domestic abuse commissioner

August 2026

The Domestic Abuse Commissioner's response to a fairer end to relationships: a consultation on reforming financial remedies on divorce and strengthening protections for cohabitants at the end of their relationship

About the Domestic Abuse Commissioner

The Domestic Abuse Act 2021 established the Office of the Domestic Abuse Commissioner (DAC), to provide public leadership on domestic abuse issues, play a key role in overseeing and monitoring the provision of domestic abuse services in England and Wales and promote best practice, including in multi-agency working.[1]

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

Overarching position

The Commissioner recognises economic abuse as a devastating and often hidden form of domestic abuse, recognised in law under the Domestic Abuse Act 2021.[2] Through the restriction, exploitation or sabotage of a person's access to money and economic resources, including housing, employment, transport and food, perpetrators are able to create dependency, undermine financial security and exert coercive control both during and after a relationship.

The Commissioner welcomes the Government's exploration of proposals to give greater weight to domestic abuse within financial remedy and cohabitation proceedings. The Commissioner considers that the current threshold for considering conduct in financial remedy proceedings is arbitrarily and

[1] Home Office, *Domestic Abuse Statutory Guidance* (2022) 128.
[2] Section 1(3)(d) and (4) Domestic Abuse Act 2021.

disproportionately high, resulting in domestic abuse rarely being recognised despite its significant and often long-lasting impact on victim-survivors' financial circumstances and future needs. The consequential effect on adult and child survivors is severe and must be understood.

The Commissioner considers that the current threshold for taking conduct into account in financial remedy proceedings is excessively high[3] and fails to reflect the realities of domestic abuse. It does not adequately recognise the prevalence of coercive and controlling behaviour, including economic abuse, nor the less visible but deeply harmful ways in which abuse can restrict autonomy, undermine independence and create significant economic disadvantage. The consequences of abuse are often profound and long lasting, affecting a survivor's ability to recover financially and rebuild security following separation.

Cohabitation reforms

The Commissioner particularly welcomes the proposal to extend legal rights on separation to cohabiting couples. At present, cohabiting victim-survivors often have limited legal protection when separating from an abusive partner. As a result of restricted legal remedies and the significant costs associated with proceedings under the Trusts of Land and Appointment of Trustees Act 1996, many cohabiting victim-survivors are forced to leave behind their home, belongings and financial security in order to escape abuse.

This issue is especially acute for individuals in religious marriages that are not legally recognised in England and Wales. Many survivors who have undergone a religious marriage ceremony, including those where a religious marriage contract is signed, reasonably believe that they are afforded the same legal protections as

[3] See *N v J* [2024] 4 WLR 6 [28-29] '… personal misconduct, including domestic abuse, must be of a high degree of exceptionality to be capable of consideration under the Act' and '… increasing awareness of the incidence of domestic abuse, and its harmful and pernicious effects, does not lower the conduct hurdle to be surmounted in financial remedy proceedings.' *N v J* [2024] is cited due to how recently it was heard; it is acknowledged that the judgment reinforces *Watchtel v Watchel* [1973], *Miller v Miller; McFarlane v McFarlane* [2006].

married couples and in many cases, erroneously believe themselves to be lawfully married. It is often only upon separation that they discover they are both not married nor entitled to the financial remedies available to legally married spouses. The Commissioner notes with concerns that the absence of legal protection contributes to compromised financial consequences for cohabiting survivors following the end of a relationship.

Approach to consultation

The Commissioner has provided an overarching position at the outset of this consultation response in addition to answering specific questions which directly and indirectly engage domestic abuse. Due to the size and scope of this consultation, not all questions will be answered. Further, to avoid repetition and to maximise usability, where a position has been adopted, questions which overlap with that position will not be addressed again but will be cross-referenced.

Summary of recommendations

Overarching reforms

- Domestic abuse, including economic abuse, should be recognised as a routine and relevant consideration in all financial remedy and cohabitation proceedings.
- The current conduct threshold in financial remedy proceedings should be lowered or removed, as it is arbitrarily high and prevents proper recognition of domestic abuse.
- Reforms should combine stronger protections for victim-survivors with sufficient judicial discretion to achieve fair outcomes in individual cases.
- Financial remedy and cohabitation law reforms should place recognition of domestic abuse, including economic abuse, at their centre.
- Implementation should be supported by specialist training for judges and legal professionals and a trauma-informed approach to proceedings.

Cohabitation reforms

- Domestic abuse should be expressly recognised and embedded throughout any future cohabitation framework.
- Victim-survivors of domestic abuse should be exempt from any proposed three-year qualifying period for cohabitation claims.
- The proposed two-year limitation period for bringing a cohabitation claim should be extended where domestic abuse has occurred.
- Cohabitation reforms should include robust safeguards against coercion, post-separation abuse and exploitation of legal processes.
- Courts should retain flexibility to account for the realities of domestic abuse when determining claims.

Full response

Part 1: Reforming the law of financial remedies on divorce

Question 1. Do you agree with the Government's view that the objective for the sharing principle is to give equal benefit to the parties of matrimonial property by dividing matrimonial assets equally?

No.

The Commissioner does not consider that equal sharing necessarily results in equal outcomes, particularly in cases involving domestic abuse, including economic abuse. A starting point of equal sharing risks producing unfair and inequitable outcomes because it fails to account for the economic loss and disadvantage that perpetrators often cause both during the relationship and after separation. Victim-survivors frequently leave abusive relationships with fewer assets, greater liabilities, damaged credit histories, housing insecurity, curtailed pension provision and reduced earning capacity as a direct consequence of the abuse they have experienced. Without proper recognition of these impacts, an equal division of assets may simply reinforce the financial inequalities created by the abuse rather than remedy them.

The Commissioner therefore considers that an approach based on equitable, rather than strictly equal, sharing is more likely to achieve fair outcomes and is aligned with the needs principle. Equitable sharing would enable the court to take account of the economic disadvantage arising from domestic abuse, including debt, depleted savings and assets, housing instability, compromised future earning potential and other long-term financial consequences of abuse. Such an approach would better reflect the reality that victim-survivors often enter financial remedy proceedings from a significantly disadvantaged position.

The Commissioner further considers that courts should retain discretion to depart from equal sharing where domestic abuse has caused economic loss or disadvantage. Providing courts with the flexibility to award a greater share of assets to a victim-survivor, where justified by the circumstances of the case, would help ensure that perpetrators do not benefit from their abusive conduct and would promote fairer and more equitable financial outcomes on separation.

Question 2 Do you agree with the government's view that the court should consider the sharing principle as the starting point and consider the needs principle where equal sharing would not allow needs to be met?

No.

As above, the Commissioner does not consider that the sharing principle should be the starting point in financial remedy proceedings. Instead, the Commissioner considers that the needs principle should take precedence, with 'needs' reflecting the standard of living enjoyed during the relationship, or that would reasonably have been expected had domestic abuse, including economic abuse, not occurred.

In the Commissioner's view, the court should prioritise meeting the needs of both parties when determining a financial settlement and should routinely consider relevant factors, including domestic abuse. Domestic abuse, and particularly economic abuse, can result in significant financial loss and disadvantage for survivors. The Commissioner therefore considers that courts must be able to take the impact of such abuse into account when assessing a survivor's present and future needs and, where resources permit, should also be able to award financial remedies to address the economic consequences of the abuse.

The Commissioner further considers that only once parties' needs have been met, and any appropriate financial remedy has been considered in cases involving domestic abuse, including economic abuse, should the sharing principle be applied to any remaining matrimonial assets. This approach is more likely to achieve outcomes that are fair, equitable and reflective of the economic realities experienced by victim-survivors.

Question 3 Do you agree with the Government’s view that it should codify the distinctions between matrimonial and non-matrimonial property, in line with the Supreme Court’s decision in Standish?

No.

The Commissioner supports greater legal certainty in the distinction between matrimonial and non-matrimonial property. However, any codification must be accompanied by safeguards that recognise the realities of domestic abuse, including economic abuse. Legal ownership, financial contributions and the apparent division of assets may not accurately reflect the true economic dynamics of an abusive relationship, particularly where perpetrators have concealed assets, controlled financial information, manipulated ownership arrangements or restricted a survivor's access to economic resources. The Commissioner is therefore concerned that, without appropriate safeguards, codification could inadvertently enable perpetrators to benefit from abusive conduct and result in unfair outcomes for survivors.

The Commissioner is also concerned that codification may have unintended consequences for assets transferred or held in accordance with religious and cultural traditions. Such assets are often intended to remain the woman's property or to provide financial security in the event of relationship breakdown.

The law should retain sufficient flexibility to recognise the origin, purpose and intended ownership of these assets and ensure that victim-survivors are not deprived of protections or financial resources as a result of economic abuse. Finally, the Commissioner welcomes the proposal that non-matrimonial property may be available to meet financial needs where matrimonial assets are insufficient and considers that this principle should also extend to financial redress in cases involving domestic abuse, including economic abuse.

Question 4 Should the court be able to consider how the property has been used, shared and treated by the parties, and over what time period, when deciding whether non-matrimonial property has become matrimonial? You may wish to give reasons in the text box.

Yes.

However, any assessment of whether non-matrimonial property has become matrimonial property must be approached through the lens of domestic abuse, including economic abuse. The Commissioner considers that legal ownership, financial contributions and patterns of use do not always reflect the actuality of an abusive relationship, where perpetrators may conceal assets, control financial information, manipulate ownership arrangements or prevent survivors from acquiring assets in their own name. Courts should therefore be able to exercise flexibility to make determinations beyond formal ownership and consider the wider context of the relationship to ensure perpetrators do not benefit from economically abusive conduct.

Question 7 Do you agree with the Government's view that the court should apply the needs objective using a three-stage hierarchical approach?

Yes.

The needs of children should always be the court's priority. However, the hierarchy must be live to domestic abuse and the impacts, as set out in responses above.

Question 11 Do you think that domestic abuse should more readily be taken into account in relation to the distribution of assets by the court in financial remedy and cohabitation proceedings?

Yes.

As set out above in the overarching position, the Commissioner agrees that domestic abuse, including economic abuse, should be more readily taken into account when courts determine the distribution of assets in financial remedy and cohabitation proceedings.

Economic abuse is a form of coercive and controlling behaviour through which perpetrators restrict, exploit or sabotage a victim-survivor's access to money, assets and other economic resources in order to create dependency and financial instability. This can include preventing a survivor from working, concealing financial information, refusing to contribute to household costs, coercing a survivor into debt, stealing money or assets, or damaging property and belongings.[4] Economic abuse frequently continues after separation, with perpetrators using tactics such as withholding child maintenance, obstructing the sale of jointly owned property, concealing assets and prolonging financial remedy proceedings to increase costs and maintain control.[5] Incurring costs with the initiation of child arrangement proceedings is also known to financially detriment protective parents. Relatedly, the pursual of increased child contact also reduces child maintenance payable and further highlights the inextricable nature of child and financial arrangements when considering post-separation abuse.

The current threshold is set so high that survivors may be advised not to raise their experiences of abuse, or may find that sustained patterns of coercive and controlling behaviour are treated as irrelevant to the financial outcome of their

[4] Surviving Economic Abuse, *Counting the Cost: The Scale and Impact of Economic Abuse in the UK* (2025).

[5] Surviving Economic Abuse, *Counting the Cost: The Scale and Impact of Economic Abuse in the UK* (2025).

case. The Commissioner considers this approach fails to reflect the realities of domestic abuse and the significant economic harm it can cause. Evidence demonstrates that domestic abuse can have profound and long-lasting consequences for survivors' financial circumstances, including depleted assets, reduced earning capacity, housing insecurity, debt and diminished ability to negotiate a fair settlement.[6] Failing to take these impacts into account risks producing unfair outcomes and allowing perpetrators to benefit from the economic disadvantage created by their abuse, as well as exposing vulnerable child and adult victims to ongoing detriment.

Question 12. To what extent should domestic abuse, if established, influence the court's decision-making in financial remedy and cohabitation proceedings?

It should generally be considered where domestic abuse has occurred.

The Commissioner considers that domestic abuse, including economic abuse, should be taken into account in financial remedy and cohabitation proceedings wherever it has occurred. The relevance of domestic abuse should not be subject to an exceptionality threshold, nor should survivors be required to demonstrate a specific or quantifiable financial impact before the abuse can be considered. Domestic abuse is not exceptional within the family justice system, rather it is prevalent,[7] and its effects are often cumulative, long-term and difficult to separate into discrete financial consequences. Limiting consideration to only the most extreme cases risks excluding many survivors whose experiences have significantly affected their financial position, future needs and ability to secure a fair outcome even when quantifying the effects is challenging in practice.

---

[6] Surviving Economic Abuse, *Counting the Cost: The Financial Impact of Economic Abuse* (July 2025), Women's Aid, *The Price of Safety: The Financial Impact of Leaving an Abusive Relationship* (September 2024) and Emma Hitchings and Caroline Bryson, *Domestic Abuse and Financial Remedies: Fair Shares Briefing Paper* (University of Bristol and Nuffield Foundation 2024).

[7] Domestic Abuse Commissioner, *Everyday Business: Addressing Domestic Abuse and Continuing Harm through a Family Court Review and Reporting Mechanism* (Domestic Abuse Commissioner, October 2025).

The Commissioner considers that domestic abuse can fundamentally affect the fairness of financial proceedings and outcomes. Economic abuse, in particular, may influence a survivor's access to assets, earning capacity, financial decision-making, ability to participate effectively in proceedings and capacity to negotiate a fair settlement. Perpetrators frequently conceal financial information, control access to documentation and exploit ongoing financial ties – especially with respect to shared children, making it unrealistic and inappropriate to require survivors to evidence the precise financial impact of the abuse before it becomes judicially relevant. Such an approach may create particular barriers for Black and minoritised women, migrant women and others whose financial circumstances may be intertwined with wider family or community structures.

Where domestic abuse has occurred, courts should be required to consider its relevance to both the substantive financial outcome and the management of proceedings. This should include consideration of the survivor's current and future needs, the economic loss and disadvantage caused by the abuse, and any litigation conduct through which the perpetrator seeks to continue coercion, control or economic harm after separation. This should extend to and include conduct in parallel child arrangement proceedings which are routinely utilised to pressure, intimidate and distress protective parents. As in previous responses to questions in this consultation, the Commissioner further considers that perpetrators should not be permitted to secure a more favourable financial outcome as a result of abusive conduct.

To support this approach, domestic abuse should be identified and considered at the earliest appropriate stage of proceedings, while ensuring that victim-survivors remain able to disclose abuse at any point where it is safe and appropriate to do so. Courts should be able to rely on all relevant evidence, including findings from related proceedings, records from specialist domestic abuse services, information from health and local authority professionals, and financial evidence. The absence of a criminal conviction or a fact-finding hearing should not prevent domestic abuse from being taken into account where there is sufficient evidence that it is relevant to the issues before the court. Evidentiary thresholds should not be arbitrarily stringent and the 'private' nature of domestic abuse must reflect the forms evidence may take.

The Commissioner therefore recommends that legislation establish a clear principle that domestic abuse, including economic abuse, must be routinely considered in financial remedy and cohabitation proceedings where it has occurred. This should be supported by procedural guidance, a trauma-informed approach to decision-making and specialist judicial training to promote consistency, improve understanding of economic abuse and ensure that financial outcomes properly reflect the realities and consequences of domestic abuse.

Question 13 If domestic abuse were more routinely considered in financial remedy and cohabitation proceedings, how do you think this should affect the division of assets between parties? For example, what principles should guide how misconduct is reflected in financial outcomes and how should this be applied in practice?

Domestic abuse, including economic abuse, should always be considered where it has occurred due to the significant impact on the fairness of a financial outcome. As set out above, domestic abuse can cause substantial economic loss and disadvantage throughout a relationship, at the point of separation, and long afterwards through its enduring effects and ongoing post-separation abuse, including where the family courts are utilised for 'lawfare'.[8] The government's Domestic Abuse Act 2021 statutory guidance recognises the deliberate use of family proceedings to make a victim incur legal fees as a form of economic abuse.[9] Relatedly, domestic abuse survivors are both more likely to need legal representation because direct negotiation with the perpetrator is traumatising

[8] See A (A CHILD) (supervised contact) (s91(14) Children Act 1989 orders) [2021] EWCA Civ 1749 '*the type of behaviour indulged in by one of the parents amounts to 'lawfare', that is to say the use of the court proceedings as a weapon of conflict … what is in effect, a form of coercive control on their former partner's part'* [41] and F v M [2023] EWFC 5 (Fam).
[9] Home Office, *Domestic Abuse Statutory Guidance* (2022) para 65.

and unsafe,[10] and formal court intervention is therefore more likely to be required.[11] Courts should therefore take account of domestic abuse when assessing a survivor's current and future needs, considering the extent to which whether specific redress is needed, and determining how assets should be divided to achieve a fair and equitable outcome against this economic backdrop.

The court should not require victim-survivors to quantify every financial loss before domestic abuse can be taken into account. Perpetrators frequently conceal assets, control access to financial information, coerce survivors into debt, prevent them from working, damage their credit rating,[12] or restrict access to documents needed to evidence the full extent of the economic harm suffered. As a result, the true impact of abuse is often difficult, and sometimes impossible, to quantify precisely. Requiring evidence of the precise financial impact would place an unrealistic and unfair burden on survivors.

Where domestic abuse has occurred, courts should first ensure that the survivor's housing, income and pension needs are fully met, recognising the economic disadvantage caused by the abuse. For example, a survivor may require a greater share of pension assets where their ability to build pension savings has been reduced by the perpetrator's behaviour, such as being prevented from working.

Courts should then consider whether an additional adjustment is required to redress for economic loss or disadvantage arising from the abuse. This may be particularly relevant in cases involving forms of economic abuse that have resulted in the direct loss of assets. For example, the Law Commission's *Financial Remedies Scoping Report* records evidence from Southall Black

---

[10] Emma Hitchings and Caroline Bryson, *Dividing property and finances on divorce: what happens in cases involving domestic abuse?* (University of Bristol and Nuffield Foundation 2024) 4.

[11] Emma Hitchings and Caroline Bryson, *Dividing property and finances on divorce: what happens in cases involving domestic abuse?* (University of Bristol and Nuffield Foundation 2024) 4.

[12] Home Office, *Domestic Abuse Statutory Guidance* (2022) para 67.

Sisters regarding dowry-related abuse, where dowry assets may be retained, concealed or withheld following separation.[13] Where recovery is not possible, the resulting loss should be reflected in the financial settlement.

Where assets remain available for distribution after needs have been met and compensation considered, courts should have the ability to award a greater share to the survivor where necessary to achieve an equitable outcome and ensure that perpetrators do not benefit financially from their abuse. As above, judges should retain discretion as to the appropriate adjustment in individual cases. However, legislation should make clear that courts must consider the impact of domestic abuse, including economic abuse.

Recognition of domestic abuse should also inform how financial orders are made and enforced. Perpetrators should not be able to gain a financial advantage by concealing assets, failing to provide full and frank disclosure, or deliberately frustrating proceedings through delay, non-compliance or other obstructive behaviour. Courts should be encouraged to make robust orders that anticipate the risk of non-compliance and reduce the need for survivors to return repeatedly to court. This may include making default provisions for the sale of assets, imposing clear deadlines and consequences for non-compliance, making greater use of costs orders where misconduct is deliberate,[14] and requiring enhanced financial disclosure where there is evidence that assets have been concealed.

In summary, where domestic abuse has occurred, courts should always take it into account when determining a fair financial outcome. This should include consideration of:

[13] Law Commission, *Financial Remedies on Divorce and Dissolution: A Scoping Report* (2024).
[14] In *Re GB (Parental Alienation: Factual Findings)* [2024] EWFC 75 (B), the court departed from the general no-order principle in private law children proceedings and the perpetrator father was ordered to pay the mother's legal costs of £50,445.50, owing to his financial control, misleading the court by asserting he was the victim of domestic abuse, and utilising court proceedings to emotionally abuse both mother and children.

a) the impact of abuse on a survivor's current and future financial needs;

b) any economic disadvantage caused by the abuse;

c) whether redress is required for financial loss arising from the abuse;

d) whether a greater share of assets is necessary to achieve an equitable outcome; and

e) whether orders should be structured to minimise opportunities for post-separation abuse, non-compliance or financial control.

Question 14 If courts were more readily able to take domestic abuse into account in financial remedy and cohabitation proceedings, what impact do you think this would have on those proceedings (for example, the length of cases, evidential requirements, costs to parties and the overall experience of victim-survivors)?

Recognising domestic abuse, including economic abuse, in financial remedy and cohabitation proceedings should improve the fairness and effectiveness of proceedings rather than significantly increase their duration or cost, thereby aligning with the intentions of the Domestic Abuse Act 2021. Domestic abuse is often a driver of delay and expense in its own right, with perpetrators using litigation to continue abuse through concealment of assets, non-disclosure, repeated applications, breaches of court orders and other obstructive conduct. Evidence suggests that cases involving domestic abuse are already more likely to result in contested financial proceedings, while survivors frequently report experiencing abusive behaviour during the litigation process itself.

Early identification and consideration of domestic abuse should enable courts to manage cases more effectively and reduce opportunities for perpetrators to misuse proceedings. Courts should be able to consider all relevant evidence, including findings from related proceedings and information from statutory and specialist support services, without requiring survivors to prove the precise financial impact of the abuse or obtain a criminal conviction. As in child arrangements proceedings, domestic abuse should be determined on the balance of probabilities using all available evidence, with separate fact-finding hearings reserved for cases where findings are necessary and genuinely disputed.

A legislative requirement to consider domestic abuse would also improve survivors' experiences of the family justice system. Survivors consistently report that the failure to recognise domestic abuse allows perpetrators to manipulate proceedings, increases legal costs and undermines the court's ability to reach a fair outcome. This is exacerbated by the unwillingness of the court to make costs orders, even when litigation conduct is incurring costs to be borne by a survivor. By contrast, early recognition of domestic abuse, supported by effective case management and clear consequences for litigation misconduct, should help reduce unnecessary disputes and improve confidence in the process.

The Commissioner, therefore, supports a framework that requires courts to identify and consider domestic abuse at the earliest opportunity, while allowing disclosures to be made at any stage where a survivor feels safe and able to do so. This should be supported by Family Procedure Rules and guidance setting out how domestic abuse, including economic abuse, should be considered in financial decision-making, including when assessing need, economic disadvantage and the fairness of any settlement.

Effective implementation is reliant on specialist judicial training. Judges should receive training on domestic abuse, including coercive and controlling behaviour, power imbalances, litigation abuse, economic abuse and post-separation abuse, to support consistent decision-making and ensure perpetrators cannot secure a more favourable financial outcome as a result of their abuse.

Question 15 Do you agree that the language currently used to describe the threshold for considering misconduct in financial remedy proceedings (sometimes referred to as the "gasp factor") is inappropriate and should be replaced?

Yes.

The term *'gasp factor'* is inappropriate and should not be used. It diminishes the impact of domestic abuse and wrongly suggests that only the most extreme forms or instances of abuse are relevant to financial proceedings. It is subjective and reliant on an emotive response. However, the principal issue is not simply linguistic, it is the underlying concept which suggests only the grossest of behaviour is unacceptable which is flawed as it reinforces a minimisation of domestic abuse.

Domestic abuse, particularly coercive and controlling behaviour and economic abuse, often consists of a pattern of behaviour that accumulates over time. While individual incidents may not appear exceptional in isolation, their combined impact can have profound and long-lasting consequences for a survivor's financial security, independence and wellbeing. A test based on whether conduct is sufficiently shocking fails to reflect the lived reality of domestic abuse, particularly within the context of an overburdened family justice system which sees domestic abuse, in multiple forms, everyday.

The current threshold sets an unrealistically high bar that does not reflect the prevalence or nature of domestic abuse. It risks discouraging survivors from raising experiences of economic abuse and coercive control, limiting the court's ability to address the financial consequences of abuse and reach a fair outcome. We therefore recommend removing the conduct threshold altogether, rather than replacing it with alternative terminology. Courts should instead be required to consider domestic abuse wherever it has occurred, based on all available evidence and with reference to the statutory definition contained in the Domestic Abuse Act 2021. The question should not be whether the abuse is sufficiently exceptional to be considered, but how the abuse should be taken into account in determining a fair financial outcome in the individual case.

This approach would better reflect the realities of domestic abuse and align financial remedy proceedings with the broader family justice system.

Question 16 What forms of behaviour do you think should be considered as "misconduct"?

The Commissioner considers that legislation should recognise that domestic abuse perpetrators frequently use legal proceedings as a tool of ongoing abuse, including economic abuse. Evidence from survivors demonstrates that perpetrators commonly seek to gain a financial advantage or undermine a fair outcome by concealing or dissipating assets, failing to provide full and frank disclosure, breaching court orders, prolonging proceedings, or using litigation to intimidate and control survivors. Perpetrators also seek child arrangements in parallel proceedings which support their arguments for housing, less maintenance and reduced spousal support for the more vulnerable party. Such behaviour can increase legal costs, pressure survivors into accepting unfair settlements, and reduce their ability to participate effectively in proceedings.

The Commissioner does not support a fixed statutory list of abusive behaviours. Perpetrators continually modify their tactics and often tailor abuse to the individual survivor. This is especially true in a fast-evolving digital world. A statutory list risks excluding harmful conduct that falls outside the examples provided. Instead, legislation should adopt a broad approach that allows courts to consider any conduct that causes, or is likely to cause, harm, economic disadvantage, or an unfair financial outcome. Statutory guidance could provide non-exhaustive examples of relevant conduct.

Examples might include concealing, transferring or dissipating assets; providing incomplete or misleading financial information; refusing to cooperate with the sale or transfer of property; using proceedings to harass, control or financially exhaust a survivor; failing to comply with court orders; or deliberately causing delay. Misconduct should include all forms of domestic abuse, including economic abuse, as well as litigation abuse designed to frustrate a fair financial settlement including in relation to child arrangements.

Where such behaviour occurs, courts should be equipped to respond robustly through costs orders, adverse inferences, enhanced disclosure requirements and other case management powers. In cases of persistent non-compliance, particularly repeated failures to provide disclosure or comply with court orders, courts should be able to draw appropriate inferences regarding earning capacity and asset ownership to ensure perpetrators do not benefit from their misconduct.

Question 17 What sort of impact do you think misconduct should have on a financial remedies claim or cohabitation claim?

Misconduct must have serious consequences, which are consistently and robustly applied. Please see above responses.

Question 19 Do you agree with the Government's view that the court should specifically be required to give consideration to pensions accrued during the marriage and pension needs when making financial orders? Please explain your answer in the text box.

Yes, see question 13.

Perpetrators can undermine survivors' long-term financial security in a range of ways, including by restricting their ability to work, forcing them to leave employment, preventing career progression, or placing them under direct or indirect pressure to take on unpaid caring responsibilities. This can have lasting consequences for a survivor's income, earning capacity and ability to build financial independence.

Perpetrators may also interfere directly with a survivor's pension provision. This can include preventing or discouraging pension contributions, coercing survivors to access or deplete pension savings for the perpetrator's benefit, misusing pension funds to meet joint or personal debts, controlling access to pension information, or otherwise obstructing a survivor's ability to plan for their long-term financial security. In some cases, perpetrators may manipulate financial arrangements so that pension assets are diverted for their own benefit, leaving survivors financially disadvantaged both during the relationship and in later life.

Question 20 Do you consider that these proposed safeguards will ensure individuals understand the consequences of their pre-nuptial agreement and provide sufficient protection against coercion?

No.

While the proposed safeguards should be implemented, it is unlikely to be sufficient to ensure that a pre-nuptial or post-nuptial agreement has been entered into properly where domestic abuse is present. A victim may have received independent legal advice and understood the legal consequences of the agreement, but still have been unable to negotiate, refuse or challenge its terms because of coercive and controlling behaviour, intimidation, economic abuse or fear of the perpetrator.

Domestic abuse can fundamentally undermine an individual's ability to exercise free choice and autonomy within a relationship. Independent legal advice cannot, on its own, address the power imbalance created by abuse or guarantee that consent was genuinely given.

The Commissioner therefore considers that, where domestic abuse has occurred, the court should not be bound by the terms of a pre-nuptial or post-nuptial agreement. Instead, the court should be required to consider the impact of the abuse and have the power to set aside the agreement where necessary to achieve a fair outcome. This would help ensure that perpetrators are not able to use marital agreements to secure a financial advantage arising from their abusive behaviour.

Part 2: Reforming the law for cohabitants on separation

Cohabitation reforms

The Commissioner notes that cohabiting partners experience domestic abuse at substantially higher rates than those who are married or in civil partnerships.[15] This underlines the importance of ensuring that domestic abuse, including economic abuse, is expressly recognised within any new cohabitation framework. Without such protections, there is a significant risk that the barriers and disadvantages currently experienced by survivors within the legal system will simply be replicated for cohabitants. The Commissioner therefore considers that recognition of domestic abuse must be embedded throughout any future cohabitation regime to ensure that victim-survivors can access fair and effective financial remedies upon separation.

Question 25 Do you agree that cohabitants captured within the framework should be two people living together as a couple in an enduring family relationship?

Yes.

The proposed definition is broadly capable of identifying the relationships that the scheme is intended to cover. However, it should be supported by clear guidance to ensure that courts consider the substance and reality of the relationship, rather than applying a rigid test based solely on continuous physical co-residence or traditional indicators of family life.

Cohabiting relationships often develop gradually and may include periods where partners do not live together full-time because of work, caring responsibilities, housing circumstances or financial pressures. Such periods should not automatically prevent a relationship from being regarded as an enduring family relationship.

---

[15] Office for National Statistics, 'Domestic Abuse Victim Characteristics, England and Wales: Year Ending March 2025' (24 November 2025).

This is particularly important in cases involving domestic abuse. Survivors may leave and return to an abusive partner multiple times before permanently ending the relationship, reflecting the well-established barriers to leaving an abuser safely. These periods of separation should not automatically be treated as evidence that the relationship was not enduring. Similarly, perpetrators may seek to obscure the nature of the relationship by avoiding formal financial arrangements, controlling access to information, concealing evidence of a shared life, or maintaining another household or relationship. Such behaviour should not prevent a survivor from establishing that a qualifying relationship existed.

The Commissioner therefore welcomes the Government's proposal that an individual may bring a claim against a person who is married where they were in a qualifying cohabiting relationship with that person. Guidance should make clear that courts must consider the full context of the relationship, including the impact of domestic abuse, and should not rely exclusively on traditional markers of cohabitation, which may be absent or distorted in cases involving domestic abuse, including economic abuse.

A flexible and context-specific approach will help ensure that the scheme operates fairly and remains accessible to survivors whose relationships may not conform to conventional assumptions about family life.

Question 26 What factors, as outlined by the Law Commission’s 2007 report, do you think the court should take into account when considering whether individuals are cohabitants?

a) Existence of a joint household;
b) stability of the relationship;
c) financial arrangements;
d) responsibility for children;
e) presence of a sexual relationship;
f) public recognition of the relationship; and

g) Other (please specify)

The Commissioner considers that the proposed factors are capable of assisting courts in identifying relationships that should fall within the scheme. However, the factors should remain non-exhaustive and no individual factor should be treated as either necessary or determinative. Courts should assess all the circumstances of the relationship and give appropriate weight to each factor in the context of the individual case.

It is essential that the framework operates effectively in cases involving domestic abuse. Perpetrators may deliberately structure relationships in ways that obscure traditional indicators of cohabitation, for example by retaining assets in their sole name, restricting a survivor's access to financial information, preventing joint ownership or shared financial arrangements, or concealing the relationship from others. Survivors should not be disadvantaged or excluded from the scheme where the absence of such indicators is itself a consequence of abusive behaviour.

The Commissioner also cautions against placing significant weight on factors such as the existence of a sexual relationship or the public recognition of the relationship. Domestic abuse, including sexual abuse and coercive or controlling behaviour, may affect both the nature of the relationship and the extent to which it is visible to others. In some cases, relationships may not be publicly acknowledged due to abuse, safety concerns, cultural considerations or family pressures. These factors should therefore be treated as relevant but not determinative.

The Commissioner further considers that the existence of a religious-only marriage should be included as a relevant factor. Although not legally recognised as a marriage in England and Wales, a religious ceremony may provide important evidence that the parties intended to form a committed family relationship and build a shared life together.

Guidance should make clear that courts must consider the full context of the relationship, including the impact of domestic abuse, rather than relying solely on traditional indicators of cohabitation. This should include recognising that survivors may leave and return to an abusive partner multiple times and that perpetrators may intentionally obscure evidence of the relationship. Such circumstances should not prevent a survivor from establishing that a qualifying cohabiting relationship existed.

Question 28 Do you agree that the minimum age to be eligible for the framework should be 18?

No.

The Commissioner does not support excluding individuals solely because they are under the age of 18. While marriage is subject to a statutory minimum age, cohabiting relationships arise in a different context and can involve significant emotional, caregiving and financial interdependence regardless of age. Where such relationships break down, the absence of legal protection may leave young people vulnerable to financial hardship and disadvantage.

This concern is particularly acute in cases involving domestic abuse. Young people can experience controlling, coercive and economically abusive behaviour within intimate relationships, with potentially long-term consequences for their housing, education, employment prospects and financial resilience. Denying access to the scheme on the basis of age alone could leave young survivors without an effective route to redress.

The Commissioner also notes that the Domestic Abuse Act 2021 recognises abuse in relationships involving those aged 16 and 17.[16] It would therefore be difficult to justify a framework that acknowledges the existence and impact of domestic abuse in such relationships, while simultaneously excluding those affected from financial remedies arising from relationship breakdown.

---

[16] Section 1(2)(a) Domestic Abuse Act 2021.

The Commissioner therefore considers that the focus should be on ensuring appropriate safeguards rather than imposing a blanket age exclusion. Courts should have discretion to consider applications from those under 18, taking account of the circumstances of the relationship, the welfare of the young person, the presence of domestic abuse, and any children involved. This would provide necessary protection while ensuring the scheme operates fairly and proportionately.

Question 29 Do you agree with the Government's proposal that couples without children must have lived together for a minimum of three years, before they can access the cohabitation framework? If you disagree with the three-year minimum duration period suggested above, what period would you propose having instead?

No – there should be an exemption in cases of domestic abuse.

The Commissioner does not support the introduction of a qualifying period. Any minimum duration requirement is inherently arbitrary and risks excluding individuals whose relationships have already resulted in significant financial interdependence, contribution or disadvantage.

This is of particular concern in cases involving domestic abuse. Economic abuse can begin at an early stage in a relationship, with perpetrators often seeking to establish control over finances, housing, assets and employment opportunities within a relatively short period and at the outset of relationships of different lengths. As a result, survivors may experience substantial economic harm long before any qualifying period has elapsed. A minimum duration requirement could also create opportunities for perpetrators to manipulate the timing of separation to prevent a survivor from becoming eligible to bring a claim, thereby undermining the protective purpose of the scheme.

The Commissioner is also concerned that a qualifying period may disproportionately affect individuals who entered into a religious-only marriage and organised their lives as a married couple from the outset, but whose relationship ended before the qualifying period was met.

If the Government decides to introduce a minimum duration requirement, it should include exceptions to ensure access to justice is not denied in cases where there are compelling reasons for a claim to proceed. At a minimum, exceptions should apply where domestic abuse has occurred, where there is a child of the relationship, or where excluding the claim would result in significant unfairness.

Question 30 Do you agree that where cohabitants are living together and there is a child of the family, the minimum duration requirement should be disapplied?

Yes.

The Commissioner considers that any minimum duration requirement should be disapplied where there is a child of the family. The presence of a child can create significant financial responsibilities and economic disadvantage irrespective of the length of the relationship, particularly where one parent has reduced or given up employment to undertake caring responsibilities. This is especially important given evidence that mothers are disproportionately affected by economic abuse and are more likely to experience severe and lasting financial harm as a result.[17] The concept of a 'child of the family' should be defined clearly and interpreted broadly. It should include dependent children of either party, children over the age of 18 who remain financially dependent, and situations where the parties had a child who was stillborn or who subsequently died. In all of these circumstances, the relationship may have given rise to substantial caring responsibilities, financial commitments or economic disadvantage, particularly for the primary carer.

---

[17] Surviving Economic Abuse, *Counting the Cost: The Scale and Impact of Economic Abuse in the UK* (July 2025).

The Commissioner considers that this exception is necessary to ensure that parents and children are not denied financial protection solely because a relationship ended before a minimum qualifying period had elapsed.

Question 31 Do you agree that a time limit should be introduced to prevent claims being made after two years have passed since the relationship ended?

No.

The Commissioner does not consider that a strict two-year limitation period is appropriate. Survivors of domestic abuse often face significant barriers following separation, including safety concerns, homelessness, trauma, poor physical or mental health, caring responsibilities, and difficulties accessing legal advice or obtaining information about their financial circumstances. Ongoing post-separation abuse, including economic abuse, can further impede a survivor's ability to understand, pursue or sustain a financial claim.

As a result, many survivors may be unable to bring proceedings within a prescribed two-year period, despite having a legitimate claim. The Commissioner is aware of evidence indicating that survivors may delay, abandon or accept unfair outcomes in financial proceedings because of the continuing impact of abuse or fear of further litigation.

In order to achieve the intended effects, the Commissioner recommends that victim-survivors who have experienced domestic abuse should be exempt from any proposed three-year qualifying period and that the proposed two-year limitation period for bringing a claim should be extended where domestic abuse has occurred. The psychological, practical and economic consequences of domestic abuse can significantly affect a survivor's ability to bring a claim within a prescribed timeframe.

If the Government decides to introduce a limitation period, the court should retain a broad discretion to permit claims to proceed out of time where this is necessary to achieve justice. In particular, the court should be able to extend time where domestic abuse has occurred, where a survivor has experienced post-separation abuse, or where there were reasonable barriers preventing the claim from being brought earlier. This would help ensure that survivors are not disadvantaged by the very abuse that the scheme is intended to address.

Question 36: Do you agree there should be a checklist of the matters the court must particularly consider when applying the needs principle?

Yes.

Domestic abuse, including economic abuse, should be a standalone factor in a statutory checklist. This would promote fairer and transparent outcomes for survivors.

Question 37 Do you agree with the Government’s proposed approach in relation to remedies for cohabitants?

Yes.

The Commissioner considers that courts should have access to the full range of financial remedies available on divorce or dissolution, including property adjustment orders, lump sum orders, pension sharing orders and maintenance. This is necessary to ensure fair and effective outcomes based on the circumstances of each case.

Financial protection should not depend on marital status. Individuals who have experienced domestic abuse, including economic abuse, should be able to access appropriate remedies regardless of whether they were married. Equally, children's financial security should not be determined by their parents' legal relationship status.

Maintenance should remain available where necessary to address financial disadvantage arising from the relationship, particularly where domestic abuse has affected a survivor's earning capacity, health, housing security or caring responsibilities.

The framework should also provide courts with effective interim powers to address post-separation economic abuse, including where joint financial liabilities are being used to cause ongoing harm. Survivors should not be exposed to financial hardship, debt or housing insecurity while proceedings are ongoing.

More generally, courts should retain sufficient discretion to make interim and final orders that address economic disadvantage, prevent ongoing abuse and ensure perpetrators do not secure a financial advantage through abusive conduct. The statutory framework should enable courts to achieve fair outcomes without unnecessary restrictions on the remedies available.

Part 3: Reforming the law for cohabitants on death

Question 43 Should qualifying cohabitants receive the same intestacy rights as spouses or civil partners?

The Commissioner supports extending intestacy rights to qualifying cohabitants on the same basis as spouses and civil partners. The current framework can leave surviving partners facing significant financial hardship following a bereavement, particularly where they were financially dependent on the deceased or had undertaken unpaid caring responsibilities. An individual's access to financial protection on bereavement should not depend solely on their marital status.

The Commissioner also considers that any reform should ensure that perpetrators of domestic abuse are unable to benefit financially from a victim's death. Existing safeguards, including the forfeiture rule, may not address all circumstances in which domestic abuse has contributed to a victim's death or where a perpetrator has secured financial advantage through a pattern of abuse, including economic abuse. This may arise in cases where a death is identified through criminal, coronial or domestic homicide review processes as being connected to domestic abuse, including where abuse is found to have contributed to a victim taking their own life.

The Government should therefore consider introducing a clear and proportionate mechanism to prevent perpetrators from benefiting financially where a victim's death was caused or materially contributed to by domestic abuse, irrespective of whether there has been a homicide conviction. Any such provision should be accompanied by appropriate procedural safeguards.

More broadly, the Commissioner encourages the Government to consider whether existing succession and inheritance laws contain wider gaps that enable perpetrators of domestic abuse to obtain a financial benefit from their abuse. This issue extends beyond cohabiting relationships and may also arise within marriages and civil partnerships, particularly where economic abuse has enabled a perpetrator to secure control of family assets or wealth. The legislative framework should ensure that perpetrators are not able to derive a financial advantage from domestic abuse, either during a victim's lifetime or following their death.

Conclusion

The Commissioner notes that economic abuse is a multifaceted form of domestic abuse that can manifest in both obvious and less visible ways. Its effects may include damaged credit ratings, reduced pension provision, depleted savings and assets, increased debt, housing insecurity, and a diminished capacity to earn or build future financial resilience. These impacts frequently persist long after the relationship has ended and can significantly affect a survivor's current and future financial circumstances.

There is also a substantial financial cost associated with leaving an abusive relationship. Research by Women's Aid estimates that the average cost of fleeing an abuser and establishing a safe and independent life is approximately £50,000.[18] This financial burden can leave survivors at a significant disadvantage from the outset of any financial remedy proceedings.

The Commissioner is further concerned that domestic abuse, including economic abuse, commonly continues after separation and frequently extends into financial remedy proceedings themselves.[19] Perpetrators may conceal, dissipate or transfer assets, fail to engage properly with disclosure obligations, or otherwise obstruct the court process. As a result, decisions may be made without full and frank disclosure of the parties' financial circumstances.

[18] Women's Aid, *The Price of Safety: The Financial Impact of Leaving an Abusive Relationship* (Women's Aid, September 2024).
[19] Domestic Abuse Commissioner, *The Family Court and Domestic Abuse: Achieving Cultural Change* (July 2023), 41.

Survivors also report that perpetrators deliberately prolong proceedings, increasing legal costs and the number of hearings required before a settlement can be reached. Faced with escalating costs and limited resources, many survivors are forced to choose between accepting an unfair settlement or pursuing litigation that they cannot realistically afford.

Evidence from Surviving Economic Abuse highlights the scale of this problem, with 97% of married respondents reporting that they had experienced at least one abusive behaviour by their former partner through the legal process.[20] Such findings demonstrate the extent to which financial remedy proceedings can be used as a vehicle for continuing coercion, control and economic abuse.

The Commissioner further considers that cohabitation reforms must be designed in a way that is accessible and effective for victim-survivors, recognising the particular barriers they face when seeking financial redress following separation from an abusive partner. Robust safeguards against coercion and continued abuse are also essential, particularly given the risk that perpetrators may exploit legal processes, financial agreements or procedural requirements to maintain control over survivors after separation. Simultaneously, family courts should retain sufficient flexibility so that they are able to respond to the individual circumstances of each survivor in order to ensure outcomes are fair, proportionate and reflective of the lived realities of domestic abuse which manifests in many forms. An overly rigid framework runs the risks of standardising abuse and the impact on survivors. Overlooking the

[20] Surviving Economic Abuse (2026), unpublished online survey of economic abuse victim-survivors conducted by SEA. The findings will be published in a forthcoming report by the charity on victim-survivors' experiences of financial outcomes following separation and their views on the Government's proposed reforms to cohabitation and financial remedies law. Among 164 married respondents, 97% reported experiencing at least one abusive behaviour from their ex-partner during the legal process; 76% reported deliberate delay or prolonging of the process, 75% reported non-disclosure of income, assets or finances, and 71% reported the hiding, transferring or attempted concealment of assets or money.

diverse ways in which abuse can compromise a survivor's financial stability should be actively avoided.

The Commissioner therefore believes that reforms should combine stronger protections for victim-survivors alongside appropriate judicial discretion, empowering family courts to deliver outcomes that properly address the harms caused by domestic abuse while promoting fairness for all parties involved, as required by law.

The Commissioner considers that a more effective understanding of domestic abuse, including economic abuse, is required within the family justice system. The effects of abuse can endure for many years and, in some cases, may never be fully reversed.[21] Financial remedy and cohabitation proceedings must be capable of recognising and responding to these realities if they are to deliver fair outcomes and prevent perpetrators from benefiting from the economic harm caused by their abuse.

The Commissioner warmly welcomes this consultation and is of the view that any reform of financial remedy and cohabitation law must place the recognition of domestic abuse, including economic abuse, at its centre. Domestic abuse must be considered throughout financial proceedings due to the prevalence of domestic abuse, as well and the far-reaching impacts on adult and children survivors.

The Commissioner therefore considers that courts should be required to consider domestic abuse, including economic abuse, as a routine and relevant factor when determining financial outcomes. Effective implementation should be supported by specialist training for judges and legal professionals, alongside a trauma-informed approach to financial proceedings, to ensure that the impact of domestic abuse is properly understood and reflected in decision-making.

---

[21] Emma Hitchings and Caroline Bryson, *Dividing property and finances on divorce: what happens in cases involving domestic abuse?* (University of Bristol and Nuffield Foundation 2024) 5.