



**domestic  
abuse  
commissioner**

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Rt Hon Robert Jenrick MP  
Minister of State for Immigration  
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CC: Rt Hon Ed Argar MP  
Minister of State for Justice  
102 Petty France,  
London SW1H 9AJ

8<sup>th</sup> July 2023

Dear Rt Hon Robert Jenrick MP, Minister for Immigration,

As Domestic Abuse Commissioner for England and Wales, I am writing to request an urgent meeting with you to discuss the response to my 2<sup>nd</sup> report on migrant survivors, *Safety Before Status: The Solutions*, which was published last night (7<sup>th</sup> July 2023) after being delayed by over five months.

Although the Department informed my Office that they were planning to publish the response, no date of publication was provided despite regular inquiries. In order to ensure we provide a more effective response, I would have valued some notice that the Government's response would be published on the 7<sup>th</sup> July 2023.

Nevertheless, I am pleased that the Government has included how perpetrators can use immigration status as a tool of abuse in the April 2023 Controlling and Coercive Behaviour Statutory Guidance. This will be important in improving frontline understanding and recognition of this tactic and type of abuse.

I am also glad that the Government recognises that there is more work to be done and will continue to work with my Office for future policy development on this issue.

However, the Government's response does not provide any new, or substantive commitments for migrant survivors of domestic abuse. No victim or survivor of domestic

abuse should ever be prevented from accessing the support and protection they need because of their status, and victims should be treated as victims, first and foremost.

I have laid out my serious concerns below for your attention.

## Recourse to public funds

From my report, it is my clear recommendation that the Destitute Domestic Violence Concession (DDVC) and Domestic Violence Indefinite Leave to Remain (DVILR) Rule should be expanded to enable all migrant victims, regardless of their status, to access protection and support through a model which is flexible and tailored to the length of support for which they require it.

Whilst I am pleased that Government has recently extended funding for the Supporting Migrant Victims Pilot for an additional 2 years, this is not a sustainable nor long-term solution, and policy changes must be made in order to provide safety to survivors and certainty to services.

If Government were to adopt my recommendation and enact the much-needed policy changes, the benefit cost ratio (BCR) over 10 years is 4.3. This is based on the Government paying £537m of costs, which generates £2.293bn of gains. Not only does this option have clear economic gains to society it is also accompanied by other benefits, such as simplicity in process making it easier to understand for survivors, domestic abuse services, and statutory bodies.

In your response, the rationale for not extending further DDVC and DVILR is:

*“[...] those who have come to the UK as the spouse or partner of a person present and settled in the UK (or with refugee status or pre-settled status) have come to the UK in the reasonable expectation of being able to live here permanently. They would have an expectation of permanent settlement but for the breakdown in the relationship because of domestic abuse. But those who have come as the partner of a person on a temporary work or study visa have no such legitimate expectation on entering the UK.”*

I am concerned with this line of thought as it removes the seriousness and impact of domestic abuse on victims and survivors. To illustrate with a few examples:

- A victim or survivor who was on a student visa may have intended to move onto a skilled work visa, or other, with intention to eventually apply for Indefinite Leave to Remain (ILR). The perpetrator may have destroyed their documentation, or prevented or lied about doing an application for their next visa, and so forth. Meaning the survivor is now at risk of immigration enforcement.
- As we know, perpetrators can often use pregnancy and child(ren) as a tool for coercion and control. A victim or survivor who is not on a spousal visa but with a child(ren) will not wish to be removed away from their child. It is inappropriate to tell such a survivor, who may have been abused by a British citizen, that although they have experienced horrific abuse, they did not arrive here with the reasonable expectation to remain and so now must be separated from their child through immigration proceedings.

- A perpetrator may subject a victim or survivor (who is not in the UK on a spousal visa) to so-called honour-based abuse within a transnational context. For example, ensuring that a victim or survivor is at high risk of so-call honour-based abuse in their country of origin, and subsequently using the threat of deportation and the likelihood of additional harm as a tool to control.

All such examples which take place in our nation, particularly those by our citizens, require a fair and supportive response. I would also like to note that some victims and survivors would just want the support to leave, recover and return to their country of origin safely. However, without a route to status they are at risk of immigration enforcement and without recourse to public funds, they are unable to leave abusive relationships, find support, and recover from the abuse.

As I raise in my report, this places a lot of the financial costs of supporting migrant survivors of domestic abuse onto the shoulders of 'by and for' services. I appreciate that the Home Office recognises the importance of 'by and for' specialist services and I have enjoyed working with the Department to improve the provision of them. However, this response speaks only to the additional £1.5 million provided to the, now total £8.4 million, fund which was opened to tender last year. This of course is welcome, but it is far from the £262.9 million I have called for. As my report lays out, these services are critical for migrant survivors who do not have access to public funds.

I encourage the Government to review its position on 'by and for' funding for migrant survivors and the current scope of inclusion for DDVC and DVILR. Without movement the Government continues to risk loss of life from one of the most heinous crimes.

## Need for firewall

I also strongly encourage the Home Office to reconsider its position on a firewall for witnesses and victims and survivors of domestic abuse, so-called honour-based abuse, stalking and harassment, sexual violence, child abuse, and child sexual exploitation.

Without a firewall at present, we are seeing:

- **An increased ability for the perpetrator to utilise immigration status to retain control and inflict further abuse – known as immigration abuse.** This includes threats of deportation and separation from their children if they report abuse and **was a key tool David Carrick used to control one of his victims.** Imkaan has reported that more than 90% of abused women with insecure immigration status had their abusers use the threat of their removal from the UK to dissuade them from reporting their abuse.
- **An increased ability for perpetrators to re-perpetrate and continue offending against other migrant victims, including child victims, due to fears of reporting.**
- **A serious threat to public safety.** Witnesses, victims, and survivors of these crimes who have insecure status do not report out of fear of immigration enforcement. This

means that vital information to identify and arrest dangerous individuals is not being obtained by the police.

- **An increased incentive for perpetrators to destroy documentation.** Perpetrators will destroy documentation, lie to the victim about their status, or purposely work to cause a victim's status to become insecure to increase control.
- **A lack of clarity of practice leading to confusion for both victims and front-line professionals.** There are mixed and conflicting policy processes and positions on this issue. For example, the NPCC has a position on data sharing with the Home Office in domestic abuse cases. Furthermore, there is the incoming Code of Practice and also the Protocol being provided by the Home Office. This makes it confusing for both frontline professionals and victims to understand.
- **Poor practice and a prioritisation of pursuing an immigration offence.** The prioritisation of investigating the victim's status means that they are the centre of the investigation, rather than the pursuit of justice of the abusive perpetrator. This undermines strategic work to stop gender-based abuse and leads to poor practice. For example, data from a recent FOI request found that from 2020-2022 at least 2,546 victims of crimes such as domestic abuse, child sexual exploitation and adult sexual exploitation were reported to the immigration enforcement unit of the Home Office. Similarly, from April – December 2020, of 128 referrals of domestic abuse victims, over a quarter (32) were served with enforcement papers.

This undermines the Home Office's objective of treating migrant victims first and foremost. It also results in particularly vulnerable victims finding it difficult to report, and subsequently disengaging with the police, statutory services, and specialist support services. This allows perpetrators to continue offending, evade justice and potentially target others, ultimately undermining public safety.

### **Urgent opportunity to implement a firewall**

A firewall in practice would be a blanket ban on services such as the police sharing data of a victim or witness of domestic abuse, so called honour-based abuse, sexual violence, child sexual abuse and exploitation, and stalking and harassment with Immigration Enforcement. This would: enable victims to report and access support without fear of immigration enforcement; bring more perpetrators to justice; and reduce the grip of immigration abuse.

The introduction of a firewall would also drive public safety. For an effective investigation to take place, victims need to feel able and confident to report a crime without fear of deportation, which migrant victims are currently prevented from doing. The public interest of a criminal justice response to gender-based abuse far outweighs any immigration offence that has taken place.

Despite multiple recommendations for a firewall from the Home Affairs Select Committee, the Justice Select Committee, HMICFRS, Welsh Government, the domestic abuse sector, and the Domestic Abuse Commissioner herself, your department has opted against it.

For migrant victims of domestic abuse, as laid out in your response today, the Home Office has opted for a Code of Practice, which is not yet published. This is in addition to a Protocol for migrant victims of crime that have been referred to IE from the police. However, this current approach is ineffective and counterproductive because:

- The victim is still open to immigration enforcement once criminal proceedings take place, meaning they will be fearful to report for risk of being deported post proceedings. Criminal investigations may be closed extremely quickly, and CJS outcomes are dropping across different forms of gender-based abuse.
- It is complicated to understand and won't be easy for victims, who may have limited internet access and not have English as a first language. Perpetrators will exploit this confusion and continue immigration abuse.
- There will likely be inconsistency between police forces on their operational decisions to share data with immigration enforcement, and inconsistency in their approaches to the offence, leading to further confusion for the victim and a discrepancy in outcomes across the country.

I would also like to add that the Home Office has not engaged with me on the Code of Practice and the Protocol for about a year, despite my Office reaching out to Officials.

I agree with your Government that victims need to be treated as victims first. Therefore, it is my opinion that a firewall is absolutely necessary to enable victims with insecure immigration status to safely report gender-based crimes. Establishing a firewall is possible and the Government can learn from international examples such as Amsterdam and Quebec. In the UK, in Northumbria and Surrey Police, statutory services and local PCCs are working alongside 'by and for' organisations to develop guidance to foster safe reporting.

The cost of implementing a firewall would be negligible. The cost would mainly be administrative in order to change guidance and training primarily for the public services and Immigration Enforcement, which we would expect to be absorbed in business-as-usual budgets.

I strongly urge you (Minister Jenrick) and the Victims and Sentencing Minister (Ed Argar) to consider implementing a firewall through the Victims and Prisoners Bill.

### **Breach of the Domestic Abuse Act 2021**

The powers set out by this Government in Section 16 of the Domestic Abuse Act say that the Home Office must respond to any report I lay in parliament within 56 days. This report was laid before Parliament on 13<sup>th</sup> December 2022 and the response was due on 7<sup>th</sup> February 2023.

The powers granted to my Office in the Domestic Abuse Act were given to drive much needed change and the sense of urgency that victims and survivors need from Government. It is vital that the statutory deadlines placed on Government by the Domestic Abuse Act 2021 are met, in order to ensure accountability and timely action on this critically important matter.

On 21<sup>st</sup> February 2023, I wrote to you to emphasize the recommendations of my report and ask for an urgent meeting to discuss the Government's response. I understand the pressures on yourself and the Home Office in responding to the Prime Minister's priorities and I have valued engagement with the Department, including meeting with the Home Secretary in March this year and regular meetings with the Minister for Safeguarding.

Sadly, I did not receive a response to that letter, nor did I receive a justified reason for the delay in the Government's response. As I have raised, the delay constitutes a breach of the Domestic Abuse Act 2021. I hope I will receive a formal explanation in the coming days as my statutory powers only work when the Government collaborates with my office. Breaching the statutory timelines is discourteous to my Office and more importantly, it lets down victims and survivors of domestic abuse.

I have cc'd in the Victims and Sentencing Minister (Ed Argar MP) in order to raise to his attention for future discussion on how the new powers set out in the Victims and Prisoners Bill for the Victims Commissioner's Office, which will match the powers laid out for my Office in the Domestic Abuse Act, will be meaningful.

## Next Steps

I am glad that in the response the Government recognises that more work needs to be done and has expressed their intention to continue to engage with my Office on these issues. I would welcome a discussion as soon as possible to consider my recommendations. As you know, migrant victims and survivors of domestic abuse face significantly high barriers to leaving a dangerous and abusive partner and accessing support, and it therefore imperative that the solutions are found to address these without further delay.

The Victims and Prisoners Bill provides a fantastic opportunity to turn the ambitions laid out in the Government's response into a reality. Particularly in relation to:

- **'By and for' provision:** It is right for the Government to be committed to ensuring victims can access support that is right for them, intends to continue working across government to support efforts to further build capacity in 'by and for' support and specialist support services, including through funding and investing in partnerships. I am keen to discuss with you further the 'by and for' pot I have proposed to your Department in my previous report *'A Patchwork of Provision'* as a means to make this ambition a reality.
- **Establishing a Firewall.** Which I have already covered in great detail in this letter.

I am also glad to hear the Government has reviewed the data from the Supporting Migrant Victims Pilot and will be announcing soon their decisions in relation to the scope of the DDVC and DVILR. I am keen that my Office is included in this conversation to ensure that the voice of victims and survivors is a part of the discussion and advice considered in these decisions.

I have very much enjoyed working closely with you (Immigration Minister) in your previous roles and I do wish to recognise that you have been a champion to survivors of domestic abuse, particularly in relation to establishing Part 4 of the Domestic Abuse Act 2021, and I



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fully intend to continue to work with you in the productive way we have previously for victims and survivors of domestic abuse.

I look forward to your response.

Yours sincerely,  
Nicole Jacobs

A handwritten signature in black ink that reads "Nicole Jacobs".

Domestic Abuse Commissioner for England and Wales