



**Home Office**

BUILDING A SAFE, JUST  
AND TOLERANT SOCIETY

# SAFETY AND JUSTICE:

The Government's Proposals on  
Domestic Violence



# **SAFETY AND JUSTICE:**

## The Government's Proposals on Domestic Violence

Presented to Parliament  
by the Secretary of State for the Home Department  
by Command of Her Majesty

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## Foreword



by the Home Secretary,  
The Rt Hon David Blunkett MP

Domestic violence accounts for a quarter of all recorded violent crime in England and Wales. Although such violence can occur irrespective of background and circumstance, sexuality or gender, it is predominantly women who suffer. One in four women experience some form of violence from a partner in their lifetime. Every week two women die as a result of it.

Domestic violence is usually a hidden crime. Victims suffer silently, afraid for themselves and for their children. The trauma and long-term effects suffered by children living in a violent household is incalculable.

This consultation paper outlines our proposals to help prevent domestic violence, improve support and protection for victims and bring more perpetrators of this insidious crime to justice. If we are to prevent violence, we must change attitudes, particularly among young people. Research shows that one in five young men and one in ten young women believe that

violence towards a partner is sometimes acceptable. It never is.

We must encourage victims to seek help, support and protection and that means ensuring that the response of professionals, including doctors, teachers, social services, and the police is the right one. It means strengthening the civil and criminal law to ensure both the police and the courts know what powers are available.

This year the Government is investing over £61 million on tackling domestic violence, including over £18 million towards additional refuge provision. But we will also look at ways of helping the victims of domestic violence stay in their own homes whenever possible.

We are inviting views from the public and professionals to help us develop and implement a cohesive and effective strategy to tackle domestic violence.

Changing attitudes is vital to help victims break free from the cycle of abuse and violence they suffer. No woman, man or child brings domestic violence on themselves and no one should have to put up with it.

A handwritten signature in black ink that reads "David Blunkett".

HOME SECRETARY  
June 2003

# Executive Summary

Every year, around one hundred and fifty people are killed by a current or former partner, and domestic violence affects the lives of thousands more. One in four women and one in six men will suffer it at some point in their lives. The Government is determined to prevent domestic violence happening or recurring, and to protect and support all victims of domestic violence.

This consultation paper sets out the Government's new strategy, which builds on the domestic violence proposals in the 2002 "Justice for All" White Paper.

Domestic violence is defined by the Home Office as "Any violence between current and former partners in an intimate relationship, wherever and whenever the violence occurs. The violence may include physical, sexual, emotional and financial abuse." Domestic violence occurs across society, regardless of age, gender, race, sexuality, wealth and geography. However, it is predominantly women who suffer as a result of it.

This paper sets out the nature and prevalence of domestic violence, and examines its impact on victims and its wider cost to society. The Government's strategy for tackling it is based on three elements:

- **prevention:** working to prevent it happening in the first place, and working with victims and offenders to prevent it recurring;
- **protection and justice:** increased legal protection for victims and their families; and

- **support** for victims to rebuild their lives.

**Part 2** looks at the question of prevention. It discusses:

- the action the Government is taking to educate people (especially young people) about domestic violence, and seeks views on how best to change attitudes that tolerate it;
- work to help agencies and professionals to address risk factors and identify victims as early as possible;
- the provision of information to victims to help them gain access to support services and legal protection; and
- preventing domestic violence offenders from re-offending.

**Part 3** focuses on improving the legal protection available to victims, and the response they receive from the justice system. Among other issues, it examines recent efforts to improve training and awareness across agencies, and sets out a number of ideas aimed at tightening the existing legal framework to the benefit of victims. Specific proposals on which the Government would welcome views include:

- extending the availability of non-molestation and occupation orders under the Family Law Act 1996;
- criminalising the breach of such orders;
- increasing the protection courts provide to victims of and witnesses to domestic violence by allowing victims to apply for a measure of anonymity through reporting restrictions;

- extending the availability of restraining orders under the Protection from Harassment Act 1997 to cover all violent offences; and allowing the courts to make an order where a person is charged, pending trial, or where there is insufficient evidence to convict but the court considers that it is necessary to make an order to protect the victim;
- making common assault an arrestable offence;
- a register of civil orders;
- a register of domestic violence offenders;
- referring sentencing in domestic violence cases to the Sentencing Advisory Panel;
- improving the way the law on homicide operates in domestic violence cases;
- establishing multi-agency reviews after domestic violence homicides to learn the lessons on how agencies might have prevented the death; and
- improving liaison between the civil and criminal courts.

Finally, the chapter explores the issue of child contact arrangements, and sets out recent work the Government has undertaken to ensure that courts take account of allegations of violence when deciding on child contact arrangements.

**Part 4** examines the problems faced by victims and their families when they leave or end violent relationships. It covers:

- the availability of safe accommodation and housing;
- the provision of benefits;
- the introduction of measures to support victims; and
- support and counselling services for children affected by domestic violence.

The Government would like to hear views on its proposals from the public and from those in professional agencies and the voluntary sector who deal with victims and offenders on a regular basis. The Government is particularly anxious to hear from those who are, or have been, victims of domestic violence, to learn more about the practical impact of its proposals, and to find out whether more can and should be done.

Details of how to respond to this consultation paper (which applies to England and Wales) can be found in Annex B. This document is also available in Welsh, while the executive summary is available in Arabic, Bengali, Chinese, Greek, Gujarati, Hindi, Punjabi, Somali, Turkish, Urdu, and Vietnamese (from [www.homeoffice.gov.uk](http://www.homeoffice.gov.uk) or by writing to Jackie Westlake, Domestic Violence Consultation Team, 5th Floor, 50 Queen Anne's Gate, London SW1H 9AT).



# Part 1:

## INTRODUCTION

1. Every year around one hundred and fifty people, (120 women and 30 men) are killed by a current or former partner, and domestic violence affects the lives of thousands more. One in four women and one in six men will be a victim of domestic violence at some point in their lives. The Government is determined to prevent domestic violence happening or recurring, and to protect and support all victims of domestic violence.

2. For too long, society has tolerated or ignored domestic violence. This consultation paper sets out the Government's new strategy, which builds in part on the 2002 "Justice for All" White Paper; seeks views on how its implementation would improve the situation; and asks whether there are additional measures that should be considered.

3. The paper sets out the nature and prevalence of domestic violence, and examines its impact on victims and its wider cost to society. The Government's three-element strategy places strong emphasis on prevention, which means both working to prevent it happening in the first place, and working with victims and offenders to prevent it recurring. Its second element involves increased legal protection for victims and their families, while the third focuses on providing the support victims need to rebuild their lives. Each chapter in the paper explores one of these three elements in depth. The proposals apply to all victims of domestic violence.

4. Attitudes towards domestic violence have changed in recent years. For example, it used to be the case that society thought a man was entitled to beat his wife – that it was his responsibility and right to control her, and using violence was an accepted way of doing so. Few considered it a crime.

5. Over time, the law developed to make it clear that the violence was not legal, but prosecution remained rare and there was still a prevailing attitude that the violence was acceptable.

6. Now, it is generally accepted that domestic violence is wrong and against the law. The remaining challenge is to make sure that the attitude no longer remains, anywhere, that violence is acceptable or justifiable.

*What is domestic violence?*

7. The Home Office defines domestic violence as:

"Any violence between current and former partners in an intimate relationship, wherever and whenever the violence occurs. The violence may include physical, sexual, emotional and financial abuse."

Some Government agencies and parts of the voluntary sector use slightly different definitions to fit their particular needs. For example, the Association of Chief Police Officers (ACPO) definition includes other family members as well as partners; and the Crown Prosecution Service (CPS) definition includes any criminal offence arising out of physical, sexual, psychological, emotional or financial abuse between current or former partners or family members.

*How prevalent is domestic violence?*

8. Domestic violence is extremely common: it accounts for nearly a quarter of all recorded violent crime.<sup>1</sup> Victims are likely to suffer repeated incidents of the crime before they seek protection and support.

9. We know that:

- one in four women and one in six men will be a victim of domestic violence in their lifetime;<sup>2</sup>
- one incident of domestic violence is reported to the police every minute;<sup>3</sup>
- domestic violence has the highest rate of repeat victimisation of any crime;<sup>4</sup>
- on average two women per week are killed by a male partner or former partner; nearly half of all female murder victims are killed by a partner or ex-partner;<sup>5</sup>
- of all murders of men, about 8% are murders in a domestic context (about 30 men are killed by a female partner or former partner each year – but some of these may be in self defence following a history of abuse by their partner);<sup>6</sup>
- among women, risks of domestic violence do not differ significantly by ethnic origin;<sup>7</sup>
- people in the LGBT (lesbian, gay, bisexual and transgender) communities experience domestic violence in a similar proportion to the rest of the population (about one in four);<sup>8</sup> and

- more than a third of children in a violent home know what is happening. That figure rises to up to a half if the violence is repeated.<sup>9</sup> Children may attempt to stop the violence and so put themselves at risk.<sup>10</sup>

10. Domestic violence occurs across society, regardless of age, gender, race, sexuality, wealth and geography.<sup>11</sup> But the figures show that it is predominantly violence by men against women. Where particular issues affect particular communities we have highlighted them.

The impact on victims and on society

11. The effects of domestic violence on its victims are profound:

- domestic violence causes lasting damage to the victim's physical and mental health (50% or more of women in touch with mental health services have had violent or abusive experiences<sup>12</sup>), affecting their ability to work, to support themselves, to maintain their self confidence, and to move on and build a new life;
- domestic violence is a major cause of homelessness, accounting for about 16% of homelessness acceptances every year.<sup>13</sup> Over the last seven years, more than 130,000 homeless households have been re-housed because of domestic violence;
- growing up in a household with domestic violence can have a negative impact on, among other things, school attainment and the likelihood of school exclusion;<sup>14</sup> and

- domestic violence has different consequences for victims from different communities. For example, female victims of domestic violence in ethnic minority communities may be discouraged from speaking out about the violence for fear of bringing dishonour upon their family or community; in the LGBT community it may result in threatening to "out" a partner, leading to isolation and harassment. Minority communities can also experience particular difficulties in gaining access to specialist support and services which address their needs.

[The Government's commitment to tackling domestic violence](#)

12. Domestic violence can be harder to deal with than violence on the streets:

- it occurs in relationships, where emotions may be high and loyalties divided;
- myths and outdated attitudes remain about a form of violence that was historically acceptable; and
- much of the violence takes place behind closed doors.

But the prevalence and impact of this crime mean that it must be tackled effectively. Out of sight must not mean out of mind.

13. The Government is committed to real improvements in how domestic violence victims are protected and supported, and how domestic violence offenders are dealt with.

14. Measuring the prevalence and incidence of any offence where there is a personal relationship between victim and offender, or where the offence is likely to have been traumatic for the victim, is extremely difficult. This is true of rape, sexual assault, and domestic violence, although the figures on domestic violence homicides show the scale of the problem.

15. All these crimes are under-recorded in police statistics – that is because victims frequently do not feel that they can come forward and report the offence to the police. But it is possible that they are also under-recorded in the statistics presented by the British Crime Survey (BCS), because victims may be unwilling to reveal details of the offence even in a survey of that kind. For this reason, in 2001 the Government conducted within the BCS a more in-depth study of sexual and domestic violence called the Inter-Personal Violence module. This self-completion questionnaire will give a more detailed picture of the prevalence and incidence of domestic violence, and it is likely that the levels of domestic violence recorded by this module, to be published in the Autumn, will be higher than previously seen as it is a more confidential way of collecting the data.

16. A true and accurate assessment of the real levels of domestic violence will not be possible until there is progress in changing attitudes so that all victims of domestic violence feel safe in revealing the violence they have experienced. Whilst, therefore, the aim of this strategy is to bring about an overall reduction in domestic violence, it is difficult to measure this accurately.

17. A more sophisticated range of indicators is needed against which the success of the Government's strategy can be measured. Each component of the strategy will need to be operating effectively. Increased confidence in the criminal justice system should lead to increased reporting, an effective police response should lead to more arrests, effective protection and support mechanisms should lead to a reduction in repeat victimisation and so on. And increased reporting, more arrests, and a reduction in repeat victimisation should in turn lead to a reduction in domestic violence.

18. Accurately assessing the success of any strategy will require a set of performance indicators which cross Departmental boundaries. The Government will work during the current year with agencies and experts to agree a set of performance indicators against which the success of the domestic violence strategy can be measured.

**The Government would welcome views.**

[The Government's strategy to tackle domestic violence](#)

19. The Government's strategy for tackling domestic violence is based on prevention, protection and justice, and support.

*Prevention*

- preventing domestic violence happening in the first place, through changing public attitudes to it (particularly among young people), general public education and tackling risk factors;
- providing help for victims of domestic violence as early as possible to prevent the violence recurring;

- providing advice and information to victims on how to get access to support services and legal protection;
- preventing offenders re-offending.

*Protection and justice*

- ensuring an effective police response when victims report domestic violence;
- improving the prosecution of domestic violence cases and making sure that sentences reflect the crime;
- ensuring that victims are not deterred by the way they will be treated at any stage of the justice process;
- making sure that the civil and criminal law offers the maximum protection to all victims to stop the violence recurring;
- improving the way the law on homicide works in domestic violence cases;
- making sure that child contact arrangements in domestic violence cases guarantee the safety of all parties.

*Support*

- increasing the full range of accommodation options, including more refuges, better help to support victims to stay in their own homes if appropriate, outreach and resettlement services, and better advice and information, including for those who are unable to get access to financial support due to their immigration status;
- helping victims who have ended or left a violent relationship to rebuild their lives; and

- giving support to children and young people affected by domestic violence.

#### *Delivery*

20. Any strategy will require a major change in the way statutory and voluntary agencies deliver services to victims of domestic violence. Success will depend on partnership working, across central Government and at regional and local level:

- partnerships at the centre: the Home Secretary will lead this strategy across Government, supported by the Ministerial Group on Domestic Violence, drawing on the expertise and commitment of key Ministers across Government and supported by a team of officials from across Whitehall; and
- partnerships on the ground: the Crime and Disorder Reduction Partnerships (CDRPs), led by police and local authorities, but drawing on a range of other partners, such as Primary Care Trusts, social services, local authorities and Local Strategic Partnerships.

21. The Government will also work with CDRPs, the LGA (Local Government Association) and others to promote more effective multi-agency working. A portion of the £14m funding for domestic violence over the next 3 years announced by the Home Secretary in February will be allocated to supporting CDRPs in improving local performance. In addition, the Government is funding a post within the LGA dedicated to the mainstreaming of local best practice over the next three years.

22. The Government will also help CDRPs to replicate and build on best practice – from the Crime Reduction Programme (CRP) projects,

from excellent local strategies and, where appropriate, from abroad. Although many CDRPs include domestic violence in their priorities for action, there is no requirement for CDRPs to have a domestic violence strategy. The Government is, therefore, considering using its powers under the Police Reform Act 2002 to require CDRPs to draw up strategies for the reduction of domestic violence when they begin to review their three-year crime and disorder reduction strategies from April 2004. These would need to link with other relevant local work, for example marriage and relationship counselling and programmes to prevent offenders re-offending.

#### **Should the Government require CDRPs to formulate strategies for the reduction of domestic violence?**

23. This consultation paper builds on the initial domestic violence proposals set out in the "Justice for All" White Paper published last year:

- extending the use of restraining orders, over and above those already available under the Protection from Harassment Act 1997;
- making breach of a non-molestation order or occupation order obtained from the civil courts a criminal offence, giving rise to the possibility of enforcement through the criminal courts;
- providing anonymity for victims of domestic violence, if this would be likely to improve the probability that victims feel able to report offences and disclose what is happening to them with less intrusion to their and their children's privacy;

- ways of ensuring better liaison between the civil courts dealing with actions relating to the family and criminal proceedings for offences, and how the civil and criminal law inter-relates; and
- how to ensure that the circumstances surrounding each domestic violence murder are reviewed in order to enable risk factors to be identified that will better equip the police and other agencies to take action that could prevent similar crimes.

24. The following chapters provide more detail on what is being done and proposals on each strand of the Government's strategy. We have identified where we are seeking specific comments, but views are welcomed on all elements of the strategy.

### What the Government has done so far

#### *Prevention*

- Under the Crime Reduction Programme, funded a number of Violence Against Women projects, to learn from and develop best practice across a range of issues such as young people's attitudes and health interventions
- Produced a leaflet "Loves Me Not" giving help and practical advice to victims
- Produced "Living Without Fear" – an integrated approach to tackling violence against women
- Produced an information pack for schools
- Developed a core curriculum for prisoners, including social and life skills
- Funded offender programmes
- Developed the Black Cabs initiative
- Produced "What to Do if You're Worried a Child is Being Abused: Children's Service Guidance"
- Produced "Domestic Violence: A Resource Manual for Health Professionals"

#### *Protection and Justice*

- Introduced a pro-arrest policy across all police forces

- Produced a guide for practitioners and service providers on civil remedies and criminal sanctions
- Revised the policy on prosecutions focusing on safety, support and information for victims; a closer civil/criminal interface; and, whenever possible, constructing cases based on evidence other than that of the victim
- Established a national network of Domestic Violence Co-ordinators within the CPS
- Amended the Children Act 1989 in the Adoption and Children Act 2002 so that courts will be able to take account of children being the witnesses to, and not solely the victims of, domestic violence
- Produced guidelines for courts and professionals on how to deal with child contact and domestic violence issues
- Funded child contact centres
- Funded pilots to develop and establish local referral arrangements between the centres and CAFCASS
- Under the Homelessness Act 2002, placed a duty on local housing authorities to develop a local homelessness strategy, based on a review of homelessness and services in its area, and also made an Order to extend the groups of homeless applicants who have a priority need for housing to include those who are vulnerable as a result of leaving violence or threats of violence.

- Introduced changes to the immigration rules to enable those who have come to the UK for marriage or unmarried partnership, and who may leave during the probationary period as a result of proved domestic violence, to be granted settlement

#### *Support*

- Funded a capital investment programme, managed through the Housing Corporation, to build and develop refuge accommodation
- Financed, with Comic Relief, the development of a national freephone helpline for victims of domestic violence, which will be backed up by a UK-wide refuges on-line database
- Funded, through Supporting People, accommodation-related outreach services, support and resettlement for victims of domestic violence



## Part 2:

### PREVENTION

Preventing violence occurring in the first place is a priority. With domestic violence, it is essential that people have sources of advice to turn to and that professionals know how to respond to early signs of violence. The first strand of the Government's strategy is therefore about:

- preventing domestic violence happening in the first place through changing public attitudes towards it (particularly among young people), general public education and tackling risk factors;
- providing help for victims of domestic violence as early as possible to prevent the violence recurring;
- providing advice and information to victims on how to get access to support services and legal protection; and
- preventing offenders re-offending.

#### Preventing domestic violence happening in the first place

##### **Changing young people's attitudes towards violence against a partner**

1. Research shows that some young people – 1 in 5 men and 1 in 10 women – think that violence towards a partner is acceptable in some situations, for instance, if the woman has slept with someone else.<sup>15</sup> These attitudes may be based on one of the myths about domestic violence: that victims provoke violence, and even choose violent partners. A key part of our prevention strategy is therefore to challenge and change perceptions that violence is acceptable in certain domestic situations. Part 3 of this paper deals with the justice system, which, by dealing effectively with domestic violence cases, can play an important role in changing public attitudes.

2. Not enough is known about how to change such attitudes. That is why, as part of the Crime Reduction Programme, the Government funded a number of projects that aim to change young people's attitudes towards domestic violence. These projects are being evaluated and findings will be available in Autumn 2003. The results of these evaluations will help ensure that future programmes follow tried and tested methodologies.

3. In the meantime, the Government has begun work with schools and others to address young people's attitudes:

- **PSHE and the citizenship curriculum.** Personal, Social and Health Education (PSHE) can teach young people social skills which should help towards reducing domestic violence, for example anger management and negotiating within relationships. The National

Healthy School Standard looks for evidence that issues of child protection and domestic violence are covered by Health and Safety in the curriculum.

Citizenship education was introduced into Young Offender Institutions from September 2002, at the same time as in schools. It can give offenders valuable skills - listening, expressing views, resolving disputes constructively - and it helps to build confidence and self-esteem.

In Wales, the National Assembly has decided that Personal and Social Education, (PSE) will become statutory in primary and secondary schools from September 2003, as part of the basic curriculum in Wales. The framework for PSE that is in use in Wales provides opportunities for pupils to develop attitudes, values, skills and knowledge to develop positive relationships.

- **Information for schools.** The Government has published an information pack for those who work with young people, in particular teachers. The pack is designed to stimulate discussion with young people about gender-related issues including domestic violence and bullying; it looks at the role of schools in conflict resolution and why schools should discuss domestic violence; and it highlights examples of good practice in addressing these issues within schools.
- **Prisons** are required to deliver a core curriculum which includes basic and key skills and social and life skills. Specific units of the programme, such as parenting, family relationships and drug and alcohol awareness, can be used to highlight particular aspects of relationships and to discuss the impact of domestic violence.

4. It is important to build on this work for the future. For example:

- recognising that good practice in PSHE and citizenship education is usually not restricted to specific days and times in the school week, the Government wants to work with teachers to develop more imaginative ways of using other areas of the curriculum where messages about domestic violence might be incorporated into mainstream lessons; and
- using other ways of reaching children and young people, including working with high profile male role models, to get across the message that domestic violence is unacceptable.

**What are the most effective ways of teaching young people about domestic violence, its hidden nature and above all, its unacceptability?**

#### **Public education about domestic violence**

5. Domestic violence must not remain a hidden crime. The public need to be more aware of its nature, prevalence and impact if we are to change attitudes.
6. The Government recently published the leaflet “Loves Me Not” (previously “Breaking the Chain”), to offer practical advice to domestic violence victims and their friends and families who may want to help.
7. The public profile of domestic violence has been raised recently both by Government activity and by other campaigns: for example, White Ribbon Day, a world-wide campaign aimed at ending violence against women co-ordinated by Womankind and other voluntary

agencies; and the major BBC season “Hitting Home” in February, which featured drama and documentary TV and radio programmes.

8. In February 2003 the Government published a new guide on the civil and criminal law relating to domestic violence. It is aimed at professionals in the domestic violence field and will help them, in consultation with victims, to decide the best course of action to provide swift and effective protection for victims and their families.

9. Over the Summer the Government and others will be working to build on this recent activity with a strategic communications campaign. The right messages must go to the right people at the right time and in the right way, taking into account the needs of and understanding different communities.

**What are the most effective ways of raising awareness about domestic violence among the general public and key professionals?**

**How do we best reach particular groups, including ethnic minority communities, the LGBT community, children, people with disabilities, the elderly, and those lacking mental capacity?**

#### **Tackling the risk factors for domestic violence**

10. The most obvious risk factor for domestic violence is previous domestic violence: 35% of cases have a second incident within five weeks of the first.<sup>16</sup> Also, minor violence is a predictor

of escalation to major violence. Separation is a significant risk factor – the British Crime Survey found that 22% of separated women were assaulted after separation by their partners or ex-partners.<sup>17</sup> That is why this strategy stresses early intervention and swift and effective protection once a victim has come forward to seek help.

11. But there are two other specific risk factors: substance misuse and pregnancy.

#### **Substance misuse**

12. Domestic violence is a complex pattern of offending, but there is evidence to suggest that there are links between it and substance misuse – both alcohol and drugs.

#### *Alcohol*

13. There is a clear link between alcohol misuse and domestic violence – 32% of victims of domestic violence said that their attacker had been drinking.<sup>18</sup>

14. The Prime Minister’s Strategy Unit is undertaking a study to develop an alcohol harm reduction strategy for England. This will include issues such as alcohol-related crime and anti-social behaviour, the problems faced by vulnerable groups and what works best in tackling alcohol misuse.

15. Throughout the project the Strategy Unit has been working closely with a range of government departments and external stakeholders. Last October the Unit undertook a large scale consultation jointly with the Department of Health to inform the project and the development of the strategy.

16. The project's interim analysis will be published in the Summer and will present an in-depth analysis of the causes, and consequences of alcohol misuse. The final report, which will set out the cross-governmental alcohol harm reduction strategy, will be published in autumn 2003, for implementation in 2004.

17. In the meantime work to tackle the problems of alcohol misuse continues. For example, the Licensing Bill will ensure that any licence (including the extension of opening hours) incorporates operating conditions with reference to crime and disorder, public safety and nuisance factors. Licensees will need to demonstrate the measures they are taking to promote clear licensing objectives linked to reducing crime and disorder.

18. In addition, the Government is committed to ensuring that all young people leave school with a responsible attitude towards drinking. Giving young people the relevant skills and knowledge is one step towards reversing the damage and waste caused by alcohol misuse, and safeguarding the health and well-being of future generations.

19. Alcohol education must be addressed at different key stages within the National Curriculum in England, including learning about the harmful effects which can be caused by the misuse of alcohol, solvents, tobacco and other drugs. In the last three years the Department for Education and Skills (DfES) has made £29m available to schools, through the Standards Fund, to support the training of teachers and deliver effective drug, alcohol and tobacco education programmes.

### Drugs

20. Research indicates that drugs are less likely to be an issue in domestic violence attacks than alcohol, but where they are a factor, they are more likely to be related to chronic victimisation (defined by the BCS as victims who had reported three or more assaults to the survey) - 8% of female victims of chronic domestic violence said their assailant was under the influence of drugs at the time of the last assault, compared with 5% of intermittent victims.<sup>19</sup>

21. There has been some research on the relationship between aggression and violence and drug misuse. For example, one study found that although it would be wrong to see drugs as causing violence, certain drugs such as cocaine, especially crack cocaine<sup>20</sup>, are more likely to be associated with violent behaviour than others, and drug misusers may be at risk of becoming violent when in a state of withdrawal.

22. As part of the National Drug Strategy, the Government has commissioned research into the links between drug misuse and domestic violence. The aim is to improve understanding of the issues in order to improve multi-agency working and service delivery.

**What are the issues facing practitioners in the fields of alcohol and drug treatment and domestic violence?**

**How can agencies involved in drug and alcohol treatment and domestic violence be helped to work together more effectively?**

## Pregnancy

23. 30% of domestic violence starts during pregnancy, and existing violence often escalates during it.<sup>21</sup> A key focus of the Government's work on domestic violence has therefore been on maternity care.

24. In April, the Government launched a pilot on routine antenatal questioning for domestic violence. The project, involving eighty community-based midwives, is being undertaken by the University of the West of England and North Bristol NHS Trust. It looks at:

- levels of domestic violence identified before and after the introduction of routine questioning in the antenatal period;
- outcomes for clients and practitioners across a range of issues; and
- education and support mechanisms for health professionals to enable them to implement and maintain effective screening programmes, and work across agency boundaries to support victims of domestic violence.

The outcome of the pilot will inform the maternity element of the Children's National Service Framework to be implemented across the National Health Service from 2004.

### [Providing help for victims of domestic violence as early as possible to prevent the violence recurring](#)

25. Victims of domestic violence can often be helped to get the support and protection they need through early identification and intervention by professionals. The latter are

often best placed to take action where they either suspect domestic violence is occurring or have this reported to them by the victim.

## Health professionals

26. The NHS has a particular contribution to make in domestic violence, not only because of the impact on victims' health, but also because the NHS may be the first contact point with professionals who can recognise and intervene in the situation. There can though sometimes be a tension between patient confidentiality and the need to report domestic violence.

27. In addition to the Bristol antenatal pilot mentioned above, one of the Crime Reduction Programme projects involved a routine enquiry scheme in GPs' surgeries in Wakefield. The success of this project highlighted the need for close partnership working at local level between health services and other relevant agencies such as specialist domestic violence support services, and the need for appropriate protocols, training and support for all staff involved.

28. The evaluation of these initiatives will be used to consider what opportunities there might be in the longer term to extend routine questioning to other areas of the NHS, for example Accident & Emergency Departments.

29. The Government also published "Domestic Violence: A Resource Manual for Health Professionals" in March 2000. It built on and consolidated best practice professional guidelines on identification and management of domestic violence, setting out key principles to be applied across the NHS, and underpinning the development of local protocols for domestic violence. The Department of Health has funded the Women's Aid Federation of England (WAFE)

in a three-year project to raise awareness on domestic violence and evaluate the implementation of the Resource Manual in the NHS. The results of this evaluation will also support longer-term work on how to increase the effectiveness of health services in contributing to domestic violence goals.

**The Government would welcome views on what health practitioners and managers need to help them develop and sustain effective responses to victims of domestic violence.**

### Family Services

30. This section, and the following, set out what the Government is currently doing to support children in the context of domestic violence - it is important to note, though, that policy on improving support and access to these services (including better family support, child protection etc) will be covered in full in the forthcoming Green Paper on children at risk.

31. All Sure Start integrated services programmes provide a wide range of support services for families including befriending, social support and community schemes, outreach and home visiting, and primary and community health care, including advice on drug and alcohol misuse which is often associated with domestic violence. Those who are subject to, or at risk from, domestic violence will be referred to the appropriate support services.

32. The Government is building on the lessons from Sure Start local programmes, Early Excellence Centres and Neighbourhood Nurseries through the development of

children's centres. Children's centres will provide a co-ordinated and integrated approach to service delivery at local level, particularly around services relating to early education, childcare, family support and health, with a particular focus on families in disadvantaged areas. By March 2006, the Government expects to reach at least 650,000 children under the age of 5. This expansion provides an opportunity to spread best practice services and effective referral systems for domestic violence.

### Child victims: schools and social services

#### Schools

33. Schools can be the first step in identifying family violence and the abuse of pupils and can refer cases to social services. Schools face a particular problem when a child tells a teacher that domestic violence is taking place at home. Where a school suspects that a pupil is a victim of abuse or at risk of abuse, or if they believe there are family problems, they should follow the local procedures for reporting their concerns. Section 175 of the Education Act 2002 will ensure that governing bodies and Local Education Authorities have appropriate child protection procedures in place.

34. Advice to schools and the education service on child protection procedures is set out in "DfES Circular 10/95 – Protecting Children from Abuse: The Role of the Education Service". DfES is currently reviewing this guidance for consultation later in the year. New guidance will be published to coincide with the introduction of section 175 next April. This guidance will take full account of domestic violence issues, including providing advice on action that can be taken even when it appears that the child in question is not at risk but another family member is.

*IRT (Identification, Referral and Tracking) systems*

35. Children receive support from people in many agencies and organisations during their childhood and adolescence, and the sum of the collective knowledge held by professionals can provide a holistic view of a child's development needs and family context, and an understanding of what services the child needs to enter adulthood successfully.

36. All upper-tier Local Authorities in England have been asked to develop systems for the identification, referral and tracking (IRT) of children and young people at risk of social exclusion (including those at risk of harm or abuse). These systems will act as delivery mechanisms for local preventative strategies and will support improved communication and more effective information sharing among professionals and agencies from both the statutory and voluntary sectors, so that a child's needs are better understood and can be met more appropriately.

*Working Together to Safeguard Children*

37. "Working Together to Safeguard Children" (1999) set out how all agencies and professionals should work together to promote children's welfare and protect them from abuse and neglect. Practice guidance, "What To Do If You're Worried A Child Is Being Abused: Children's Services guidance", which was published on 19 May 2003, has been developed to assist practitioners to implement "Working Together to Safeguard Children" and the "Framework for the Assessment of Children in Need and Their Families". The practice guidance is in two parts:

- a document for practitioners whose work

brings them into contact with children and families, such as social workers, police, paediatricians, senior nurses and designated or named professionals; and

- a summary document that provides an easily accessible, step-by-step guide to the recognition and referral processes for a wide variety of staff who have day-to-day contact with children but do not have a lead role in child protection. They include GPs, nurses, teachers, housing officers and youth workers.

[Providing advice and information to victims on how to get access to support services and legal protection](#)

38. Victims need to know how to seek help and also how to bring their abuser to justice. This is key to preventing further assaults. However, many victims do not know what help and support is available.

39. In April, the Government launched a scheme (being piloted in London) to use black cabs to provide helpline information to victims of domestic violence. All new drivers of black cabs are now receiving an awareness raising talk as part of their training, and are being issued with domestic violence check lists (setting out useful information on domestic violence) and cards carrying helpline numbers. In addition, 325 cabs are carrying the logo "Domestic violence – together we can put an end to it" on tip-up seats.

40. The Government is developing an online database of information for victims of domestic violence. This will include information on accommodation, legal advice, as well as other essential support services. Later in the year, the launch of a national 24-hour helpline for

victims of domestic violence will provide an important opportunity to raise awareness of the help that is available.

**How can we best provide information quickly, safely and easily to victims of domestic violence?**

**What should this information cover?**

*Domestic violence and the workplace*

41. The workplace can be a place where victims may be able to get information and advice safely.

42. Employers should take seriously the fact that many of their employees are likely to be affected by domestic violence. Victims may well take time off sick to recover from or disguise physical injuries; their work is also likely to be affected by the mental and emotional stress caused by the abuse.

43. The Government is working with a number of organisations, including the Trades Union Congress, General and Municipal Boilermakers Union and Women's Aid to raise employers' awareness of the impact of domestic violence on their staff, and provide practical guidance on offering effective support in the workplace. Future plans include:

- ensuring that practical guidance on domestic violence is available to all central Civil Service employees;
- working with other public sector agencies on the introduction of workplace guidance; and

- working closely with private sector companies who have an excellent record in sick absence management, to explore how sick absence management best practice could be used to identify and provide support to domestic violence victims.

44. Workplaces will also contain offenders as well as victims. The Government will consider whether workplace guidance could be used to provide practical advice to employers on dealing with employees who are, or whom they suspect to be, offenders.

Preventing offenders re-offending

45. Probation areas have been running offender programmes for a number of years, often in partnership with the voluntary sector, but there has been only limited UK research into their effectiveness. In addition to the schemes being run by local probation areas, the National Probation Service and the Prison Service have been working together to ensure an effective and consistent approach to domestic violence offenders. They are jointly piloting 'pathfinder' offender programmes for convicted offenders, modelled on successful initiatives in North America. Multi-agency working is key to the safety and effectiveness of these programmes. The aim of these trials is to gather information on the causes of domestic violence and to assess the long-term effectiveness of the programmes, in changing behaviour and reducing reoffending. One programme has been running in pilot form since 2001, and firm evidence will be available in Autumn 2004.



46. In September 2003, the National Probation Service and the Prison Service will submit their proposed domestic violence offender programmes to the independent Correctional Services Accreditation Panel and, if approved, intend to implement these programmes nationally from early 2004. In the meantime, the Government will continue to monitor the effectiveness of these programmes and ensure the information they generate is fed into continuing work to support and protect victims.

## PART 3:

### PROTECTION AND JUSTICE

The second strand of the Government's strategy is about:

- ensuring an effective police response when victims report domestic violence;
- improving the prosecution of domestic violence cases, and making sure that sentences reflect the crime;
- ensuring that victims are not deterred by the way they will be treated at any stage of the justice process;
- making sure the civil and criminal law offer the maximum protection to all victims to stop the violence recurring;
- improving the way the law on homicide works in domestic violence cases; and
- making sure that child contact arrangements in domestic violence cases guarantee the safety of all parties.

#### Ensuring an effective police response when victims report domestic violence

1. Unlike most other violent offences, domestic violence usually takes place behind closed doors. The 'hidden' nature of domestic violence - and the fact that, like sexual offences, the victim often feels that they are to blame - makes domestic violence a particularly

insidious crime. Given this, it is vital that victims and other witnesses are able to feel confident in coming forward and reporting the crime to the police.

2. In the past, some victims have felt that the police did not take domestic violence seriously, and that they received unsympathetic or insensitive treatment. In recent years, however, the police have been making strenuous efforts to improve their response to domestic violence. In 2002 the Central Police Training and Development Authority (Centrex) and the Association of Chief Police Officers published a new six part training pack on domestic violence. Each of its modules covers a different aspect of police work, ranging from the initial handling of a 999 call through to dealing sensitively with victims, as well as working with the local community and other agencies to prevent violence and hold offenders to account.

3. Most police forces now have either specialist domestic violence units or domestic violence co-ordinators. The best units combine practical support and advice to victims with an investigative role, helping to share their expertise with their frontline colleagues, while the emphasis for domestic violence co-ordinators is on risk assessment, quality control, and improved liaison with other agencies. The police are also refining their procedures to provide simpler and more reliable assessments of the risk offenders pose to their victims.

4. This year, Her Majesty's Inspectorate of Constabulary and Her Majesty's CPS Inspectorate are carrying out a joint thematic review of the investigation and prosecution of domestic violence cases.

### *Common Assault*

5. One of the most significant shifts in the way the police handle domestic violence incidents has been the implementation of a pro-arrest policy. However, in relation to common assault, which accounts for the majority of domestic violence cases, the police's power of arrest is complicated and often difficult to apply to the circumstances of a domestic violence incident.

6. Under section 25 of the Police and Criminal Evidence Act 1984, police officers may arrest where they have "reasonable grounds for believing that arrest is necessary to prevent the relevant person ... causing physical injury to himself or any other person ... or necessary to protect a child or other vulnerable person". If, as is not uncommon, the alleged offender has already left the scene and the victim is not visibly injured and is unwilling to proceed, officers have no legal grounds on which to find and arrest the offender. Doing so would require the prior issue of an arrest warrant. Also, police officers are often uncertain about their powers of arrest for a common assault that they have not witnessed.

**7. The Government proposes, therefore, to make common assault an arrestable offence, by adding it to the list of offences where a police officer may arrest without a warrant under section 24 of the Police and Criminal Evidence Act 1984. This would provide the police with significant extra powers in respect of domestic violence and violent offences generally, and remove the current operational confusion.**

### Improving the prosecution of domestic violence cases and making sure that sentences reflect the crime

8. Victims' interests are best served when the case against their abuser proceeds swiftly and smoothly and in a way that is sensitive to their needs. There needs to be appropriate training; all relevant agencies need to work together as closely and efficiently as possible; and court procedures and practice need to be sensitive to the needs of victims.

### **Handling of domestic violence cases by the Crown Prosecution Service (CPS)**

9. Over the last few years the CPS has made great efforts to improve the way it handles domestic violence cases and the quality of its liaison with police forces over those cases.

10. In November 2001, the CPS issued a revised policy on prosecuting cases of domestic violence, which focuses on safety, support, and information for victims; a closer civil/criminal interface; and, whenever possible, constructing cases based on evidence other than that of the victim. At the same time, the CPS established a national network of Domestic Violence Co-ordinators to help implement this policy. The Co-ordinators prosecute domestic violence cases, identify and take forward strategic issues including training, and also work closely with inter-agency fora in their areas. As a network they identify and address problems, share good practice, and promote consistency across all the CPS Areas.

11. Because of the range and quantity of domestic violence offences, the CPS believes that, rather than setting up specialist domestic

violence units, it is essential that *all* prosecutors have a proper understanding of domestic violence issues. Moreover, in addition to the co-ordinators there are prosecutors who are particularly experienced in handling domestic violence cases, and who can advise less experienced colleagues, review domestic violence files and, where appropriate, take over the conduct of particular cases.

12. Furthermore, dedicated domestic violence training has been delivered to prosecutors on a local basis. Domestic violence issues have also been included as a module in a number of national training programmes. There will be a dedicated national training programme this year that will include input from the voluntary sector and Centrex.

13. Under new arrangements recommended by Lord Justice Auld that form part of the Criminal Justice Bill, the CPS will now determine the charge in all but minor routine offences or where there is a need for a holding charge prior to seeking their advice.<sup>22</sup> This follows pilots that showed that this reduced the number of discontinued cases and increased early guilty pleas.

14. To ensure accurate domestic violence statistics and that cases move smoothly through the system, the police are now required to flag all domestic violence incidents when they record them. Also, Home Office Circular 19/2000 recommended that police forces flag domestic violence cases when passing them to the CPS, and a growing number of forces either have or are in the process of concluding appropriate Service Level Agreements with the CPS.

15. The Government is committed to seeking continuous improvement in the handling of

domestic violence cases. In 1998 the CPS Inspectorate carried out a thematic review of the way in which domestic violence cases were prosecuted. This year, Her Majesty's CPS Inspectorate and Her Majesty's Inspectorate of Constabulary are carrying out a joint thematic review of the investigation and prosecution of domestic violence cases.

### Training for the Judiciary

16. The Government is developing improved training for judges and magistrates. For example, the Judicial Studies Board (JSB) will be producing a domestic violence training pack for magistrates. A Working Group is taking this forward and will produce a training video and supporting material by the end of June 2003.

17. The Government has issued best practice guidance for the courts and other professionals on how to deal with child contact cases and domestic violence. This should ensure that allegations of domestic violence are considered and, if necessary, dealt with before contact is decided. The effectiveness of the guidance is being monitored and evaluated.

### Improving liaison between the civil and criminal courts

18. Improving victims' confidence in the criminal justice system depends on ensuring that the civil and criminal courts work effectively together. **The Government is considering the following proposals:**

- clarifying what information, evidence and papers can be shared between the civil and criminal courts. For example, where there are simultaneous civil proceedings for non-molestation orders and child contact orders and/or family proceedings, and separate

criminal proceedings for domestic violence offences, what information can and should be shared so that each court can make informed decisions?

- issuing guidelines to criminal courts to discourage them from making bail conditions in domestic violence cases that allow the defendant contact with the child except in accordance with an order from a family court;
- ensuring that while courts quickly list domestic violence cases, in order to reduce the risk of further violence to the victim, they only conclude them at first appearance if the prosecution has had sufficient time to ensure that the charges properly reflect the totality of the offending behaviour and where the court proposes to deal with the defendant and impose a non-custodial penalty, that there is sufficient time to ensure that the victim can be informed that the defendant has been dealt with and released; and
- how to involve professional agencies to support victims and assist the police, the CPS and the courts.

**What information, in what circumstances and for what purpose should criminal and civil courts be able to share?**

**Should the Government issue guidelines to courts to discourage them from making bail conditions in domestic violence cases that allow the defendant contact with the child except in accordance with an order from a family court?**

**The Government would welcome views on steps to ensure that courts quickly list domestic violence cases and on steps to ensure that quick listing is balanced against the need to ensure that charges properly reflect the offending and that the victim is informed if a defendant is dealt with at first appearance.**

**How should professional agencies be involved in supporting victims and assist the police, CPS and courts?**

### *Specialist Courts*

19. At present, courts deal with domestic violence and its consequences in a range of settings, both civil and criminal. The Government believes that domestic violence requires focused attention, and made a manifesto commitment to consider whether specialist domestic violence courts would offer more effective protection for victims.

20. A number of specialist courts have begun to operate. Leeds magistrates' court established the UK's first domestic violence cluster court in 1999, and since then Cardiff,

West Midlands, and West London magistrates' courts have piloted their own versions. These projects have emphasised close co-ordination among all relevant agencies, with regular review meetings, and a single point of contact and data controller across all agencies for domestic violence cases. Improvement of the civil/criminal interface will be an important component of the ongoing work, and the West London court is also planning to test the use of expert witnesses to describe the effects of domestic violence, and to explain why a victim might have withdrawn a charge. The Government wants to build on the experience of these early specialist courts to develop concrete proposals for the future of specialist domestic violence courts.

**What measures should be taken to build on the existing specialist domestic violence courts?**

**How could a specialist court handle criminal and civil domestic violence issues and deal with some of the problems that have been identified, such as the different rules of evidence for civil and criminal proceedings?**

**How should the success of specialist domestic violence courts be evaluated?**

[Ensuring that victims are not deterred by the way they will be treated at any stage of the justice process](#)

21. Domestic violence is not a specific criminal offence. Instead, it is charged under a range of offences. Some have argued that creating a specific offence of domestic violence would improve the protection afforded to victims by the criminal justice system.

22. The Government believes the key thing is for the courts to treat domestic violence as seriously as other cases of violent crime, and for sentencing practice to reflect this. Sentencing practice has improved greatly, but the concern remains that domestic violence cases are treated differently to violence cases involving strangers.

23. One way in which sentencing practice in domestic violence cases has been improved is through referring unduly lenient sentences to the Court of Appeal. The Attorney General and the Solicitor General may refer sentences passed in the Crown Court for a limited range of serious offences. The vast majority of cases which are referred to the Court of Appeal are brought to the Law Officers' attention by the Crown Prosecution Service – although they also consider cases highlighted by MPs, victims and their families and the general public. An example of a successful referral was in 2002 when the Law Officers referred a domestic violence case with the result that a non-custodial sentence was increased to a sentence of 6 months' imprisonment.

24. **The Government believes that the best way to ensure that domestic violence is treated as seriously as other cases in sentencing practice is to refer the issue to the Sentencing Advisory Panel for them to issue guidance to the courts for dealing with domestic violence cases. This would be instead of creating a separate offence of domestic violence, or making domestic violence a statutory aggravating factor in sentencing. The Government believes that a separate offence of domestic violence would not necessarily help victims. There is a full range of charging options already. To reduce that range – common assault through to grievous bodily harm, and rape – diminishes the offence.**

**The Government would welcome views as to whether the best way to ensure that courts treat domestic violence as seriously as other offences is to refer the issue to the Sentencing Advisory Panel for them to issue guidelines to courts dealing with domestic violence cases.**

### **Encouraging and supporting victims through the court process**

#### *Reporting restrictions in criminal proceedings*

25. The Government is committed to open justice: it is a vital ingredient both in maintaining public confidence in the criminal justice system and encouraging victims and witnesses to come forward. The Government is also committed to the freedom of the press to report court proceedings: any restriction on that freedom must be justified and occur only in the most exceptional circumstances. However, in rape and other serious sexual offence cases, where this freedom may discourage reporting and co-operation with criminal proceedings, there are automatic restrictions on reporting a victim's name or personal details. It has been suggested that such automatic restrictions should apply to victims in domestic violence cases.

26. Civil courts have reporting restrictions in cases involving children or intimate family details. However, criminal cases are tried in open court, even if the same evidence has been used in family proceedings. For victims of domestic violence, public testimony could involve intimate details of their relationship, including those of a sexual nature – even if there has been no charge of a sexual offence.

27. Reporting restrictions might, therefore, encourage victims to report attacks and support a prosecution. This would be especially true for female victims of domestic violence from ethnic minority communities, where the disclosure of intimate details might leave the victim open to accusations of bringing shame upon her family and the wider community.

28. On the other hand, those opposed to restrictions argue that there is little evidence that publicity deters victims from reporting domestic violence: rather it is fear of the consequences of reporting that prevents victims supporting a prosecution. They also worry that reporting restrictions could drive domestic violence underground.

29. The Government believes the solution is to balance the need for reporting restrictions with the certainty that offenders know they will be brought to public account for their actions. Section 46 of the Youth Justice and Criminal Evidence Act 1999, to be implemented later this year, sets out the circumstances when such restrictions may be sought. The court must be satisfied that either the applicant's evidence or their co-operation will be reduced because of their fear of, or distress at, being publicly identified. This does not provide reporting restrictions in all domestic violence cases, nor does it provide such restrictions automatically on application.

**The Government seeks views on whether reporting restrictions on application would encourage greater reporting of domestic violence, or whether further measures are needed, for example to provide reporting restrictions automatically on application.**

*Vulnerable and Intimidated Witnesses*

30. More than publicity, many victims of, or witnesses to, domestic violence fear the reaction of the assailant if they participate in criminal proceedings, and may be intimidated by the offender into not giving evidence in court. The prospect of prosecutions failing through a lack of sufficient evidence to convict and reduced levels of co-operation has led some to argue that all domestic violence victims and witnesses should have automatic status as intimidated witnesses (as do complainants in sexual offence cases unless they inform the court that they do not want this).

31. The Youth Justice and Criminal Evidence Act 1999 defines vulnerable and intimidated witnesses in terms of their eligibility for assistance from special measures to achieve best evidence. Most of these measures have been implemented in the crown court and some in magistrates' courts, and further implementation is to follow.

32. Vulnerable witnesses are those who are eligible for help because they are under 17 at the time of the hearing, or because the court considers that the quality of their evidence is likely to be diminished because of physical disability, physical or mental disorder, or a significant impairment of intelligence and social functioning.

33. Intimidated witnesses are those who are eligible for assistance because the court is satisfied that the quality of their evidence is likely to be diminished by fear or distress about testifying. Help can include, among other things, video evidence in chief and screens.

34. Some argue that automatically treating victims in cases of domestic violence as intimidated witnesses would be burdensome both in terms of costs and the potential for delays where the equipment (e.g. live links to enable victims or witnesses to testify from a location other than the courtroom) is not readily in place. It is not clear that all those supporting a prosecution need or want such special measures.

35. Where they have received prior warning, county courts could make suitable arrangements for victims. This could include viewing the court in advance, a separate entrance, and other measures that can readily be adapted to assist witnesses. However, it will be some time before family courts receive the funding that would be required for operating special measures such as these.

**36. The Government believes that continuing to implement the special measures provisions of the Youth Justice and Criminal Evidence Act 1999 – under which domestic violence victims or witnesses may apply for special measures, or the court may itself direct them – will give sufficient protection for victims of or witnesses to domestic violence where criminal proceedings are taking place.**

**Does allowing victims of and witnesses to domestic violence to apply for the status of vulnerable or intimidated witnesses (by continuing to implement the special measures provisions of the Youth Justice and Criminal Evidence Act 1999) provide the right level of support?**



[Making sure that the civil and criminal law offer the maximum protection to all victims to stop the violence recurring](#)

37. Having reported domestic violence, victims need to feel confident that the law will adequately protect them and any children from the relationship from further abuse. A range of civil remedies and criminal penalties provide protection for domestic violence victims. The Government is proposing a number of changes to make these remedies and penalties more effective in protecting victims. Part 4 of the paper deals with the kinds of practical support – particularly safe accommodation options – which victims often need before feeling confident to seek legal protection.

### **The Civil Law**

38. The Family Law Act 1996 provides victims with two important civil remedies: the non-molestation order and the occupation order.

### **Non-molestation orders**

39. A person may apply to a court for a non-molestation order to forbid someone using or threatening violence against them and/or harassing, pestering or intimidating them. To be eligible to apply for a non-molestation order the parties to the order must be "associated". In simple terms, the parties must be in a family relationship, be or have been married to each other, or be cohabitants or former cohabitants (which the Act defines as a man and a woman living together as husband and wife). "Associated" also covers those who live or have lived in the same household, other than by being the other's employee, tenant, lodger or boarder. Unmarried partners who have never lived together are not eligible to apply.

### **Occupation Orders**

40. A person may apply to a court for an occupation order to enforce their entitlement to remain in occupation of the home, make the respondent leave the home, or otherwise regulate the occupation by both parties. Courts may grant an occupation order to an applicant who has a legal estate or interest in the home, or who has matrimonial home rights.

### **Enforcement of non-molestation and occupation orders**

41. The court may, when making an occupation order or a non-molestation order, attach a power of arrest to specific parts of it, subject to meeting certain criteria. This enables the police to arrest a respondent who is breaching the order without the need for the victim to go back to court to have an arrest warrant issued. It is not compulsory for the court to attach a power of arrest, but it must do so when it has made a finding of fact that there has been violence, or a threat of violence against the applicant, and the evidence indicates that the applicant and the children will not be adequately protected without it.

### **Problems with non-molestation and occupation orders**

42. There are two main problems with the way the orders work in practice:

#### *Eligibility for orders*

43. The "associated person" criteria effectively mean that:

- people in a relationship who have never lived together do not have access to non-molestation orders;

- same-sex couples do not count as cohabiting couples, because the Act defines cohabitation in terms of a man and a woman.

In addition, “associated persons”, where they are not spouses or co-habitants (past or present), can only have recourse to an occupation order if they are “entitled”. Entitlement makes a distinction between those with matrimonial home rights and other categories of applicants - and this creates a difference in the way that same-sex couples are treated as compared with married couples.

44. Later this Summer, the Government is publishing its proposals on a possible civil partnership registration scheme for same-sex couples. This would involve equalising the position of registered same-sex couples with that of married couples in terms of their eligibility for orders.

**45. The Government proposes to amend the ‘associated person’ criteria of the Family Law Act 1996 to provide same-sex couples who are cohabiting with the same level of protection as cohabiting heterosexual couples.**

**The Government would welcome views on this.**

**The Government would also welcome views on amending the ‘associated person’ criteria of the Family Law Act 1996 to include relationships where the parties have never lived together.**

#### *Enforcement when orders are breached*

46. Enforcement by the police depends on whether the court attached a power of arrest to the original order. If a power was attached, the police may arrest without a warrant and take the respondent back to the court that is the same level of court that made the original order. The number of orders with a power of arrest attached has increased from 15,600 in 1998 to 17,400 in 2001.<sup>23</sup> However, given that the power of arrest is often only attached to specific parts of an order, police officers may be unclear whether they can arrest the respondent or not. Moreover, information on orders and powers of arrest is not recorded centrally, and the arrangements for passing such information between police forces can be inconsistent. If no power of arrest was attached, the victim has to apply to the civil court for an arrest warrant, which can put the victim at risk of further violence until the warrant is issued.

47. In Northern Ireland, the breach of non-molestation and occupation orders under the Family Homes and Domestic Violence Order 1998 is an arrestable offence. On the whole, this has been welcomed and is working effectively to protect victims of domestic violence. The number of orders made each year continues to rise, and there seems little evidence that criminalisation of orders has deterred victims from obtaining them.

48. In Northern Ireland, “without notice” orders (order that are issued when the person to whom they apply is not present) are effective from the time they are made. It is possible, therefore, for criminal proceedings to be brought against a person who has breached an order without having knowledge of its existence. Following legal advice, the Police

Service of Northern Ireland decided not to proceed with a criminal prosecution unless the order had been served on the defendant.

49. There have also been concerns that criminalising the breach of an order can increase the pressure on victims (by the alleged offender or by legal advisers) to accept an undertaking under the Family Law Act rather than pressing for an order. An undertaking is effectively a promise to do, or not to do, certain things. Although parties may choose to settle the case without a full hearing by agreeing to such an undertaking, the court will not accept an undertaking if it considers that a power of arrest would be appropriate. It is not an admission of guilt. An undertaking cannot therefore be used in subsequent criminal proceedings as evidence that violence took place. Courts cannot attach a power of arrest to an undertaking, though breach of an undertaking is still contempt of court.

50. The Government has considered these arguments, but its chief concern is that both victims and police have the certainty that if an order is breached, the police will be able to arrest the offender. **The Government proposes to criminalise the breach of orders and change the law so that the police are always able to arrest for breach of a non-molestation order or occupation order. This, along with the proposals on clarifying the power of arrest for common assault, will give the police significant new powers to deal with domestic violence.**

**The Government would welcome views on whether the changes to the law to allow police to arrest for breach of a non-molestation or occupation order would be helpful.**

**How should “without notice” orders be handled?**

**How can the risk of applicants being put under pressure to accept an undertaking be reduced?**

#### **Applying for orders in magistrates’ courts rather than county courts**

51. Most applications for non-molestation and occupation orders are made in county courts rather than magistrates’ courts. Some have argued that there might be advantages in starting more applications in the magistrates’ courts, freeing up the county courts to deal with Children Act cases, and providing swifter and more effective protection to victims.

**Should applications for non-molestation and occupation orders start in magistrates' courts rather than county courts as is currently the case?**

**Could magistrates' courts deal with such applications as quickly and effectively as county courts? Could they sit often enough and handle out of hours applications?**

**Are there sufficient numbers of magistrates available, and do they have the expertise and training necessary to undertake hearings?**

**What additional training would magistrates need if applications were to start in magistrates' courts?**

**How effective are support services in magistrates' courts compared to those available in county courts?**

## The Criminal Law

**Improving the restraining orders available under the Protection from Harassment Act 1997; and extending their availability to sentencing for other offences**

52. The Protection from Harassment Act 1997 was designed as legislation to tackle the problem of stalking. In practice it has been used mainly for domestic violence and inter-neighbour disputes.

53. The Act created two criminal offences: harassment, and putting people in fear of violence. The most innovative feature of the 1997 Act is that the court, when sentencing for these offences may also make a restraining

order. This may be used to prohibit the offender from a wide range of conduct with the aim of protecting the victim or others from further conduct that amounts to harassment or that may cause fear of violence. This power is particularly useful in domestic violence cases, as it provides for the continuing safety of the victim.

54. However, there are concerns that the victim is not automatically informed if the respondent applies to the court to vary or terminate the restraining order. **The Government therefore proposes to amend the Protection from Harassment Act so that victims must be informed when an application is made to vary or end a restraining order.**

55. The power to issue restraining orders is only available when the court is sentencing for offences under the 1997 Act. Given how useful these orders have been in protecting victims in domestic violence cases, there are strong arguments for extending this power to cover a wider range of offences.

56. **The Government therefore proposes to:**

- **make restraining orders available when courts sentence for any offence of violence;**
- **make restraining orders available to criminal courts where a person is charged pending a trial; and**
- **make restraining orders available to criminal courts when there is insufficient evidence to convict but the court considers that it is necessary to make a restraining order to protect the victim.**

**The Government would welcome views.**

**Register of civil orders**

57. Victims' protection depends on proper enforcement of the law. A common problem is that when police officers are called to a domestic incident they will usually check their own local police database for background information, for example, previous calls to that address, what injunctions are in place, and whether powers of arrest have been attached to any injunctions. Usually this information is only held by the local police and is not easily available to other forces. This is a particular problem where a domestic violence victim travels outside their local area and is followed by the offender.

58. Similarly, when prosecutors are deciding whether or not it is in the public interest to prosecute, they rely on the police obtaining background information from the victim. However, a victim may not be aware of the offender's previous history and orders made in respect of previous victims.

59. One of the suggestions received in the responses to the "Justice for All" White Paper was to establish a register of civil orders, so police and prosecutors could easily check a suspect or offender's history. **The Government is minded to establish a register of civil orders.**

**Should the Government create a register of civil orders, and if so should the register include both current and expired orders?**

**Register of domestic violence offenders**

60. Another suggestion from the responses to the "Justice For All" White Paper was the creation of a register of domestic violence offenders, along the lines of the register of sex offenders. There are arguments both for and against such a register.

61. If offenders were required to report changes of address to the police, a register might help to prevent future violence to a victim by allowing the police to alert the partner if they had been followed to a new location by the offender. A register might also help to improve information sharing and risk assessments, for example where a registered offender's new partner repeatedly sought medical help for injuries, or where the police were called to an incident involving a registered offender.

62. On the other hand, the element of "stranger danger" is significantly less in domestic violence cases than in the cases covered by the sex offenders' register. Domestic violence is also subject to major under-reporting, so a register of offenders would be far from comprehensive. In addition, the combination of a pro-arrest policy by the police with the new legal protection outline in this consultation paper means that victims of domestic violence should receive significant extra protection from the law without establishing a register of offenders.

**The Government would welcome views on whether views on whether a register of domestic violence offenders should be established.**

### Improving the way the law on homicide works in domestic violence cases

63. There is concern about the way in which the law on murder operates in relation to domestic violence cases. There are a number of defences available to a person charged with murder; for example, self-defence and insanity. There are also a number of partial defences to murder; for example, provocation and diminished responsibility. The partial defences have the effect of reducing murder to manslaughter. There is concern about the operation of the partial defences to murder and about the level of sentencing for manslaughter by reason of provocation.

64. In particular there is concern that recent developments in the law have led to an extension of the scope and availability of the partial defence of provocation beyond what was envisaged by section 3 of the Homicide Act 1957, and that the partial defence is often used in circumstances where the degree of provocation was minimal. One area where this is of concern is in domestic homicides where the provocation relied on is sexual jealousy or infidelity.

65. There is also concern that current sentencing in cases of manslaughter by reason of provocation in domestic violence homicides does not adequately reflect the seriousness of the cases and the loss of life, and that the tariff is out of line with levels of sentencing in other cases of homicide and serious violence.

66. An additional issue relates to the effect that the partial defence has on the victim's family. In domestic violence homicides where the alleged provocation is due to sexual jealousy or infidelity, raising the partial defence involves an attack on the victim's reputation. This can be extremely traumatic for the family,

who will perceive that the verdict or acceptance of a plea in such circumstances means that the victim was to blame.

67. The Government is proposing to address this issues in three ways:

- by referring the issue of sentencing in cases where provocation is argued to the Sentencing Advisory Panel;
- the Director of Public Prosecutions intends to issue guidance to Chief Crown Prosecutors on how to handle offers of guilty pleas to manslaughter by reason of provocation; and
- the Home Secretary is referring to the Law Commission the operation of the defences of provocation, self-defence and diminished responsibility in homicide cases, with particular consideration to domestic violence cases.

68. Any changes to the law on homicide will also need to be seen in the context of the proposals in the Criminal Justice Bill to set a framework for judges to determine how long an offender should spend in prison before being considered for release on licence.

#### **Multi-agency homicide reviews**

69. In addition to the way the criminal law operates, there is also concern about what agencies can do to prevent a domestic violence homicide.

70. A domestic attack that results in the death of the victim is often not a first attack. Many people and agencies may have known of these attacks – neighbours, for example, may have heard violence, a GP may have examined injuries, the child's teacher may have suspected abuse, the police may have been

called, there may have been previous prosecutions, and so on.

71. It is important to learn as much as possible from domestic violence homicides, to understand where systems failed, why the involvement of agencies or professionals did not lead to effective intervention, and what can be done to put the system right and avoid future deaths.

72. Several agencies have already taken the initiative in this area. For the last eighteen months, the Metropolitan Police, working in conjunction with other agencies, have carried out reviews of every domestic violence homicide in London, while the Crown Prosecution Service has led a number of similar reviews outside London.

73. These reviews in turn draw on the experience of the Serious Case Reviews that already take place when a child dies, and abuse or neglect are known or suspected to have been a factor in the death.

74. There is much to learn from multi-agency reviews: emerging findings from the Metropolitan Police Service's evaluations of its reviews have emphasised the importance of sharing information, and have highlighted risk factors such as the correlation between domestic violence and child abuse. The Government would, therefore, encourage local agencies to conduct reviews in all domestic violence homicide cases where it appears that there are lessons to be learned about preventing such deaths in the future.

**75. In addition, the Government proposes to take a statutory power to establish multi-agency reviews for domestic violence homicides.**

**The Government would welcome views on the establishment of multi-agency reviews following domestic violence homicides.**

**How should such reviews work in practice, and which agency should take responsibility for leading them?**

**In what types of case should homicide reviews take place?**

[Making sure that child contact arrangements in domestic violence cases guarantee the safety of all parties](#)

76. A survey by the Lord Chancellor's Department in 2001 indicated that domestic violence featured in 19% of child contact applications<sup>24</sup>. In those 19% of cases, there is understandable concern that arrangements for contact may provide an opportunity for further abuse against the parent or child. One in three child protection cases show a history of domestic violence to the mother<sup>25</sup> and a study of 1,000 women living in refuges found that 70% of children staying with their mothers had also been abused by their fathers<sup>26</sup>. It is important, therefore, to ensure that contact is safe both for the child and all family members.

77. Children at risk are a key priority for the Government, and it will publish a Green Paper on the subject in the Summer, highlighting particular problems and possible solutions. The Government recognises, though, that there are specific concerns about children's safety and well-being at the point when their parents are separating. Child contact is, therefore, addressed in this consultation paper.

78. The Government's starting point in child contact cases is the Children Act 1989, which states that the child's welfare is the court's paramount consideration. Maintaining safe contact with both parents following parental separation has generally been recognised as being in the best interests of a child's emotional and social development. In the majority of cases, parents agree arrangements for child contact. There are various reasons why this does not happen in a minority of cases, and domestic violence is clearly a factor in some instances.

#### **Current action to facilitate safe child contact**

79. In order to address the problem of domestic violence in child contact applications, the Adoption and Children Act 2002 amended the Children Act 1989 so that when a court considers whether a child has suffered, or is likely to suffer harm, it must consider the harm that a child may suffer not just from domestic violence, but also from witnessing it. The Government believes that this will enable the child's welfare to be considered in the context of safety issues for the rest of the family. **As soon as possible, the Government will amend the contact and residency application forms to allow for details of domestic violence to be raised early on in an application for contact or residence.** Respondents would then be given the opportunity to comment. Having this information would enable judges to have all the facts in front of them before considering the best contact or residence arrangements for the child.

80. In addition, guidelines were issued in 2001 for courts and practitioners to assist them in cases of parental contact where there

is domestic violence. The Government is currently reviewing and monitoring the effectiveness of these guidelines through annual surveys and research. At the end of the monitoring period in 2004 the Government will review their operation to see if further changes, including legislation, are required.

81. Once contact has been agreed, it must take place in a safe environment for all parties. Dedicated child contact centres can fulfil that role. In partnership with service providers and referrers, the Lord Chancellor's Department is developing a strategy for a national network of child contact centres, including new national definitions of supported and supervised contact, along with a standard referral form. The objective is to ensure that children and families are referred to the child contact centre with the appropriate facilities for that family, which is particularly important where domestic violence is an issue.

82. Over the past three years, the Government has provided £1.7m for child contact services. This investment is bearing fruit with the recent launch of the Coram Supervised Consultancy Service and National Children's Home, Durham, "Contact Matters" (which links in with local Sure Start Centres).

#### **Future work to facilitate safe child contact**

83. The Government will be spending £2.5m over the next three years from the Children's Fund for child contact services for:

- an expansion of supervised contact across England with at least 12 new supervised services; and
- Coram to make its consultancy service free to those child contact centres supported



by the National Association of Child Contact Centres (NACCC) and that want to provide supervised contact.

84. In addition, the Government is spending £150,000 on pilots to develop and test local referral arrangements between child contact centres and referral agencies such as the Children and Family Court Advisory and Support Services (CAFCASS).

85. The Government is committed to safe contact between children and parents where it is in the best interests of the child. The Government will continue to monitor the current procedures, and where necessary make further changes, to ensure that the arrangements offer the fullest protection possible to all family members.

**The Government would welcome views on whether these arrangements provide the right level of support and safety for all family members and if not what else should be done.**

### Information sharing

86. One of the major concerns expressed by both statutory and voluntary agencies in the domestic violence field is the uncertainty surrounding information sharing. When considering whether information can be shared, the following legal considerations need to be taken into account:

- whether the lawful authority exists to share the information for the purposes concerned, for example section 115 of the Crime and Disorder Act 1998. It is also

possible to imply a power to share data, depending on the scope of legislation governing the activity or service. An example is in respect of child protection, where the power to share data among relevant professionals can be implied from the overriding duty to protect children at risk. It is essential to have this lawful authority: a lack of such authority cannot be remedied by obtaining the consent of the individual to the proposed disclosure;

- the common law duty of confidence;
- The Human Rights Act 1998; and
- The Data Protection Act 1998.

87. Information which attracts a duty of confidence may only be shared if the individual consents, if there is a legal obligation to share the information, or if the public interest in sharing the information overrides the need to keep it confidential.

88. The Data Protection Act 1998 sets out eight general principles of good information handling. In particular, these principles require personal data to be processed fairly and lawfully and for limited purposes.

89. There are exemptions from some of the Act's requirements which may apply in the domestic violence context: for example, in cases where personal data need to be shared for the prevention or detection of crime or for the apprehension or prosecution of offenders, or where a disclosure is required by law or by a court order.

90. Information sharing can be essential to the protection and support of victims and to the successful prosecution of offenders.

91. There are two complementary sources of guidance on information sharing relevant to domestic violence:

- guidance for practitioners working in Crime and Disorder Reduction Partnerships issued by the Home Office; and
- guidance for practitioners safeguarding and promoting the welfare of children.

#### **Guidance for practitioners in Crime and Disorder Reduction Partnerships (CDRPS)**

92. The Home Office has created a model information-sharing protocol, the format and content of which was based on research and analysis of existing protocols, relevant legislation and feedback from those in the field.

93. There is also a toolkit for those wishing to enter into information sharing arrangements, and on-line benchmarking groups. The latter were created to provide previously unavailable ways for the exchange of best practice between practitioners.

94. The model protocol, toolkit and the benchmarking groups can be found on-line at: [www.crimereduction.gov.uk/informationsharing](http://www.crimereduction.gov.uk/informationsharing).

#### **Guidance for practitioners safeguarding and promoting the welfare of children**

95. Earlier this year the Government issued good practice guidance on safeguarding children - "What to Do if You're Worried a Child is Being Abused: Children's Service Guidance". This provides a framework within which those working with victims of domestic violence, both

adults and children, can make decisions about sharing information.

#### **Guidance for practitioners working with adult victims**

96. Later this autumn, as part of the Home Office's Crime Reduction Programme (CRP) Violence against Women Initiative a new guide will be published specifically targeted at sharing information in the areas of domestic violence and rape by known offenders.

#### The Next Steps

97. The Government is consulting on the idea of a guarantee/charter to inform people about what they can expect from the public sector, when organisations share and handle personal information. The public consultation on this issue will run until 27 June 2003 (available at <http://www.lcd.gsi.gov.uk/consult/confrr.htm>).

98. The Government intends to issue guidance to help clarify the position on the interpretation of administrative powers and key principles about data sharing, and intends to issue a toolkit of guidance on data-sharing issues, including on protocols and codes of practice by the end of 2003.

**What more does Government need to do to assist voluntary and statutory agencies share information for the better protection of victims?**

## Part 4:

### SUPPORT

The third strand of the Government's strategy is about:

- increasing the full range of accommodation options, including more refuges, better help to support victims to stay in their own homes if appropriate, outreach and resettlement services, and better advice and information, including for those who are unable to get access to financial support due to their immigration status;
- helping victims who have ended or left a violent relationship rebuild their lives; and
- giving support to children and young people affected by domestic violence

#### Increasing the full range of accommodation options

1. Victims are often deterred from seeking help or leaving a violent relationship because they have nowhere else to go, do not feel safe in their own homes or do not have legal rights to remain. The availability of safe and secure accommodation for victims, as a respite or as a stepping stone to re-housing, is therefore critical and can be life-saving. However, it is important to recognise that victims, where it is possible and safe to do so, may want to remain in their own homes.

#### **Availability of accommodation**

2. In 1998, there were 2,715 spaces for households in refuges in England; and 60% of Local Authorities had refuge provision in their area. Recent data indicate that by December 2002 this had risen to approximately 3,073 household spaces in England. For the ethnic minority communities, most recent figures indicate that 6% of local authorities have access to specialist temporary accommodation<sup>27</sup>; and for the LGBT community there are 20 bed spaces in England for gay men leaving violent relationships.<sup>28</sup>

3. The Government is committed to meeting gaps in provision and improving standards of accommodation, and, where there is a demonstrated local need, will consider increasing refuge provision further. To this end, in April 2003 it announced a capital investment programme, managed through the Housing Corporation, to build and develop refuge accommodation across England. For 2003/04 the Government is allocating £8.9 million towards refuge provision; and the Housing Corporation is investing £9.9 million. The money will be used by Registered Social Landlords, in partnerships with local refuge providers and local authorities, to provide 273 units of accommodation in all regions of England. The Government has also committed £7 million in each of the following two years towards similar projects, which will also be administered through the Housing Corporation.

4. In Wales in 2001/02 there were hostels in every area but one, with 305 bedspaces. Although pressures continue in many areas, the demand for refuge accommodation has been changing as greater emphasis is placed on support in the community, and the Assembly Government will be working with local

authorities and Women's Aid groups to clarify the balance of provision required in each area. Housing and support for victims of domestic violence is an integral part of Supporting People and local authorities will continue to be encouraged to consider the appropriateness of the provision in their area through the Supporting People Operational Plan.

#### **Getting access to refuge accommodation**

5. The second step to ensuring access to safe accommodation, support and advice is making sure that accurate information about refuge places is available to victims when they need it.

6. In December 2002, the Government announced its intention to join forces with Comic Relief in a new funding partnership to invest £1 million each to support better access to refuge provision for victims of domestic violence. This will include the development of a national freephone 24-hour helpline service. The helpline is intended to offer support and information, including safety planning and translation services, to victims in England.

7. The helpline will be backed by a new UK-wide 'refuges on-line' database, which will provide information and advice, as well as helping those who need to leave their homes to be directed to appropriate accommodation and support more quickly and easily. The refuges on-line system will be supported by Women's Aid co-ordinating organisations from across the UK.

#### **Alternative sources of accommodation, and supporting people to stay in their own homes**

8. Refuge provision is not the only source of accommodation. In March 1999, there were over 7,000 households living in temporary accommodation who had been accepted as statutorily homeless and in priority need because of domestic violence. While there was considerable variation at regional level, only 15% were in refuges. The rest were living in other forms of temporary accommodation – for example 25% were staying with friends and relatives; 30% were in temporary council or housing association properties; 13% were in hostels and 6% were in bed and breakfast hotels.<sup>29</sup>

9. Most refuges provide a core set of support services to their residents and certain services to ex-residents. However, since the majority of homeless households who are leaving violent relationships are not staying in refuge accommodation, it is particularly important that they have access to support services.

10. Data from "Supporting People" show that at the end of December 2002, there were outreach services, support and resettlement provision for over 3,250 households in England, specifically for women at risk of domestic violence who were not in refuge accommodation. In Wales there were a further 35 spaces with floating support. Other households who are experiencing domestic violence may be receiving support from a generic, rather than a specialist support service, such as family resettlement projects.<sup>30</sup>

11. Work by the criminal justice agencies, described in Part 3: Protection and Justice, such as improved enforcement of non-molestation, occupation and restraining orders, will help victims remain and feel safe in their own homes.

12. The Homelessness Act 2002 placed stronger duties on local authorities to help homeless people by, for example, requiring all local authorities to produce a homelessness strategy to tackle and prevent homelessness in their area and by extending the groups of vulnerable people in priority need for re-housing to include people at risk of violence or threats of violence. The Government is allocating £260 million over the next three years to help local authorities to meet these challenges. Many local authorities are using some of these funds to develop partnerships and services with local domestic violence projects to help prevent and tackle homelessness.

**The Government would welcome views on how the current homelessness legislation is being implemented, including areas where there is good practice. The Government would also welcome views and evidence on whether the current framework of legislation and guidance provides a sufficient safety net for people who are vulnerable as a result of leaving their home because of domestic violence.**

**How do housing policy, safety and support services affect victims' ability to stay in their homes, or, in an emergency, to go to refuge accommodation?**

**What is the unmet need for support services and accommodation options, including for victims from ethnic minority communities, LGBT (Lesbian, gay, bisexual and transgender), and male victims of domestic violence? How could this be met? Is specialist refuge provision the most appropriate support?**

**How can we support people to stay safely in their own homes?**

**The provisions of s145 of the Housing Act 1996 empower Local Authorities, Registered Social Landlords and charitable housing trusts to repossess properties from tenants whose cohabitants have been driven out by domestic violence. What would make these measures more effective?**

### Refuge accommodation for victims subject to immigration control

13. Victims of domestic violence who are subject to immigration control face particular difficulties in seeking help and leaving a violent relationship.

14. A foreign national who wants to settle in the United Kingdom on the basis of marriage or an unmarried partnership to someone already present and settled here must normally live with their partner or spouse for a probationary period. If the marriage or partnership breaks down during that period, they have no right to remain in the UK.

15. To protect victims of domestic violence, the Government introduced a concession in 1999 so that those who left their spouse or partner during the probationary period and could prove, by a court conviction or similar, that the relationship ended because of domestic violence, were granted settlement. In November 2002, the Government extended the types of evidence that could be used as proof of violence, and these were formally included in the immigration rules. To qualify, victims should ideally provide proof of one of the following against their spouse or partner:

- an injunction, non-molestation order or other protection order; or
- a relevant court conviction; or
- full details of a relevant police caution.

16. However, if one of these is not available, the victim may provide more than one of the following instead:

- a medical report from a hospital doctor or a letter from a GP who has examined the applicant confirming that the applicant has injuries consistent with being the victim of domestic violence;
- an undertaking given to a court that the offender will not approach the applicant who is the victim of violence;
- a police report confirming attendance at the home of the applicant as a result of domestic violence;
- a letter from social services confirming its involvement in connection with domestic violence; or
- a letter of support or a report from a refuge.

This is a significant improvement in the position of victims of domestic violence who are still subject to immigration control. In addition, these applications are flagged and given priority consideration by the Immigration & Nationality Department (IND).

17. However, while their applications are being considered by IND, victims of domestic violence still subject to immigration control cannot have access to public funds for the period until the application has been decided.

18. In order to protect the integrity of the immigration and benefit rules, the Government is not persuaded that victims making applications under the immigration domestic violence rules should have access to social security benefits. However, the Government believes that it does have a duty to ensure that victims attempting to leave a violent

relationship - one of the most dangerous times for victims of domestic violence - can have access to refuge accommodation and services.

**19. The Government will move to ensure that victims can get access to safety and support, including refuge services, funded through the Supporting People arrangements.**

It will also work with groups who specialise in this field to ensure that victims and those who advise them understand the relevant immigration rules and the types of evidence which they need to put forward. This will aid IND in dealing with these applications swiftly and, where applications are successful, mean that victims can have swifter access to public funds.

Helping victims who have ended or left a violent relationship rebuild their lives

20. Victims leaving a violent relationship will often urgently need a range of financial and practical support. Some will have been part of a claim to benefit and will need to establish their own claim. Those not already claiming benefits may need, on leaving the relationship, to make a claim for the first time. In either case, they will need to contact the local Jobcentre Plus office, where their circumstances will be treated sympathetically and they will be advised which benefit to claim.

21. If the person has children or is too unwell to look for work, the claim will usually be to Income Support. Because Income Support is an income related benefit, details of their personal and financial circumstances will be taken and the claim assessed as quickly as possible. All single parents making a new claim to Income Support will see a Personal Adviser, and be asked to participate in a Work Focused

Interview. The Adviser might decide to defer this interview, as victims who have recently left a violent relationship may not be ready to discuss work prospects. However, work will ultimately be the best route for victims in this situation to become economically independent and they will need targeted support to achieve this.

22. If they have no dependent children, and are able to work, they can claim Jobseeker's Allowance. Whether the claim is to Income Support or Jobseeker's Allowance, while the claim is being resolved, they may make an application for a Crisis Loan from the Social Fund.

23. If re-housed, they may also make an application for a Community Care Grant from the Social Fund, and claim Housing Benefit and Council Tax Benefit. These are both payable to low income householders, whether they are on benefits or working.

24. Specific guidance on the particular issues facing those leaving violent relationships and claiming benefits is available to Jobcentre Plus staff. The Department for Work and Pensions is working with the Home Office and others to update this guidance to cover social security benefits, Social Fund loans and grants, and employment issues. It will also give staff practical guidance on what to do if they suspect a client, for example someone on the New Deal for Partners, is a victim of domestic violence.

25. With the implementation of new tax credits from April 2003, some women will be receiving tax credits directly into their own bank account (from next year the scheme will apply across the board). Where this applies all the financial support given to the couple on behalf

of their children will already be going directly to the mother. This should assist women leaving a violent relationship as they will have an unbroken source of funding.

26. In addition to the practical problems they face, victims who leave a violent relationship may be facing huge emotional challenges. For example at least 50% of women in touch with mental health services have had violent or abusive experiences. The prevalence of domestic violence and its impact on women's mental health was highlighted in the recent consultation document on the strategic development of mental health care for women: "Women's Mental Health: Into the Mainstream". This document underlined the need for mental health services to be engaged with local domestic violence fora to ensure protocols are in place for links between refuges and other organisations providing temporary accommodation so that women can receive the appropriate mental health support. The Department of Health is developing an implementation plan for this report for publication later in the year.

### [Giving support to children and young people affected by domestic violence](#)

27. Victims are often deterred from seeking help or leaving a violent relationship because of fears about their children – that the child might be put at physical risk (particularly in contact arrangements), or that the child's welfare, health or education might be damaged by the disruption of leaving the relationship. Part 3 of this paper set out what the Government is doing to ensure safe child contact arrangements. This section sets out how the Government's programmes help to support children and young people who are affected by domestic violence.

28. Children are very much the silent victims of domestic violence. They may witness it or be subject to it, but often their voice is not heard. In 90% of incidents involving domestic violence, children are in the same or next room, and 45% of victims of repeated violence said their children were aware of what was happening.<sup>31</sup>

29. Domestic violence – either witnessing it or as a victim – can have a severe impact on a child's behaviour, health and educational performance in ways that are likely to be visible at school, including low self-confidence, withdrawal or anxiety, or behavioural difficulties.

30. According to a recent Barnado's report, experiencing or witnessing domestic violence could have long-lasting emotional effects on children through adolescence and into adulthood, affecting their ability to create and maintain relationships; self-esteem, self-confidence and stability; education; and career prospects.<sup>32</sup>

31. The Government is working to protect children and young people who are affected by domestic violence through:

- **voluntary agencies** such as Childline, which give support and advice;
- **Child and Adolescent Mental Health Services (CAMHS):** investment over the next three years will increase capacity by at least 10% year on year; and key elements of a comprehensive CAMHS service will be in place by 2006. In addition, the forthcoming Social Exclusion Report on the educational attainment of children in care will include consideration of how best to improve support and access to services, such as CAMHS for children in care, including those who have entered care as a result of domestic violence or who have



experienced domestic violence before entering care;

- **Connexions:** a universal service for 13-19 year olds, with a focus on those who need it most. It provides information, group work, advice, guidance, in-depth support and access to personal and social development.

Connexions Service Personal Advisers will help to identify young people who are victims of domestic violence and help stop cases being missed by agencies.

- **The Learning and Skills Council's Family Literacy, Language and Numeracy programmes** provide local learning in informal settings customised to the need of individual parents and children. These programmes target parents with literacy, language and numeracy needs and have proved to be effective in helping them improve their skills, increase their confidence, understand how they can better support their children's learning, learn together and spend time on joint activities in school and at home. Family centres, social workers etc. may recommend this provision to parents who are victims of domestic violence for these reasons. In some areas, family learning providers have successfully developed programmes for parents who are victims of domestic violence;

- **The Children's Fund** supports a large number of services such as school counsellors, school/home liaison workers, family group conferencing and family support services, all of which are able to offer support to children living with domestic violence. 13% of Children's Fund Services are explicitly targeting children "suffering domestic violence". For example:

- a project was allocated £150,000 by a Children's Fund programme for 2003/04. The

service is delivered in local primary schools by a local voluntary organisation and provides support to children experiencing domestic violence. This includes preventative work based on protective behaviour; model groupwork; one to one recovery work and parental support;

- another project provides whole-school support for children who are at risk from adverse outcomes specifically because of domestic violence. The project has established a Safe Kids group with local partners to provide a safe and secure environment to which children affected by domestic violence are referred;

- **Behaviour and Education Support Teams** in England provide specialist support in targeted areas for the most vulnerable young people and their families to tackle and, where possible prevent, truancy or bad behaviour, and promote emotional well being and positive mental health;

- **Extended schools** provide, or work with others to provide, a range of children, family and community services and facilities on their premises. Services offered might include childcare, health and social care, parenting support, adult and family learning and sports and arts facilities;

- **Youth services:** the statutory and voluntary Youth Services offer a range of opportunities accessible by all young people including those facing problems such as domestic violence;

- **Pupil Referral Units:** providing full-time education for excluded pupils, including aspects of PSHE and other support; and

- **In Wales, local Young People's Partnerships (YPPs)**, established under the "Extending Entitlement" initiative, have a role in co-ordinating support and services for young people aged 11 to 25 who are victims of domestic violence. YPP "Keeping in Touch" protocols may also be useful in ensuring that contact is maintained with young people identified as being at risk.

## Annex A

### ISSUES ON WHICH THE GOVERNMENT WOULD WELCOME VIEWS

The Government would welcome views on all the points raised in this paper, and indeed on any other matters relating to domestic violence. Feedback on the following issues would be particularly useful:

1. How should the Government best measure the incidence of domestic violence and the success of its strategy to reduce it? (Page 11)
2. Should the Government require CDRPs to formulate strategies for the reduction of domestic violence? (Page 12)
3. What are the most effective ways of teaching young people about domestic violence, its hidden nature and above all, its unacceptability? (Page 17)
4. What are the most effective ways of raising awareness about domestic violence among the general public and key professionals? (Page 18)
5. How do we best reach particular groups, e.g. ethnic minority communities, the LGBT community, children, people with disabilities, the elderly, and those lacking mental capacity? (Page 18)
6. What are the issues facing practitioners in the fields of drug and alcohol treatment and domestic violence? (Page 19)
7. How can agencies involved in drug and alcohol treatment and domestic violence be helped to work together more effectively? (Page 19)
8. What do health practitioners and managers need to help them develop and sustain effective responses to victims of domestic violence? (Page 21)
9. How can we best provide information quickly, safely and easily to victims of domestic violence? (Page 23)
10. What should this information cover? (Page 23)
11. What information, in what circumstances, and for what purposes should civil and criminal courts be permitted to share? (Page 28)
12. Should the Government issue guidelines to courts to discourage them from making bail conditions in domestic violence cases that allow the defendant contact with the child except in accordance with an order from a family court? (Page 28)
13. What steps should the Government take to ensure that courts quickly list domestic violence cases, that quick listing is balanced against the need to ensure that charges properly reflect the offending, and that the victim is informed if a defendant is dealt with at first appearance? (Page 28)
14. How should professional agencies be involved in supporting victims and supporting the police, CPS and courts? (Page 28)
15. What measures should be taken to build on the existing specialist domestic violence courts? (Page 29)

16. How could a specialist court handle criminal and civil domestic violence issues and deal with some of the problems that have been identified, such as the different rules of evidence in place for civil and criminal proceedings? (Page 29)
17. How should the success of specialist domestic violence courts be evaluated? (Page 29)
18. Is the best way to ensure that courts treat domestic violence as seriously as other offences to refer the issue to the Sentencing Advisory Panel for them to issue guidelines to courts dealing with domestic violence cases? (Page 30)
19. Would allowing victims to apply for reporting restrictions encourage a greater reporting of domestic violence, or are further measures needed, for example granting reporting restrictions automatically on application? (Page 30)
20. Does allowing victims of and witnesses to domestic violence to apply for the status of vulnerable or intimidated witnesses (by continuing to implement the special measures provisions of the Youth Justice and Criminal Evidence Act 1999) provide the right level of support? (Page 33)
21. Should the Government amend the 'associated person' criteria of the Family Law Act 1996 to provide same-sex couples who are cohabiting with the same level of protection as cohabiting heterosexual couples? (Page 33)
22. Should the Government amend the 'associated person' criteria of the Family Law Act 1996 to include relationships where the parties have never lived together? (Page 34)
23. Would changes to the law to allow police to arrest for breach of a non-molestation or occupation order be helpful? (Page 34)
24. How should "without notice" orders be handled? (Page 34)
25. How can the risk of applicants for orders being put under pressure to accept an undertaking be reduced? (Page 34)
26. Should applications for non-molestation and occupation orders be encouraged to start in magistrates' courts rather than county courts as is currently the case? (Page 35)
27. Could magistrates' courts deal with such applications as quickly and effectively as county courts? Could they sit often enough and handle out of hours applications? (Page 35)
28. Are there sufficient numbers of magistrates available, and do they have the expertise and training necessary to undertake hearings? (Page 35)
29. What additional training would magistrates need if applications were to start in magistrates' courts? (Page 35)
30. How effective are support services in magistrates' courts compared to those available in county courts? (Page 35)
31. Should the Government make restraining orders available when courts sentence for any violent offence? (Page 36)
32. Should the Government make restraining orders available to criminal courts when there is insufficient evidence to convict but the court considers that it is necessary to make a restraining order to protect the victim; and

where a person is charged pending the trial? (Page 36)

33. Should the Government create a register of civil orders, and if so should the register include both current and expired orders? (Page 36)

34. Should the Government create a register of domestic violence offenders? (Page 36)

35. Should the Government take a statutory power to establish multi-agency reviews following domestic violence homicides? (Page 38)

36. How should such reviews work in practice, and which agency should take responsibility for leading them? (Page 38)

37. In what types of case should homicide reviews take place? (Page 38)

38. Do the current child contact arrangements provide the right level of support and safety for all family members and if not what else should be done? (Page 40)

39. What more does Government need to do to assist voluntary and statutory agencies to share information for the better protection of victims? (page 41)

40. How effectively is the current homelessness legislation being implemented? Are there examples of good practice? (page 44)

41. Does the current framework of legislation and guidance provide a sufficient safety net for people who are vulnerable as a result of leaving their homes because of domestic violence? (Page 44)

42. How do housing policy, safety and support services affect victims' ability to stay in their homes or, in an emergency, to go to refuge accommodation? (Page 44)

43. What is the unmet need for support services and accommodation options, including for victims from ethnic minority communities, LGBT (lesbian, gay, bisexual and transgender), and male victims of domestic violence? How could this be met? Is specialist refuge provision the most appropriate support? (Page 44)

44. How can we support people to stay safely in their own homes? (Page 44)

45. What would make the provisions of s145 of the Housing Act 1996 (which empower Local Authorities, Registered Social Landlords and charitable housing trusts to repossess properties from tenants whose cohabitants have been driven out by domestic violence) more effective? (Page 44)

## Annex B

### HOW TO RESPOND TO THIS CONSULTATION PAPER

This consultation paper seeks views on the detailed proposals contained in this document. Specific points on which comments are sought are set out throughout the main text, and are summarised in Annex A.

The consultation period ends at 18:00 on Friday 12 September 2003, and all responses must be received by then.

Responses to this consultation paper should be sent to:

Jackie Westlake  
Domestic Violence Consultation,  
Home Office,  
5th Floor,  
50 Queen Anne's Gate,  
London SW1H 9AT

Alternatively, responses can be e-mailed to [domesticviolenceconsultation@homeoffice.gsi.gov.uk](mailto:domesticviolenceconsultation@homeoffice.gsi.gov.uk).

The consultation paper is available in electronic format at:  
<http://www.homeoffice.gov.uk/>

Individual responses will not be acknowledged unless explicitly requested. Respondents should indicate clearly where they are responding on behalf of a group or organisation, and should include a summary its aims.

The information you send to us may be published in a summary of responses received in response to this consultation. We will assume that you are content for us to do this, and that if you are replying by e-mail, your consent overrides any confidentiality disclaimer that is generated by your organisation's IT system, unless you specifically include a request to the contrary in the main text of your submission to us. Where a response is made in confidence, it should be accompanied by a summary that excludes the confidential parts and can be published.

The Home Office will publish a summary of responses. This summary will be available from: <http://www.homeoffice.gov.uk/>

This consultation is being conducted in accordance with the Cabinet Office's Code of Practice on Written Consultation (2000), whose consultation criteria are:

1. Timing of consultation should be built into the planning process for a policy (including legislation) from the start, so that it has the best prospect of improving the proposals concerned, and so that sufficient time is left for it at each stage.
2. It should be clear who is being consulted, about what questions, in what timescale and for what purpose.
3. A consultation document should be as simple and concise as possible. It should include a summary, in two pages at most, of the main questions it seeks views on. It should make it as easy as possible for readers to respond, make contact or complain.
4. Documents should be made widely available, with the fullest use of electronic

means (though not to the exclusion of others), and effectively drawn to the attention of all interested groups and individuals.

5. Sufficient time should be allowed for considered responses from all groups with an interest. Twelve weeks should be the standard minimum period for a consultation.

6. Responses should be carefully and open-mindedly analysed, and the results made widely available, with an account of the views expressed, and reasons for decisions finally taken.

7. Departments should monitor and evaluate consultations, designating a consultation co-ordinator who will ensure the lessons are disseminated.

Any procedural comments or complaints about the conduct of this consultation process should be sent to:

Geraldine Lilley,  
Home Office Consultation Co-ordinator,  
Information Management and Technology Unit,  
7th Floor,  
Horseferry House,  
Dean Ryle Street  
London SW1P 2AW  
(e-mail:  
Geraldine.Lilley@homeoffice.gsi.gov.uk)

# ANNEX C

## RACE EQUALITY AND DIVERSITY INITIAL AND PARTIAL ASSESSMENT

### Background

1. The consultation paper sets out the Government's strategy on tackling domestic violence and makes proposals on changes to the law. The Government's aim is to:

- prevent domestic violence in the first place, or prevent it recurring;
- improve protection and justice; and
- increase support available for all victims of domestic violence.

2. Domestic violence accounts for about a quarter of all recorded violent crime with, on average, two women per week killed by a male partner or former partner. Nearly half of all female murder victims are killed by a partner or ex-partner. However, whilst there has been considerable research done on domestic violence, little of this has focused on domestic violence among the black and minority ethnic (BME) communities, and there has been no Home Office research on domestic violence among the lesbian, gay, bisexual and transgender communities (LGBT).

### Research findings

#### *Black and Minority Ethnic communities*

3. According to the most recent research (HORS191 – self completion component on domestic violence, 1996 BCS), about 4% of all ethnic group women said they had been victims in 1995. Asian men were much less likely than any other group of men to say they had been assaulted. (There is likely to be under-reporting of domestic violence in the BME communities in any case, partly due to the small number of support services which may not be widely known, but also because of the shame to the family and the wider community.)

Black women	3.4%	Black men	2.8%
Indian women	3.9%	Indian men	2.3%
Bangladeshi/ Pakistani women	4.3%	Bangladeshi/ Pakistani men	1.9%

#### *Lesbian, Gay, Bisexual and Transgender communities*

4. Sigma Research undertook research on behalf of Flame TV to discover the prevalence of domestic violence among lesbians and gay men. Although this was done some time ago, it has only recently been published (March 2003). Among those surveyed, nearly a quarter of women (22%) and 29% of men had suffered domestic violence/domestic abuse. There was significant underreporting: 86.9% of women and 81.2% of men failed to report incidents to the police.

#### *Foreign nationals without settled immigration status*

5. For women whose immigration status was not settled, between 2000 and 2002 there were 119 cases of alleged domestic violence brought by women. Of these, settlement was granted in 72 cases: 24 within the terms of an



immigration concession and 48 outside. (This needs to be seen in the context of approx. 44,000 cases of husbands and wives being granted settlement per year).

6. In terms of refuges, there are approximately 3,700 household spaces in England. There are 20 bed spaces for gay men, and 25 refuges specifically for black and Asian women. For the latter, although all refuges are available to them in theory, in reality there are a number of barriers which hinder access, including language, religion and culture. 60% of local authorities have refuge provision in their area: only 6% have access to local specialist temporary accommodation.

#### **Initial Impact assessment**

7. We do not have complete statistics to make a considered assessment of the impact of the domestic violence proposals contained within the consultation paper. However, an initial impact assessment of the data highlights the following:

- significant under-reporting (this is assumed in the BME communities);
- there is significant lack of services – particularly refuges/bed spaces;
- increased awareness is likely to lead to increased reporting and demands for services, particularly on voluntary organisations supporting minority communities.

#### **Consultation paper**

8. The overall impact of the development of domestic violence policies and changes to the law will have a general positive application, but there will be a particular impact on black and minority ethnic communities and the LGBT communities. This is spelt out in paragraphs 9 and 10.

#### *Legislative proposals*

9. Changes to the law will ensure that victims are better protected and offenders are speedily brought to justice. It is important to note that changes are proposed where there are provisions in legislation which exclude any section of the community. For example, we are reviewing the associated persons criteria in the Family Law Act 1996, which appear to restrict property protection (occupation orders) for those in same sex relationships. Introducing the power of arrest for common assault has universal application as does the imposition of reporting restrictions in domestic violence criminal proceedings on application. It is argued that the latter will be of more benefit to women in BME communities where the woman might be accused more readily of bringing shame to the family and the wider community.

#### *Non-legislative proposals*

10. These are designed to ensure that there is sufficient support to victims of domestic violence. The review of awareness-raising campaigns, helplines, refuge services, better information-sharing and improvements to multi-agency partnership working at local level will ensure that the needs of black and minority ethnic communities and the LGBT communities are better met in the future.

### Consultation exercise

11. Following the publication of the consultation paper, there will be a 12 week public consultation exercise, during which time we will seek responses from, among others, the following groups:

Southall Black Sisters  
Imkaan  
Broken Rainbow  
The Employers' Forum on Disability  
Disability Rights Commission  
The Employers' Forum on Age  
Mencap  
Age Concern

12. After the consultation exercise, we will publish a draft Bill, and take forward non-legislative policies.

13. We are not yet in a position to take a final view about the likely impact on race equality and diversity. We believe that it will be positive, but there may be additional burdens on the voluntary sector, particularly financial ones. Responses on the subject of domestic violence from the recent Justice For All White Paper, would indicate that most groups view the process in a positive light. However, we must wait till the end of the consultation exercise to be sure that the proposals will deliver equality of treatment.

### Next Steps

14. The consultation paper makes explicit the need to consider the impact of proposals on BME and LGBT communities, and to consider whether more needs to be done to support them, as well as address the wider question of promoting equality of opportunity and good race and other diversity issue relations. Once all the responses have been received and reviewed, we will make a final race equality impact assessment, building on this one, to be published as part of the overall report on the consultation. We will also consider how this work will promote equality of opportunity and good relations with the BME and LGBT communities.

15. At that point, decisions will be made about how to monitor and review policies for actual impact.

## Annex D

# PARTIAL REGULATORY IMPACT ASSESSMENT

### Issue

1. The Government is committed to tackling domestic violence, and raised the issue in the 2002 Justice for All White Paper. It is publishing a consultation paper outlining the Government's proposals to address domestic violence, to be followed by a draft bill.

### Objective

2. The Government's strategy is based on a three-strand approach:

- prevention – preventing violence happening in the first place, and preventing its recurrence;
- protection and justice – ensuring that the justice system provides adequate protection for victims and brings more offenders to justice;
- support – providing adequate housing and financial support to help victims and their children rebuild their lives.

3. The proposals apply to England and Wales.

### Background

4. Domestic violence claims the lives of two women every week and accounts for a quarter of all violent crime; one incident is reported to police every minute. Figures from the 1996 British Crime Survey domestic violence self-completion questionnaire, which provides the most robust data for domestic violence, suggest that one in four women and one in six men will suffer domestic violence at some point in their lives. The survey estimated a total of 6.6 million incidents of domestic violence in 1996, of which 2.9 million resulted in injury.<sup>1</sup>

5. Most definitions of domestic violence acknowledge that, in addition to actual physical violence, it involves a wide range of abusive and controlling behaviour, including threats, harassment, criminal damage, financial control, and emotional abuse. Domestic violence occurs across all groups in society.

6. The immediate and long-term human costs of domestic violence are profound; the financial costs to the public purse and society in general are immense. Domestic violence damages victims' self-confidence and mental health, traumatises and endangers children, and accounts for sixteen per cent of homelessness acceptances every year.

### Risk Assessment

7. The Government is committed to tackling domestic violence. The proposed measures, in conjunction with other policies, will play an important part in reducing the incidence of domestic violence, increasing support and protection for its victims, and bringing greater numbers of offenders to justice.

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<sup>1</sup> Catriona Mirrlees-Black, Findings from a new British Crime Survey self-completion questionnaire, Home Office Research Study 191 (London: Home Office, 1999), pp. vii-viii, 18, 23; Figure of one incident per minute taken from Elizabeth Stanko, 'The Day to Count: A Snapshot of the Impact of Domestic Violence in the UK', *Criminal Justice* 1:2 (2000), available at: [http://www.domesticviolencedata.org/5\\_research/count/count.htm#police](http://www.domesticviolencedata.org/5_research/count/count.htm#police).

8. Domestic violence imposes significant costs on society. These costs fall under various headings: there are direct financial costs to public agencies (health, social services, housing, and criminal justice) and voluntary organisations, emotional costs to victims and those close to them, and indirect financial costs to the economy from lost output.

9. The cost of the one hundred and fifty or so domestic violence murders each year of adult men and women is approximately £60 million in lost output and expense to public services, to which should be added a further £105 million in emotional impact.<sup>2</sup>

10. Research in the London Borough of Hackney put the annual cost of domestic violence to public services at £5,130,000 (excluding such substantial items as the costs of hospitalisation, investigations, and prosecutions), and estimated the full costs at closer to £7.5 million,<sup>3</sup> equivalent to £37.50 per resident. Applied to the national population of approximately sixty million people, this suggests that domestic violence gives rise to annual costs to the public purse of £2.25 billion for the United Kingdom. Adding in the costs of emotional trauma and lost productivity would probably double that figure, giving a cost to society of at least £4.5 billion, or roughly 0.5% of GDP.

11. More recent research by the Home Office on the economic costs of crime gave a total of £21 billion for recorded violent crime.<sup>4</sup> Given that domestic violence constitutes almost a quarter of all recorded violent crime, its annual cost should be equivalent to £5.25 billion, a figure that should be revised upward to reflect the chronic under-reporting of domestic

violence. Additional account would need to be taken of incidents of domestic violence that are counted separately to physical violence, such as criminal damage.

12. Each individual proposal in the consultation paper is separately assessed below, under 'costs and benefits'. Overall, while several of the planned measures have implications for police resources and court time, as well as for charities and the voluntary sector, the expected benefits (both financial and intangible) substantially outweigh the projected costs.

### Options

13. Option 1: Do nothing. This would mean millions of current and future victims continuing to suffer the consequences of domestic violence. This is unacceptable.

14. Option 2: Non-legislative measures. The Government is already undertaking a number of such measures to tackle domestic violence, notably in the areas of education and awareness raising. In addition, the Government has evaluated the costs and benefits of non-legislative measures and, where appropriate, is issuing guidelines, codes of practice, and protocols to improve service delivery in areas where legislation is not required.

15. Option 3: Legislative measures. After careful consideration, the Government has concluded that legislation is the most suitable and effective means of tackling outstanding problems, and the proposals contained in the domestic violence consultation paper reflect that. These measures modify existing legislation, and require primary legislation to do so.

<sup>2</sup> Sam Brand & Richard Price, *The Economic and Social Costs of Crime*, Home Office Research Study 217 (London: Home Office, 2000), p. 32.

<sup>3</sup> Elizabeth Stanko et al, *Counting the Costs: Estimating the Impact of Domestic Violence in the London Borough of Hackney* (London: Crime Concern, 1998), p. 7.

<sup>4</sup> Sam Brand & Richard Price, *The Economic and Social Costs of Crime*, Home Office Research Study 217 (London: Home Office, 2000), p. 55.

### Costs & Benefits

16. If the Government's efforts to persuade more victims to report domestic violence succeed, the number of recorded incidents might rise, and with them the costs to the criminal justice system. In 2001/2002 the police recorded 812,594 incidents of violent crime, of which approximately 22% (178,771) were incidents of domestic violence.<sup>5</sup>

17. The average incident of violence against the person costs the police and criminal justice system £2700,<sup>6</sup> so a 5% increase in the number of recorded incidents would cost about **£24.1m**. However, the figure of £2700 per incident includes the most serious incidents such as murder (which costs the system £22,000), which are by and large reported already; most of any increase in reporting would consist of less serious offences like common assault (which costs £540), and the costs to the criminal justice system would be correspondingly lower. Finally, it should also be noted that some of the additional cost would be captured (i.e. counted again) in the measures and costs set out below.

<sup>5</sup> Jon Simmons et al, *Crime in England and Wales 2001/2002* (London: Home Office, 2002), p. 47.

<sup>6</sup> Sam Brand & Richard Price, *The Economic and Social Costs of Crime*, Home Office Research Study 217 (London: Home Office, 2000), p. 32.

Measure	Public sector costs	Benefits
Multi-agency reviews of domestic violence murders	<p>Figures from Serious Case Reviews of suspicious child deaths suggest that each review is likely to cost in the region of £50,000 in terms of time and effort.</p> <p>There are currently some 150 domestic murders every year, which suggests a total cost of <b>£7.5m</b>.</p> <p>A more definitive cost estimate will depend on the results of the consultation exercise, which will inform the circumstances in which reviews will take place.</p>	Each life saved through lessons learned saves £1,100,000 in public funds, lost earnings, and emotional trauma.
Criminalising breach of non-molestation and occupation orders	<p>At present, there are roughly 28,000 applications for such orders per year, of which roughly 80% are granted.<sup>7</sup> If breach of orders becomes a criminal offence:</p> <ol style="list-style-type: none"> <li>1. More people may apply for orders, which currently cost an average of £1976. However, a greater proportion may accept an undertaking instead. If the number of applications increases by a quarter to 35,000, costs will increase by roughly <b>£14m</b>;</li> <li>2. more respondents may claim Legal Help to ascertain their rights. It is not clear how many respondents currently claim Legal Help, but roughly 50% of people qualify (at an average of £100), meaning that if every respondent applied for it, 14,000 each year would receive it, at a cost of £1.4m. If the number of applicants increased by 25%, the costs would rise to a maximum of £1.75m, an increase of at least <b>£0.35m</b>;</li> <li>3. more respondents may contest orders. 13% of respondents currently receive Legal Aid, at a cost of just over £7m. If that</li> </ol>	Criminalising the breach of all orders would simplify things for victims, courts, and the police, and should deter offenders from breaching orders.

<sup>7</sup> Lord Chancellor's Department, Judicial Statistics Annual Reports for 2001 (London: Lord Chancellor's Department, 2002), Table 5.9, p. 60.

	<p>proportion were to double to 26%, then, based on a 25% increase in the number of applications for orders, costs would increase by roughly <b>£11m</b> over and above those given in (1) and (2);</p> <p>4. anyone arrested and charged with breaching an order would be eligible for Legal Aid to cover the cost of the duty solicitor (about £150) and the costs of an appearance before a magistrate's court (£326). At present there are no reliable figures for breach rates, but assuming 35,000 applications are made, 80% are granted, and 20% of respondents are arrested and prosecuted for breach, the additional costs will be 5600 x £476 = around <b>£2.7m</b>;</p> <p>5. the implications for police time are unlikely to be significant, not least because powers of arrest are already attached to roughly 80% of the orders granted; <sup>8</sup></p> <p>6. it costs the CPS approximately £100 for the average case in a magistrate's court. 5600 additional cases would therefore cost <b>£0.56m</b>.</p> <p>7. there will be increased costs in terms of court time, stemming from a greater number of applications (a rise, based on the £391 average cost of the county court proceedings, of roughly <b>£2.7m</b>) and proceedings against those accused of breaching orders (an increase, based on the £198 average cost of magistrates' court proceedings, of <b>£1.1m</b>).<sup>9</sup></p> <p>Assuming all of the increased costs above, this measure would cost in the region of <b>£32.5m</b>.</p>	
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<sup>8</sup> Lord Chancellor's Department, *Judicial Statistics Annual Reports for 2001* (London: Lord Chancellor's Department, 2002), Table 5.9, p. 60.

<sup>9</sup> All figures for Legal Services Commission Fund and court time costs supplied by Lord Chancellor's Department.

<p>Extending availability of non-molestation and occupation orders under the Family Law Act 1996</p>	<ol style="list-style-type: none"> <li>1. Equalising the position of same sex couples will involve minimal costs.</li> <li>2. It is difficult to quantify the costs of extending the availability of orders to non-cohabiting couples. There is currently no evidence that ineligibility for orders is a serious problem for large numbers of non-cohabiting couples. Nevertheless, if significant numbers apply for orders (which at current rates cost the applicant £1976, and the courts roughly £391 in court time), there will be implications for the Community Legal Service Fund. The cost increases are included in the estimates above, which assume a 25% increase in applications for orders under the Family Law Act.</li> </ol>	<ol style="list-style-type: none"> <li>1. This will increase protection for same sex partners.</li> <li>2. This will widen protection and increase deterrent effects.</li> </ol>
<p>Extending availability of restraining orders under the Protection from Harassment Act 1997</p>	<p>There are few procedural implications for courts issuing such orders when they hear cases or sentence defendants charged with other offences.</p> <p>In 2001, 2438 people were cautioned and 7129 proceeded against in magistrates' courts under the PFHA, of whom 3239 were found guilty.<sup>10</sup> Restraining orders are made in about 56% of PFHA cases in which there is a conviction,<sup>11</sup> which would mean roughly 1814 orders. In 2001, 4 people were cautioned and 776 proceeded against in magistrates' courts for breach of a restraining order, an overall rate of about 43%.<sup>12</sup></p> <p>In 2000, 19,900 people were cautioned and 35,300 found guilty of offences of violence against the person.<sup>13</sup> Assuming that</p>	<p>These measures may deter or prevent more serious incidents, thus sparing victims from trauma, and saving police and court resources.</p>

<sup>10</sup> These data are a further breakdown of those published in *Criminal Statistics, England and Wales: Supplementary Tables 1999 to 2001* Volumes 1 & 2, produced by the Offending and Criminal Justice Group, RDS, Home Office.

<sup>11</sup> Jessica Harris, *An Evaluation of the Use and Effectiveness of the Protection from Harassment Act 1997*, Home Office Research Study 203 (London: Home Office, 2000), p. 37.

<sup>12</sup> These data are a further breakdown of those published in *Criminal Statistics, England and Wales: Supplementary Tables 1999 to 2001* Volumes 1 & 2, produced by the Offending and Criminal Justice Group, RDS, Home Office.

<sup>13</sup> Katie Johnson et al, *Cautions, Court Proceedings and Sentencing, England and Wales 2000* (London: Home Office), p.19.



	<p>restraining orders were handed out at the same 56% rate for the 35,300 found guilty of violence against the person, fewer than 20,000 additional orders would be made.</p> <p>Assuming that roughly the same proportion (43%) of offenders were cautioned or proceeded against for breach of an order (and discounting any deterrent effects), about 8600 additional cases would appear before the courts each year.</p> <p>Average costs to the CPS for proceedings in magistrates' courts are in the region of £100, so the additional 8600 cases would cost <b>£0.86m.</b></p> <p>Defendants would be eligible for legal aid to cover the cost of the duty solicitor (about £150) and the costs of an appearance before a magistrate's court (£326).</p> <p>In terms of court time, the cost of an average Indictable or Triable Either Way case in the magistrates' court is £198.</p> <p>If 8600 additional cases of breach appeared before the magistrates' courts, the cost would be <math>8600 \times (£150 + £326) = £4,093,600</math> to the Legal Services Commission and <math>8600 \times £198 = £1,702,800</math> in court costs, a total of almost <b>£5.8m.</b></p>	
<p>Amending the Protection From Harassment Act 1997 so victims are always informed when offenders apply to vary/terminate an order</p>	<p>Minimal administrative costs. Following implementation of the above measures, some 21,500 orders may be issued each year. On the basis of an (assumed) 50% rate of applications to vary or terminate an order, 10,750 victims would have to be informed each year. Assuming roughly £2 per case (for postage, stationery, and administrative time), the annual cost would be in the region of <b>£21,500.</b></p>	<p>Better protection for victims, probably reducing subsequent assaults.</p>

<p>Making common assault an arrestable offence</p>	<p>The British Crime Survey estimates that common assault made up 62% of violent crime in 2001/02, roughly 1.79m incidents.<sup>14</sup> The arrest rate for notifiable offences of violence against the person under PACE 1984 in 2001/02 was 20%.<sup>15</sup> This implies that some 358,000 people might be arrested for common assault if it were included in PACE.</p> <p>In practice, however, police can already arrest for common assault under certain circumstances (although no detailed figures for how many such arrests they make are available), and those figures are part of the 20% arrest rate. Adding common assault to PACE would not therefore lead to such a substantial rise in arrests, especially because common assault is the least violent of the violent offences. This assessment will assume that an additional 10% of the possible 358,000 offenders are arrested, i.e. 35,800.</p> <p>Figures for the cost in terms of police time are not available, but assuming the average incident of common assault entailed six police man hours, the cost of 35,800 extra arrests would, at a cost of roughly £24 per hour (based on an annual cost per officer of just under £41k, with each officer working eight hours a day for 220 days per year), be <b>£5.2m.</b></p> <p>At an average cost of £100 per proceeding in magistrates' court, the cost of the additional 35,800 cases to the CPS would be roughly <b>£3.6m.</b></p> <p>Each detainee would be entitled to Legal Aid to cover the cost of seeing the duty solicitor, which at the rate of approximately £150, would cost roughly <b>£5.4m.</b></p>	<p>The measure would simplify things for the police, ensure better protection for victims, and act as a deterrent to further offending.</p>
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<sup>14</sup> Jon Simmons et al, *Crime in England and Wales 2001/2002* (London: Home Office, 2002), p. 47.

<sup>15</sup> Margaret Ayres et al, *Arrests for Notifiable Offences and the Operation of Certain Police Powers under PACE, England and Wales, 2001/02* (London: Home Office, 2002), p. 20.

	<p>Assuming some 75% of those arrested are subsequently charged, roughly 27,000 would appear before a magistrate. Each would be eligible for Legal Aid to cover the £326 cost of the hearing, adding <b>£8.75m</b> to the bill.</p> <p>In terms of court time, the cost of an average Indictable or Triable Either Way case in the magistrates' court is £198, so the additional cases would cost just over <b>£5.3m</b>.</p> <p>In total, therefore, the cost of this measure might be in the region of <b>£28.5m</b>.</p>	
Provocation as a defence in domestic violence cases	Any attempt to quantify the cost of reforming the law on provocation must await the Law Commission's report and recommendations on the subject.	Addresses inconsistencies in the current legal framework, not least the actual/perceived bias in favour of men.
Sentencing practice in domestic violence cases	Without evidence on the extent to which judges and magistrates currently treat domestic violence cases differently to other violent cases, it is impossible to estimate the likely costs.	Stiffer sentences may deter offenders and thus save police/court time and prison space.
Reporting restrictions for victims of domestic violence in criminal proceedings	<b>Minimal.</b> There are no significant cost implications for courts.	Enables victims to come forward without fear of embarrassment or bringing shame upon their families.
Giving victims the status of vulnerable/intimidated witnesses	<b>Minimal.</b> The proposed measures do not alter the <i>status quo</i> . Special measures are due to be fully implemented in the Crown Court and magistrates' courts by 2003-04.	Mention of these special measures in the consultation paper will help to publicise their availability to domestic violence victims.
Register of civil orders and injunctions in domestic violence cases	Work to add an operational orders page to the Police National Computer (PNC) has already been commissioned, although it will be at least two years before it is completed. In the meantime, it should be possible to record	Savings in police time (easy to check, facilitates resource allocation, etc.)

	orders on the PNC – this is the interim solution used for Anti-Social Behaviour Orders. The costs of using these existing systems would be <b>minimal</b> .	
Register of domestic violence offenders	The register could be based on the Violent and Sexual Offenders Register, whose set-up cost almost £6m. Initial indications are that configuring it to record all the details for domestic violence offenders would probably cost in the region of <b>£2m</b> ; more accurate costings will become available later in the year when it becomes clear how much of the existing code is re-usable.	Savings in police time (easy to check, facilitates resource allocation, etc.)
Better liaison between civil and criminal courts	There will be some administrative costs, but these are impossible to quantify.	More effective and co-ordinated rulings, likely to afford better protection to victims and their children. Cost savings as a result of more effective use of court time.
Information sharing between agencies and courts	There will be some administrative costs, but these are impossible to quantify.	Better charging and sentencing decisions; greater efficiency; freeing up resources; possible deterrent effect.
Specialist domestic violence courts	The creation of specialist courts in their current format merely involves a reorganisation of existing facilities and procedures. Their establishment and operation has been funded by reallocating resources, i.e. at no overall additional cost to the public purse.	Saves time in mainstream civil and criminal courts. Speedier, more appropriate rulings; deterrent effect.
Supporting People provision for those with no recourse to public funds	It is impossible to quantify the number of victims to which this would apply, but it is likely to be very small. The costs will be spread broadly across local authorities, and are estimated to be in the region of <b>£0.4m</b> per annum.	Extends protection to the most vulnerable victims.

### **Sectors Affected**

18. Business: The Government believes that businesses will benefit from these measures. Not only do the proposals impose no additional costs or burdens on the private sector, any resultant reduction in domestic violence will reduce the substantial losses firms currently suffer in the form of the lost days and lower productivity that results when their employees suffer domestic violence.

19. Public Sector: The implications for the public sector involve a likely increase in work, in particular for the police, the CPS, the courts, social services, and all professionals who come into contact with adult and young victims. In the short-term, raising the profile of domestic violence and encouraging victims to leave and prosecute their abusers may entail an increase in demand for housing, advocacy, legal, educational, and other public services. It is nonetheless our hope that in the longer-term the deterrent effect of the new measures, coupled with ongoing efforts to reduce domestic violence, will reduce the burden on these bodies.

20. Charities and the Voluntary Sector: Although none of the proposed measures impose direct costs, any measures that encourage greater numbers of victims to leave abusive relationships could place increased strain on charities and organisations that supply refuge accommodation, advocacy, and outreach services. However, by increasing the

protection and support available to victims, these and other Government measures should to some extent simplify some of the tasks these organisations carry out.

### **Consultation with Small Business: The Small Firms Impact Test**

21. (See paragraph 18, above.) Small firms will have the opportunity to respond to the proposed measures and raise any issues arising from them during the public consultation exercise, but the Government and its Small Business Service do not anticipate any negative impact on small business.

### **Competition Assessment**

22. The proposed measures do not affect any market; their only impact is on charities and the public and voluntary sectors.

### **Monitoring and Review**

23. The Government is committed to monitoring the prevalence of domestic violence on an ongoing basis, to assessing the effectiveness of the measures enacted to tackle it, and to considering the introduction of additional measures.

### **Summary and Recommendations**

The options available to the Government are summarised below.

Option	Costs	Benefits
1. Do nothing/Self-regulation	No reduction in current annual costs of domestic violence of approximately £5.25 billion. Sends message that government and society are willing to tolerate domestic violence.	No additional government expenditure or burden on other sectors.
2. Non-legislative measures	Opportunity cost – more could be done to reduce domestic violence. Measures to improve information sharing and liaison between civil and criminal courts would probably save money in the long-term, but would in the short-term impose small costs.	Cheaper than legislative measures. Less of a burden on the voluntary sector and charities. By stiffening sentences for domestic violence offenders, and improving the operation of the courts, these measures will introduce a greater deterrent effect that should reduce domestic violence and its associated costs. By funding refuge places for victims without recourse to public funds, refuges will no longer have to choose between turning victims away and incurring financial losses.
3. Legislative measures	Assuming that all the above measures are implemented, and that all cost as much as has been assumed, the total cost would be roughly <b>£102m</b> .	By providing better protection to victims and bringing more offenders to justice, the proposed measures will reduce the costs of domestic violence and help to build a safer and more just society. Given the scale of the problem and the costs involved, even a 2% reduction in domestic violence would represent a saving of at least £105m a year.

The balance of costs and benefits clearly favours the proposed combination of legislative and non-legislative

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