

Domestic Abuse Act 2021: Briefing

Introduction:

The Domestic Abuse Act (2021) became law in April 2021. The act should help to transform the response of professional services (including Children's Services, Adult Service, Housing, Police and the Judicial System) to domestic abuse.

The objectives of the Domestic Abuse Act are:

- To raise awareness and understanding about the significant impact of domestic abuse on victims and their families
- To improve the effectiveness of the justice system in providing protection to victims of domestic abuse and bringing perpetrators to justice
- To strengthen the support for victims by statutory agencies

There are certain aspects of the act which hold particularly relevance for the Local Authority primarily Children's Services and Housing.

Statutory Definition:

The definition recognises that domestic abuse can take many forms. These include physical violence, emotional harm, coercive and controlling behaviour and economic abuse.

The definition sets out that the victim and perpetrator must be 'personally connected' but this captures different types of relationships e.g. ex-partners or family members.

The definition is gender neutral to ensure that no victims are excluded from protection or access to services.

Under the new act, threats to share intimate images as well as non-fatal strangulation have become specific criminal offences

Children as Victims:

The act defines domestic abuse as occurring where the victim and perpetrator are aged over 16. Abusive behaviour directed at a person under 16 would be dealt with as child abuse rather than domestic abuse.

However, for the first time, a child who sees or hears, or experiences the effects of, domestic abuse and is related to the person being abused or the perpetrator, is also to be regarded as a victim of domestic abuse in their own right. This will help to ensure that locally-commissioned services consider and address the needs of children affected by domestic abuse.

The act sets out that the victim of domestic abuse must be over the age of 16. If abusive behaviour is directed to a child under the age of 16, this would be dealt with as child abuse NOT domestic abuse.

Coercive Control:

The offence of coercive and controlling behaviour has been extended. It is no longer a requirement that abusers and victims still be in a relationship or still reside together in order for this offence to be recognised as domestic abuse.

This is significant as research consistently shows that the risk of all types of domestic abuse including coercive and controlling behaviour increases significantly when the relationship ends.

This change has particular significance in the context of economic abuse. This type of abuse often continues, escalates and in some cases may even begin following separation. It can represent a major challenge for victims who are trying to rebuild their lives.

Legal Measures

Domestic Abuse Disclosure Scheme (aka Claire's Law):

The disclosure scheme allows police to disclose information about individuals with a history of violent or abusive behaviour to protect potential victims from harm.

There are two ways that a person can request disclosure; either through the 'right to ask' or 'right to know' avenues.

'Right to Ask' – where a person is concerned that a partner or potential partner has a history of abusive behaviour. Third parties can also make these requests where they are concerned someone is at risk. The police have to decide whether to disclose any history of violent and abusive behaviour on the basis that it could prevent future harm.

'Right to Know' – allows police to make a proactive disclosure to a potential victim if they believe it could protect that person. This could come about following information received from a criminal investigation or through a statutory or 3rd sector agency.

For Social Workers, this means that when they become aware that someone they are working with is experiencing or is at risk of experiencing domestic abuse, they should report their concerns to the police and can seek information as to whether the perpetrator has a previous history of domestic abuse. This can contribute to efforts to intervene and support the victim and their family

Special Measures in Court:

Perpetrators will no longer be able to cross-examine victims and survivors in family and civil courts

Survivors will be entitled to special measures such as screens or using video links when giving evidence.

GPs and other health professionals will no longer be able to charge a survivor for a letter to support a legal aid application

Management of Perpetrators:

The Act requires the government to introduce a national perpetrator strategy, which will include a new Domestic Abuse Protection Notice and Domestic Abuse Protection Order to help prevent reoffending and provide immediate protection for survivors.

Domestic Abuse Protection Notices (DVPN):

Police have been given new powers to issue civil Domestic Abuse Protection Notices (“DVPN”). These provide victims with immediate protection from offenders and require them to leave the home for up to 48 hours.

Domestic Abuse Protection Orders (DAPO):

DAPOs will consolidate the various existing orders relating to domestic abuse (including domestic violence protection orders and non-molestation orders). These orders will allow courts to implement both prohibitions and positive requirements on perpetrators, as well as a monitoring requirement to ensure that perpetrators are complying with the terms of their order.

Breaching a DAPO, which is a criminal offence, carries a maximum penalty of five years’ imprisonment.

We are awaiting the guidance regarding DAPOs however it is intended that third parties e.g. Social Workers, will be able to apply for the DAPO to the Family Court. This will mean that Social Workers can apply on behalf of individuals they are working with where there are concerns that they are experiencing domestic abuse.

The new Domestic Abuse Protection Notice and Domestic Abuse Protection Order will be piloted before being implemented throughout England and Wales.

Housing and Accommodation

Local Authority Accommodation Duty:

Part 4 of the act places a duty on local authorities in England to provide support to victims of domestic abuse and their children within refuges and other forms of safe accommodation. There has been government funding made available to support Local Authorities to fulfil this duty.

Within the draft Statutory Guidance⁵, safe accommodation is defined as:

- Refuge accommodation
- Specialist safe accommodation
- Dispersed accommodation
- Move on or second stage accommodation
- Sanctuary Scheme
- Other forms of domestic abuse temporary accommodation

The Nottingham City Needs assessment is in draft form currently but will be shared with the Nottingham City Safeguarding Partnership Board in Sept 2021, it will be shared with MHCLG in Oct 2021. A ‘Nottingham City Safer Accommodation Strategy’ has been prepared alongside this which will also be shared in the same timescales.

Homelessness eligibility

The Domestic Abuse Act amends homelessness legislation to give victims of domestic abuse automatic priority need status for settled housing, without needing to fulfil the vulnerability test.

Governance:

Domestic Abuse Partnership Board:

All Local Authorities must appoint a multiagency domestic abuse partnership board. This board will be consulted to assess the need for accommodation based domestic abuse support in their area. The board will also be responsible for developing and publishing a strategy for provision of this support as well as monitoring and evaluating the effectiveness of the strategy. There will be a particular focus on ensuring that marginalised communities receive specialist services and support.

In Nottingham, the Domestic Abuse Partnership Board has replaced the existing Domestic and Sexual Violence Strategy Group.

All Local Authorities will be responsible for reporting back to national government about this work. There will be a national oversight board chaired by a minister.

The new Domestic Abuse Commissioner, Nicole Jacobs, will sit on the national board.

Domestic Abuse Commissioner:

The act creates the role of domestic abuse commissioner. The commissioner has specific powers to help improve the response to domestic abuse and to hold both national government and agencies to account.

The commissioner will be responsible for publishing reports for Parliament with the aim of ensuring that needs of survivors and victims nationally, are identified and met.

All statutory agencies and government departments will have a legal duty to co-operate with the commissioner and respond publicly to any recommendations within 56 days. The duty to co-operate could include, for example, responding to requests for information from the commissioner.

Needs Assessment:

Under the new Act, there is a requirement for all Local Authority's to provide a statutory return annually alongside a needs assessment. This will identify the level of need in the Local Area and measure the effectiveness of service provision in meeting this need. The statutory return and needs assessment for 2021 is near completion – this was pulled together at very short notice and the requirements of the statutory return were not discussed with Local Authorities in advance and there was no discussion with software providers (such as Liquid Logic) to confirm whether the information required is currently captured. This means that for our current return there are gaps in data being provided – this is a national issue.

Data is collected from Children's and Adult Services, Housing Aid, Voluntary Partners (such as Juno Women's Aid and Equation), statutory partners such as Police and Health.

The needs assessment will inform government decision making around funding for each Local Authority which is assigned on a yearly basis to enable Local Authorities to meet their statutory duties.

The MHCLG Grant awarded to Nottingham City is £871,229 for Year 1.

Nottingham City's Needs Assessment is being completed by the Crime and Drugs Partnership in conjunction with partners. This will be available to the Safeguarding Partnership Board in September 2021. It is likely to highlight that there is insufficient Refuge provision in Nottingham City.

Further Information:

Domestic Abuse Act 2021:

<https://www.legislation.gov.uk/ukpga/2021/17/contents/enacted>

Domestic Abuse Act: Factsheet

<https://homeofficemedia.blog.gov.uk/2021/04/29/domesticabuseactfactsheet/>

Useful Links:

Domestic and Sexual Violence Services in Nottingham:



DSVA Services in
Nottingham - Febru

Briefing Prepared by: Nicole Harris, Service Manager – North and Contact Centre, Children's Services/ Chair of Children's Domestic & Sexual Violence Subgroup