



**domestic
abuse
commissioner**

Domestic Abuse Commissioner for England and Wales
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9 July 2024

Rt Hon Shabana Mahmood MP
Lord Chancellor and Secretary of State for Justice
102 Petty France, London SW1H 9AJ

Dear Secretary of State for Justice,

I would like to warmly welcome you to your new role as Secretary of State for Justice in this new government. Since my appointment as the first Domestic Abuse Commissioner for England and Wales in September 2019, I have had the privilege to act as an independent voice for victims and survivors of domestic abuse, drawing on my 30 years' experience in domestic abuse services, policy and intervention. I have used my statutory powers, which are set out in the Domestic Abuse Act 2021, to hold both agencies and government to account to help improve the support provided to the 2.1 million victims and survivors of domestic abuse every year and to hold perpetrators to account. I very much look forward to expanding on this work with you in your new role.

I note with interest your background in international human rights law and your commitment to the rule of law. The impact of domestic abuse is increasingly being understood in human rights terms. Our recent ratification of the Istanbul Convention provides us an opportunity to use a rights-based framework to achieve these international duties. I also hugely welcome your manifesto commitment to halve violence against women and girls (VAWG). In particular, I support your commitment to free legal advocates for rape victims as a matter of right. I believe we share a number of deep concerns in relation to both the criminal and family justice systems and welcome the opportunity to speak and work with you in the upcoming months to improve the national response to domestic abuse.

Domestic abuse and the criminal justice system

The criminal justice system is in urgent need of reform, and will not be able to manage the totality of domestic abuse offending. Despite just 1 in 5 victims of domestic abuse reporting to the police, domestic abuse accounts for one in six crimes recorded by the police, 1 in 3 violent crimes recorded by the police and between fifth and a third of annual homicides. However, of those police-recorded crimes, just 5% receive a conviction. At the same time, HM Inspectorate of Probation estimates that one-third of people being managed by probation are domestic abuse offenders – even if their index offence was not for a domestic abuse-related crime.

The current status quo for victims and survivors of domestic abuse is untenable and the Ministry of Justice has a pivotal role to play in addressing this. Despite the volume of domestic abuse cases in the criminal justice system, victims and survivors consistently report being let down across every point, and convictions for domestic abuse have fallen by 43% since 2015/16. I have shared a brief with your department (attached for your reference) which sets out much of this in detail, but there are some points I would like to bring to your direct attention.

The end-to-end criminal justice system, including its bodies, agencies and Departments, must work seamlessly together to provide a holistic response which meets the needs of victims and survivors. Current failings in joint working are exemplified by the systemic issues which consistently undermine the application of protective orders – they are all too often poorly and inconsistently enforced, communicated and understood. It is imperative that police and court IT systems can speak to each other at an operational level – and this must be mirrored by clear, robust, regular communication and collaboration between the Home Office and the Ministry of Justice at a Departmental level.

Specialist services

Domestic abuse requires a holistic Coordinated Community Response, with every part of the local community and every statutory agency having a role to play, in partnership with specialist services. Specialist domestic abuse services provide lifesaving support to victims and survivors of domestic abuse, including counselling, refuge, safety planning and advocacy. These services are crucial for the effective functioning of statutory services, but are already [struggling to meet demand](#).

The new Duty to Collaborate introduced as part of the recent Victim and Prisoners Act is an important step forward. Local needs assessments must be used to build a full picture of need, and importantly unmet need, at the national level. Equally, long-term, sustainable funding for specialist services must be secured at the national level, including recognition that local commissioning practices are currently failing the most marginalised victims and survivors – despite being more effective in supporting minoritised victims, there is a desperate lack of specialist ‘by and for’ support across England and Wales, with organisations critically and disproportionately underfunded.

Prison capacity crisis

In the immediate term, your Government has inherited a prison estate reaching capacity. As the Domestic Abuse Commissioner, I must take the opportunity to emphasise that the safety of victims must be paramount, and any options to ease the crisis must be considered with great care. Any proposal must give robust consideration to implications for victims and survivors of domestic abuse, and no action should be taken which increases the risk they may face. Prior to the election, I had detailed conversations with Probation to discuss the complexities, challenges and logistics of early prisoner release plans. Any prisoner early release scheme, if progressed, must include an exemption for domestic abuse – and must also include those convicted for other offences, but where there is a known history of domestic abuse.

For those perpetrators who have received prison sentences, this provides a period of respite for victims and their children to recover and plan for their safety. Early release undermines this, especially when victims are unable to know the date of their perpetrators release – without this, safety planning is impossible. Victims must not pay the price of prison overcrowding. Therefore, I call on you to explicitly exclude any offender with a known history of domestic abuse, regardless of whether their conviction is for domestic abuse specifically. Equally, in the longer term, I would repeat my call for domestic abuse to be a statutory mitigating factor for victims who offend as a result of their abuse. The majority of women in prison report experiences of domestic abuse and over half have sentences of less than six months. Victims should not be criminalised due to their experience of abuse, and these prison places should be freed up for more dangerous offenders.

This problem requires long-term solutions. We must acknowledge that this crisis is occurring when just 1 in 5 victims of domestic abuse report to the police, and just 5% of police-recorded domestic abuse results in a conviction. As we work to raise awareness of domestic abuse, build faith in the criminal justice system, and improve criminal justice outcomes for victims who do report, convictions will, and should, only increase. Our criminal justice system must be prepared for that.

Analysis done by my office estimates that, if just one-third of victims reported to the police – even if still just 5% of police recorded domestic abuse resulted in a conviction – we could see up to 10,000 additional convictions for domestic abuse every year. If returning to the 2016 high of 18% of police recorded domestic abuse resulting in a conviction, this would be considerably higher. A lack of prison places must not stop the new Government's ambition to halve violence against women and girls in a decade. We owe it to the 2.1 million victims of domestic abuse every year.

Domestic abuse and the family justice system

Negative and often highly distressing experiences in the Family Court is the most common reason I am contacted by victims and survivors. Children who experience the effects of domestic abuse are now recognised as victims in their own right, and the Family Court has a crucial role to play in safeguarding these victims. The prevalence of domestic abuse in the Family Court is estimated to be [up to 62% of cases](#). However, the Family Court is not currently able to consistently identify and engage with domestic abuse, resulting in unsafe child contact and re-traumatisation of survivors.

Last year, I published a report, [Domestic Abuse and the Family Court: Achieving Cultural Change](#), which made ten key recommendations to transform the family justice system into one with a culture of safety and protection from harm, building on the Government's own [Harm Panel](#) report, which identified significant failings in the Family Court. Whilst not all of my recommendations were accepted by the previous Government, Pathfinder Courts, which are specialist in domestic abuse, have been established. These courts engage children at the outset of proceedings and bring in specialist support throughout. I strongly encourage that the pending formal evaluation informs an adequately funded national roll-out of this scheme, and that this new Government considers my report recommendations as a whole. This includes my firm belief that legal aid must be present in cases where domestic abuse is alleged.

A whole system response

Whilst I have spoken about two separate systems in your portfolio, it is vital that these work together to support victims and hold perpetrators to account. Illustratively, despite different burdens of proof, No Further Action letters from the police (utilising the criminal burden of proof beyond reasonable doubt) have driven the Family Court to ascertain an absence of abuse – despite the civil burden being lower and on a balance of probabilities. Equally, the super-complaint brought by the Centre for Women’s Justice showed that protection orders are not being enforced because police officers are not aware the orders have been made by the courts.

Working together

Under the previous government I worked with Lord Chancellors and Justice Ministers through 1-1 meetings and fora such as the VAWG Ministerial Steering Group. I would warmly welcome the opportunity to engage regularly with you in your new role, and remain available to you and your colleagues across Government to engage and advise on all issues relating to domestic abuse – as well as to facilitate, wherever needed, invaluable connections to the specialist sector and to victims and survivors themselves.

As an independent Commissioner, my team and I are here to support, advise, and challenge. My small team of domestic abuse experts develop policy, conduct research, and collect practice insight to ensure that we can be at the forefront of thinking and understanding of what victims and survivors need. We currently meet with your Officials on a regular basis; I have every hope that these relationships will continue to flourish under this new Government. I would welcome your support in emphasising to Senior Officials that every Ministry of Justice team must take responsibility and play their own role in realising the ambition to halve VAWG in a decade, encouraging strong intra- as well as inter-Departmental working.

I would warmly welcome a discussion at your earliest convenience on all of these important issues.

Yours sincerely,

Nicole Jacobs

A handwritten signature in black ink that reads "Nicole Jacobs". The signature is written in a cursive, flowing style.

Domestic Abuse Commissioner for England and Wales