

Sentencing Bill: Commons Committee

Briefing from the Domestic Abuse Commissioner

About the Domestic Abuse Commissioner

The Domestic Abuse Act 2021 established the Office of the Domestic Abuse Commissioner (DAC), to provide public leadership on domestic abuse issues, play a key role in overseeing and monitoring the provision of domestic abuse services in England and Wales and promote best practice, including in multi-agency working.

The role of the Commissioner is to encourage good practice in: preventing domestic abuse; identifying victims and survivors, and perpetrators of domestic abuse, as well as children affected by domestic abuse; and improving the protection and provision of support to people affected by domestic abuse from agencies and government.

Domestic abuse and the Sentencing Bill

Victims and survivors must be at the heart of the government justice reforms – rather than forcing them to pay the price for systemic failures. Measures in the Sentencing Bill, introduced today, pose a significant safety risk to the lives of victims of domestic abuse and will allow perpetrators to offend with little consequence. These measures fly in the face of the government's commitment to halve Violence Against Women and Girls over the next decade.

Other provisions which aim to strengthen community sentences, such as electronic monitoring and restriction zones, are still not enough to prevent the perpetrator from continuing to abuse the victim in the community, and will make little difference without careful implementation that ensures breaches are properly addressed.

The Commissioner welcomes exceptions to the presumption of suspended sentences for custodial sentences less than twelve months, which will ensure that dangerous perpetrators still face time in prison, and the judicial finding of domestic abuse, which

the Commissioner has previously recommended and will vastly improve our understanding of domestic abuse perpetrators serving both custodial and community sentences. However, these alone are not enough to mitigate the harm which other measures in the Bill will cause.

“It feels to me like they can't do anything with the perpetrator, so they put it all on the victim.” – victim/survivor

Recommendations

The Commissioner therefore recommends:

- Urgent reassessment of recall changes to ensure that any breach linked to contact with or further abuse of the victim sees perpetrators of domestic abuse risk assessed and held in custody until their risk to the victim has reduced and can be safely managed in the community. **The Commissioner urges MPs to support amendments 22, 23, and NC5, tabled by Jess Asato MP, which seek to implement this.**
- Ambitious and sustainable investment in the specialist domestic abuse sector included within the forthcoming Violence Against Women and Girls Strategy, to ensure that victims and survivors can access the support that they need.
- National strategic direction and leadership to drive greater coordination between specialist domestic abuse services and statutory agencies both within and outside of the criminal justice system, to share information and manage the risk that perpetrators pose to both current and potential victims.

Recall

Under Part 2 of the Bill, the vast majority of offenders recalled to prison will now be re-released automatically after 56 days, without review by the Parole Board. Potentially without change to their risk or the circumstances which led to their recall, they will be released back into the community.

This will be a positive step in avoiding unnecessarily lengthy recalls for some offenders – for example, those who are also victims of domestic abuse, who may find themselves recalled for administrative breaches because their license or electronic monitoring arrangements do not take into account their risk as a victim of domestic abuse, and

who then end up spending excessive amounts of time back in custody due to backlogs in Parole Board hearings.

However, this provision fails to take into account the risk posed by perpetrators of domestic abuse, who are fixated on their victims and will stop at nothing to continue their abuse. Simply holding these offenders in custody for 56 days, with no efforts to reduce their risk, will put their victim(s) at high risk of future abuse and violence. When they are released, they are likely to be recalled once again – but only after an incident which may have brought harm to the victim. The exemption of those managed under MAPPA categories 2 and 3 will not mitigate this, as the majority of domestic abuse perpetrators will not be included.

The Commissioner recognises the backlog in Parole Board hearings, and understands that it is untenable for all perpetrators of domestic abuse to be held in custody under standard recall, given the capacity crisis. However, it is critical that their risk is assessed utilising relevant information from agencies across the statutory and voluntary sectors, and that there has been a demonstrable reduction in risk which can be safely managed in the community.

The Commissioner is therefore proposing that all offenders who are recalled on the basis of a breach related to the victim, while serving a sentence for a domestic abuse-related offence or with known histories of domestic abuse, are risk assessed and held in custody until their risk to the victim has reduced and can be safely managed in the community. **The Commissioner urges MPs to support amendments 22, 23, and NC5, tabled by Jess Asato MP, which seek to implement this.**

This proposal will not only better safeguard victims from fixated perpetrators, but will also reduce demand on prison and Probation officers. Rather than having to conduct full intake and release processes every 56 days for offenders who are likely to end up in a revolving door of recall, officers would instead go through a singular risk assessment process after 56 days which would determine whether the offender could be safely released. In addition, it will reduce pressures on policing – a critical issue [highlighted by policing and security leaders](#) when sentencing reforms were announced earlier this year – by ensuring that the most prolific offenders are properly assessed before returning to the community.

Further information

The Office of the Domestic Abuse Commissioner would be pleased to discuss these recommendations in further detail. If you are interested in doing so, please contact the Commissioner's policy team on commissioner@domesticabusecommissioner.independent.gov.uk.