

BRIEFING FROM THE DOMESTIC ABUSE COMMISSIONER FOR ENGLAND AND WALES CRIMINAL JUSTICE BILL: SECOND READING

About the Domestic Abuse Commissioner

The Office of the Domestic Abuse Commissioner for England and Wales was established by the Domestic Abuse Act 2021 (the “Act”). In accordance with the Act, the Commissioner is to provide public leadership on domestic abuse issues and play a key role in overseeing and monitoring the provision of domestic abuse services in England and Wales. Additionally, the Commissioner must encourage good practice in improving the criminal justice response to domestic abuse. Powers granted via the Domestic Abuse Act enable the Commissioner to drive forward change for victims and survivors and hold local agencies and national government to account for their role in responding to domestic abuse.

Domestic abuse and the Criminal Justice Bill

The Criminal Justice Bill will be entering Second Reading in the House of Commons on Tuesday 28 November. The Bill provides an opportunity to improve the police and criminal justice response to domestic abuse, which remains one of the most common reasons people contact the police.

As the Bill progresses through Parliament, the experiences of the most marginalised victims and survivors, particularly those from minoritized communities, must be at the heart of this Bill. Individuals who come into contact with the criminal justice system are amongst some of the most vulnerable in our society and ensuring that they are not adversely affected by proposed changes to the criminal justice system must be a priority.

Police Perpetrated Domestic Abuse

The Commissioner is concerned that, as the Bill stands, key provisions are missing which, in particular, would help address issues with how policing responds to police perpetrated domestic abuse, sexual violence and stalking.

The police receive a domestic abuse-related call every 30 seconds,¹ with domestic abuse making up 1 in 6 (16%) of all crimes recorded by the police.² The

¹ Barrow-Grint, K., Sebire, J., et al (2023) *Policing Domestic Abuse: Risk, Policy and Practice*, Routledge, 106

² Office for National Statistics (2023) [Domestic abuse prevalence and victim characteristics: Year ending March 2023 dataset, table 8](#)



death of Sarah Everard and subsequent revelations arising from Operation Hotton,³ the Casey Review,⁴ the investigation into David Carrick and the Super-complaint into Police Perpetrated Domestic Abuse⁵ raised serious questions into the readiness of policing to respond to allegations of misconduct made against police officers and force staff.

These inquiries and investigations consistently found that there were systemic failures in the way in which the police were investigating allegations of misconduct within their forces.⁶ These ranged from the minimisation of allegations made against officers, lack of protection and support given to the alleging victims of abuse, officers who were found guilty of misconduct relating to domestic abuse or sexual assault being allowed to remain on the force, and investigations into misconduct being protracted.

A Freedom of Information Act request made by Refuge found that between 1 May 2022 and 1 May 2023, there were 1,124 cases of violence against women and girls misconduct or gross misconduct across the 26 police forces in England and Wales who responded to the request.⁷

Consequently, there has been a significant decline in trust and confidence in policing, with research by the Independent Office for Police Conduct finding that only 32% of people felt confident with the police's ability to deal with complaints – the lowest level since testing began.⁸ The survey also found that women were significantly less likely to report violence against women and girls where the offender was a police officer.⁹

The lack of action undertaken to respond to police perpetrators of domestic abuse impacts all victims and survivors, not just those who are subject to abuse by a police officer. The Commissioner is concerned that victims and survivors may perceive that where policing does not deal with this issue within its own ranks, it will not take seriously complaints of a similar nature made by survivors, or survivors may fear the individual investigating their case. This is a deeply concerning public safety issue; if victims do not report abuse, perpetrators are able to reoffend without fear of repercussion.

³ Independent Office for Police Conduct (2022) [Operation Hotton learning report, January 2022](#)

⁴ Baroness Casey of Blackstock (2023) [An independent review into the standards of behaviour and internal culture of the Metropolitan Police Service](#)

⁵ Centre for Women's Justice (2020) [Super-complaint on the failure to address police perpetrated domestic abuse](#)

⁶ House of Commons Home Affairs Committee (2023) [Report on Inquiry into Policing Priorities](#)

⁷ Refuge (2023) [FOI data analysis demonstrates wide variation in police force response to police officers and staff accused of violence against women and girls](#)

⁸ Independent Office for Police Misconduct (2023) [IOPC Public Perceptions Tracker Summary Report, 22](#)

⁹ Ibid, 39



Where victims are themselves employed by the police, as highlighted by the Casey Review, they can feel marginalised by their colleagues who do not take their complaints seriously and instead provide support and protection for the perpetrator rather than the victim.¹⁰ Where this occurs, victims and survivors tend to disengage from the criminal justice system and are consequently put at higher risk of harm.

Police-perpetrated domestic abuse is particularly concerning when considering that, unlike civilians, individuals working within policing will have access to specialist knowledge and training which can assist them in perpetrating abuse and harm. They also go on to utilise their institutional power and knowledge to weaponise the criminal justice system which severely limits a survivor's options for safety and access to justice.

Whilst the Domestic Abuse Commissioner recognises the work which has been undertaken by the National Police Chiefs Council, College of Policing and His Majesty's Inspectorate of Constabulary and Fire and Rescue Services to strengthen vetting practices and oversee the implementation of the super-complaint recommendations, far more robust measures must be implemented to ensure that police perpetrators are swiftly brought to justice. It is critical that all victims and survivors of domestic abuse have confidence in the police, and in the officers who investigate their abuse. The Commissioner's recommendations for this Bill provide the opportunity to do just that.

Recommendations:

- **The Bill must include a provision requiring the removal of warrant cards from police officers who are under investigation for crimes relating to violence against women and girls.** At present, officers who are under investigation and even under suspension for allegations relating to domestic abuse, sexual violence, stalking or honour-based abuse are not required to surrender their warrant cards. This presents a safeguarding concern, as it means that perpetrators maintain the ability to abuse their powers of arrest when they may be a general risk to members of the public.
- **The Bill must include a list of specified offences which would constitute gross misconduct where a police officer or member of police staff is convicted of these offences. This definition must include offences relating to domestic abuse, sexual harassment, assault and violence, so-called honour-based abuse and stalking.** At present, being found guilty of these

¹⁰ Baroness Casey of Blackstock (2023) [An independent review into the standards of behaviour and internal culture of the Metropolitan Police Service](#)

offences do not constitute automatic grounds for dismissal from policing. Many police chiefs have expressed frustration at this issue and noted that despite convictions for these offences, it can be incredibly difficult for these individuals to be removed from the force. To ensure that swift action can be taken to remove perpetrators and preserve public safety, the law must be changed to ensure that being found guilty for these offences serves as immediate grounds for dismissal.

- **The Bill must include a provision making it a statutory requirement for officers to hold vetting. Vetting upon transfer must be a statutory requirement and failure of vetting should constitute gross misconduct.** The Inquiry into Policing Priorities by the Home Affairs Select Committee revealed that standards for vetting vary across forces, with there being no repercussions for forces whose procedures fell below national standards.¹¹ Further, many forces were found not to re-vet officers who transferred across from different forces, thereby allowing officers who had been found guilty of misconduct by one force to move into another without repercussion. The Bill provides a unique opportunity for this loophole to be closed.
- Currently, failing police vetting does not constitute grounds for dismissal. This means that police staff and officers who may pose risk of harm can continue to work for the police, though they may be consigned to desk duty and not able to work with vulnerable individuals or handle evidence. **This is not good enough. Police chiefs must be able to remove individuals who fail police vetting from the force to ensure the safety of the public.**

Domestic homicide sentencing

The Commissioner is encouraged by section 24 of the Bill, which amends Schedule 21 of the Sentencing Act 2020 to make homicide which takes place at the end of a relationship a statutory aggravating factor. As highlighted by the Domestic Homicide Sentencing Review, this is a particularly common trigger for homicide where there is a history of coercive control in the relationship.¹² The Commissioner welcomes the implementation of this recommendation from the Claire Wade KC Review, as it will ensure that dangerous perpetrators are held accountable for their actions.

¹¹ House of Commons Home Affairs Committee (2023) [Report on Inquiry into Policing Priorities](#)

¹² Wade KC, C. (2023) [Domestic Homicide Sentencing Review](#)



The Criminal Justice Bill provides the opportunity for the Government to implement some of the wider recommendations published in the Domestic Homicide Sentencing Review. Clare Wade KC's 17 recommendations were designed as a package, with each intended to work in conjunction with the other. Whilst implementing section 24 of the Bill is a step in the right direction, the Government must take steps to implement the necessary statutory reforms highlighted in the Review without delay (such as through the Sentencing Bill, recently introduced to Parliament).

The proposals regarding coercive and controlling behaviour highlighted in the Government's consultation on Murder Sentencing must be considered as the Criminal Justice Bill passes through Parliament. The Bill provides a timely opportunity to make any changes that are needed to hold perpetrators to account and support bereaved families.

Recommendations:

- The Bill must implement the Review's recommendation that domestic murders be given a specialist consideration within the present sentencing framework under schedule 21.
- Further amendments must be made to schedule 21 murders by strangulation and murders by overkill a statutory aggravating factor.
- The removal of sexual infidelity as a partial defence to murder to be placed on a statutory footing.

Offender Management

The Commissioner supports section 30 of the Bill, which would subject convicted perpetrators of Controlling or Coercive Behaviour to Multi-Agency Public Protection Arrangements (MAPPA) on their release from prison. This provision will help to ensure that perpetrators are properly managed in the community and victims can be kept safe from further harm. The Commissioner welcomes this provision and will continue working with the government to develop proposals for the effective management of perpetrators.

Further information

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

commissioner@domesticabusecommissioner.independent.gov.uk