and accountability to ensure the police are equipped to respond appropriately to victims exhibiting distress.

CHALLENGING INAPPROPRIATE PROSECUTIONS

In our experience, pre-trial representations to the CPS that it is not in the public interest to proceed with a prosecution are often refused without a substantive response to the issues raised. In such circumstances there is no legal avenue to challenge the decision to prosecute, other than to make submissions on abuse of process within the criminal proceedings. Yet many such decisions may not meet the threshold for an abuse of process. Public interest considerations may not give rise to an abuse of process argument.

It is virtually impossible to succeed in challenging a decision to prosecute using judicial review.

Criminal defence barrister

Defence solicitors under considerable pressure with limited resources may not even attempt the argument, and women may plead guilty in order to avoid the trauma of a trial and the risk of a harsher sentence if they are convicted.

COURT PROCEEDINGS AND POST-SENTENCE

Research has revealed multiple barriers throughout court proceedings which prevent women defendants' experiences of VAWG being taken properly into account. APPEAL have pointed out that current safeguards 'are inept at uncovering their histories of trauma through the court process and make it exceptionally hard for women to overturn unjust decisions'. This is echoed in CWJ's case studies. Knowledge and understanding of domestic abuse remain limited amongst prosecutors, judges and other practitioners in the courtroom. As Naomi commented:

The magistrates court and the local authority have acted recklessly and without an ounce of compassion towards me, they appear to be grossly ignorant of domestic abuse.

Sentencing still takes place without pre-sentence reports, restricting the court's knowledge of contextual abuse. Inadequacies have been identified in the appeal process for women whose offending resulted from abuse, as well as barriers to parole, rising levels of recall of women to prison and lack of appropriate community support. We make recommendations below for new guidance and procedural reform to address some of these barriers.

CURRENT DEFENCES AND OPTIONS FOR LEGISLATIVE REFORM

WHY CURRENT DEFENCES ARE INEFFECTIVE

Current legal defences do not protect survivors of domestic abuse from prosecution or conviction when they are driven to offend. For those accused of using force against their abuser, self-defence is very difficult to rely on. The law on self-defence allows the use of reasonable force and requires the degree of force to be proportionate. Research makes clear that law reform is needed to address the difficulties faced by victims of domestic abuse in establishing reasonableness and proportionality when accused of using force against their abuser. As Susan Edwards explains:

...fear of being abused by a domestic abuser (experienced largely by women) is not always understood, considered reasonable or within common sense knowledge, and is often contested as insufficient to excuse violent defensive conduct.

For those coerced into offending, the only possible defence is the common law defence of duress. This can be applied (other than for murder) where the defendant was acting under threat of imminent death or serious injury and where there would have been no alternative course of action for a reasonable person with relevant characteristics. Yet as illustrated in the case of YS below, the defence of duress 'remains largely inaccessible to abused women'. This was confirmed in a case law analysis by Dr Alice Storey and Dr Sarah Cooper, which concluded that courts are generally unreceptive to the duress defence when used by a woman who has offended in circumstances relating to domestic abuse, and that the language used in some case reports does not reflect the often- complicated nature of domestic abuse.

Case study - YS

YS is charged with driving whilst disqualified, driving with excess alcohol, driving without insurance and dangerous driving. An officer noticed a vehicle with its brake lights permanently illuminated and swerving from side to side. He activated the siren, indicating for the vehicle to stop. The vehicle did not stop, and a chase continued for five minutes. In the driving seat was a woman, YS. She explained she had been dragged from her home partially dressed by her partner, forced to drive, and that he threatened to kill her if she did not drive on. The partner was screaming at her throughout, punching her in the ribs and trying to grab the steering wheel. The police stop this vehicle and YS is prosecuted. Despite running duress, and despite her being viewed as credible, she is convicted. Her conviction was upheld on appeal to the High Court.

PROPOSED STATUTORY DEFENCES

We proposed that two new Clauses and a new Schedule should be added to the Domestic Abuse Bill to address these gaps in the law (amendments 37, 38 and 83 in this [marshalled list](#)):

- a) An amendment to the law on self-defence, modelled on the provisions for householders in Section 76 of the Criminal Justice and Immigration Act 2008. This would allow survivors acting in self-defence against their abuser the same protection as householders defending themselves against an intruder.
- b) A statutory defence for survivors, modelled on Section 45 of the Modern Slavery Act 2015. This would give survivors of domestic abuse similar protection to victims of trafficking who are compelled to offend.

Supporters of the proposals include the Domestic Abuse Commissioner, the Victims' Commissioner, the Criminal Bar Association, Women's Aid, Prison Reform Trust and others. The proposals were passed in the House of Lords but subsequently fell in the Commons due to the government's opposition. However, the government has committed to considering the impact of existing defences as part of its review of sentencing in domestic homicide cases. It is hoped this will be a first step towards legislative reform. Reforms have been adopted in other jurisdictions to make self-defence more accessible to victims of domestic abuse acting in self-defence against their abuser; these could be considered as alternatives for reforming self-defence in England and Wales. Any legislative reform should be accompanied by a comprehensive cross-government policy framework to aid implementation.

CRIMINAL RECORDS RESULTING FROM CHILDHOOD SEXUAL OR CRIMINAL EXPLOITATION AND DECRIMINALISING LOITERING AND SOLICITING

The operation of the disclosure and barring scheme with respect to women who were prostituted as teenagers and acquired criminal convictions for soliciting and loitering has been successfully challenged, but the same women were not successful in challenging the retention of their criminal records until they reach the age of 100 years. The decriminalisation of the deeply stigmatising offences of loitering and soliciting is also long overdue. There should be a mechanism to expunge criminal records arising from coercion, abuse and exploitation, or at least to filter them from disclosure.

CONCLUSIONS

There is a clear need for reforms to protect victims of domestic abuse and other forms of VAWG from unjust criminalisation. Five outcomes we believe need to be achieved, and 20 actions in order to achieve them, are set out below.

RECOMMENDED ACTIONS BY OUTCOME SOUGHT

| A: Effective legal defences are available to victims whose offending or alleged offending results from their experience of domestic abuse. | | |
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| Action | | Lead agency |
| 1. | Legislate to provide effective defences for individuals whose alleged offending occurs in the context of domestic abuse and reverse proposals in the Police, Crime, Sentencing and Courts Bill that would widen the net of criminalisation of victims of VAWG. | Moj |

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| B: Protection and non-penalisation of victims is established as a national strategic priority for all criminal justice agencies, for those whose offending or alleged offending results from their experience of domestic abuse and other forms of VAWG (subject to appropriate exceptions in line with the public interest); and existing protections for trafficking victims are maintained. | |
| Action | Lead agency |
| 2. | <p>Establish a national policy and practice framework for the treatment of victims of domestic abuse and other forms of VAWG who are suspected of criminal activity, in order to strengthen police and CPS discretion as to whether it is in the public interest to arrest and prosecute an individual in these circumstances and prevent victims of VAWG from being punished for crimes they were forced to commit or where they were acting in self-defence.</p> |
| 3. | <p>Reverse proposals in the Nationality and Borders Bill to:</p> <ul style="list-style-type: none"> • Penalise trafficking victims who disclose their exploitation too late • Ban victims with convictions for certain offences, or foreign national victims who have received a prison sentence of 12 months or more, from accessing support. |
| | <p>MoJ Home Office</p> <p>Home Office MoJ</p> |

C: Improvements in guidance and practice are implemented throughout the criminal justice process, including through revisions to the Code for Crown Prosecutors and establishment of a mechanism to challenge inappropriate prosecutions, to ensure that:

(a) Suspects/defendants who are potential victims of domestic abuse and other forms of VAWG are identified as such at the earliest possible stage in proceedings.

(b) Once identified, victim suspects/defendants are protected from abuse, effectively referred to support services, and not stigmatised.

(c) Suspects/defendants' rights as victims are upheld irrespective of any actual or potential criminal proceedings against them.

(d) Criminal justice practitioners at every stage of the process, judges, magistrates and juries are able to take proper account of the abuse suffered by victim suspects/defendants and its relationship to any alleged offending.

(e) Effective procedural safeguards are accessible to enable victim suspects/defendants to give their best evidence about contextual domestic abuse.

| Action | Lead agency |
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| 4. | <p>(a) Revise the Code for Crown Prosecutors to address in more detail the considerations to be taken into account when the suspect is, or may be, a victim of domestic abuse or another form of violence against women and girls.</p> <p>(b) Establish an effective mechanism for challenging decisions to prosecute a victim of domestic abuse or another form of violence against women and girls.</p> |
| | <p>MoJ CPS</p> <p>MoJ</p> |

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| <p>5.</p> | <p>Introduce a statutory duty for public authorities and national guidance for the police, prosecutors, probation services and the courts to adopt the practice of routine enquiry as to whether women and girls’ offending took place in the context of domestic abuse, to ensure informed decision making. This work must be supported by training about barriers to disclosure. Resources must be provided to ensure a surrounding framework of available support is in place to protect survivors who make a disclosure.</p> | <p>MoJ Home Office College of Policing National Police Chiefs Council CPS HMPPS</p> |
| <p>6.</p> | <p>Introduce national police guidance on responding to suspects who are potential victims of domestic abuse and other forms of VAWG – to include guidance on identifying potential victims at the point of arrest through routine enquiry supported by close work with specialist services and referral for support; protection of victims’ rights (including Victims’ Rights to Review); investigation of potential offences against the victim; when it may/may not be in the public interest to charge or caution the victim; trauma-responsive practice; and out of court disposals.</p> <p>This work should learn from equivalent guidance on human trafficking indicators and specialist domestic abuse courts. It should be done jointly with local domestic abuse specialist services, including services led by and for Black, Asian, minoritised and migrant women and services for young women and girls and those with disabilities, where possible including co-location of domestic abuse specialists in police stations.</p> <p>Introduce equivalent guidance for non-police prosecutors, such as local authorities.</p> | <p>Home Office College of Policing National Police Chiefs Council Department for Levelling Up, Communities and Housing</p> |

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| 7. | <p>Introduce Crown Prosecution Service legal guidance on identifying when case facts may indicate that the suspect is a potential victim of VAWG (not only in relation to counter-allegations in domestic abuse incidents), when to ask the police to make further enquiries, when it may/may not be in the public interest to prosecute or caution the victim, and out of court disposals.</p> <p>The CPS 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, and that the public interest is applied appropriately when deciding whether to prosecute – including services led by and for Black, Asian, minoritised and migrant women, and services for young women and girls and those with disabilities.</p> | CPS |
| 8. | <p>Introduce Court staff guidance on identifying when defendants in court are potential victims of VAWG, how to respond in a trauma-responsive way, and when special measures may be appropriate.</p> | HMCTS |
| 9. | <p>(a) Introduce training for criminal defence lawyers on VAWG, including coercive control, how to facilitate disclosure of abuse and how this should inform the defence.</p> <p>(b) Amend Plea and Trial Preparation Hearings Parties Pre-Hearing Information Forms to include a box that criminal defence lawyers must tick if the defendant is a potential victim of domestic abuse, in order to trigger enquiries and consideration of the public interest.</p> | <p>Law Society Bar Council</p> <p>MoJ</p> |
| 10. | <p>Reform legal aid to enable easier transfer of legal aid to another criminal defence solicitor where needed and provide adequate funding to reflect the time needed to take instructions and provide adequate representation for victims of abuse.</p> | MoJ |

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| 11. | <p>Introduce training and guidance for judges and magistrates in the criminal and family courts about the dynamics of domestic abuse and how it can lead to offending, and how perpetrators can manipulate court proceedings to extend their control over their victim.</p> <p>Judges’ understanding of VAWG can be crucial to the outcome of criminal cases – including for instructing the jury, deciding what evidence is admissible, determining the sentence, and generally controlling the way a case is conducted – but it is often lacking.</p> <p>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.</p> <p>This should include additional guidance in the Crown Court Compendium and Equal Treatment Bench Book, and guidance on the use of special measures in court proceedings to facilitate victim defendants giving their best evidence.</p> | <p>Judicial College MoJ</p> |
| 12. | <p>Introduce training for probation practitioners and youth offending service practitioners on taking account of the context of domestic abuse in which some women and girls’ offending arises, in their rehabilitative and supervisory work with those women and girls.</p> | <p>HMPPS YJB</p> |
| 13. | <p>Review programmes of information and support that are available for women and girls affected by domestic abuse, including victim support services, in the community, in custody and on release, by HM Prisons and Probation Service, the Youth Justice Board and the Ministry of Justice, working with women’s prison governors, youth custodial settings, probation services, Youth Offending Services and community agencies.</p> | <p>MoJ HMPPS YJB</p> |

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| 14. | <p>Develop gender-specific risk assessment tools for women and girls in relation to bail, Release On Temporary Licence and other similar measures, parole, supervision and recall.</p> | <p>HMPPS YJB MoJ</p> |
| 15. | <p>Establish close joint work between the Ministry of Justice, the Department for Levelling Up, Communities and Housing, local authorities and the voluntary sector to ensure that all women and girls leaving custody who are victims of, or at risk of, domestic abuse and other forms of VAWG are provided with safe accommodation with appropriate support, including specialist refuge accommodation where this is needed.</p> | <p>MoJ DLUCH Local authorities</p> |
| 16. | <p>Introduction training and guidance for children’s social care services and other statutory agencies to combat the unfair stigmatisation of survivors involved in alleged offending, particularly in relation to their care of, or contact with, their children. This has been the subject of recommendations in research by Advance and in Lord Farmer’s review of the importance of maintaining family relationships for women in the criminal justice system.</p> | <p>Dept for Education MoJ</p> |
| 17. | <p>Increase investment in joint work between criminal justice agencies, specialist women’s services and NHS Liaison and Diversion Services (including co-location) throughout the criminal justice process to improve information sharing and facilitate disclosure of abuse, and ensure effective support is provided to victim suspects/defendants. Ensure this includes services led by and for Black, Asian, minoritised and migrant women, and services for young women and girls, and those with disabilities.</p> | <p>DHSC MoJ Local gov</p> |
| 18. | <p>Ensure appropriately qualified female interpreters are available to support identification of potential victims for whom English is not their first language and to enable them to participate in any proceedings.</p> | <p>MoJ HMCTS</p> |

