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## **DOMESTIC ABUSE BILL CONSULTATION - HOME OFFICE AND MINISTRY OF JUSTICE**

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### **Response from Humanists UK, June 2018**

#### **ABOUT HUMANISTS UK**

At Humanists UK, we want a tolerant world where rational thinking and kindness prevail. We work to support lasting change for a better society, championing ideas for the one life we have. Our work helps people be happier and more fulfilled, and by bringing non-religious people together we help them develop their own views and an understanding of the world around them. Founded in 1896, we are trusted to promote humanism by over 70,000 members and supporters and over 100 members of the All Party Parliamentary Humanist Group. Through our ceremonies, pastoral support, education services, and campaigning work, we advance free thinking and freedom of choice so everyone can live in a fair and equal society.

Faith to Faithless is a community services programme of Humanists UK which works to raise awareness of the issues faced by those who leave high-control religious groups or cults. Deciding to leave a religion can often mean rejection from your family and community, with little understanding of where to turn next. 'Apostates', as these people are sometimes called, may end up homeless, isolated, and at risk of abuse.

Humanists UK campaigns in favour of women's sexual and reproductive rights, in particular with respect to abortion. Our position on abortion is 'pro-choice'. We are a member of the steering group of Voice for Choice, the coalition of UK pro-choice groups. We also work with and support Alliance for Choice in Northern Ireland, being a member of the Trust Women Coalition, as well as other pro-choice groups across the UK such as Abortion Rights, FPA, Brook, Education for Choice, and the Abortion Support Network.

#### **Response to consultation questions**

##### **Section 1: Personal Details**

**A. I understand that there are two versions of the consultation. If I have already completed the short version I will not answer the following questions again: 6, 7, 9, 12, 24, 25, 26, 32, 35, 39, 43.**

Yes

**B. What is your name?**

Rachel Taggart-Ryan

**C. What is your email address?**

[rachel@humanism.org.uk](mailto:rachel@humanism.org.uk)

**D. What region are you in?**

Greater London

**E. Are you responding on behalf of an organisation or as a member of the public?**

Organisation

**F. If relevant, which, if any, best describes you/your organisation?**

Other - charity/voluntary organisation

**G. If applicable, please give the name of your organisation/ profession.**

Humanists UK

**Section 2: Introducing a new statutory definition of domestic abuse**

**1. Do you agree with the proposed approach to the statutory definition?**

Agree

**Please explain your answer.**

We welcome the broader scope of the proposed definition when compared to the existing definition. But we would like to see a broader definition, in particular as related to spiritual/religious abuse, control, and coercion.

We operate a support network for apostates, Faith to Faithless, which works closely with people who have left extreme and coercive religious backgrounds, often having to cut off all contact with their families and communities and are at risk of social isolation and honour-based violence. Through our work with Faith to Faithless we have uncovered significant evidence of 'spiritual/religious abuse.' This is characterised by a systemic pattern of controlling and coercive behaviour in which religious texts or beliefs are used as a reason and justification of this behaviour. Controlling behaviour may stem from the victim's dress or make-up which is not approved by the family/community, resisting an arranged marriage, seeking divorce and reporting domestic violence. Faith to Faithless has amassed a considerable number of primary testimonies and case studies of abuse based upon religious doctrines, and the strong links between leaving a religion and domestic abuse, forced marriage and honour-based violence. This abuse can develop from family and community members using shame and guilt to ostracise or control the victim to physical violence.

Although we broadly support the scope of the proposed definition in terms of the actions of the perpetrator, we believe that spiritual abuse should be seen as a distinct category of controlling and coercive behaviour. We would also support the expansion of the definition of perpetrator beyond intimate partners or family members. It should include individuals who whilst not members of the family are nonetheless in a position of authority and influence over the structure and activities of domestic life (i.e religious ministers and clergy). We suggest that the definition is expanded to 'intimate partners or family members, or those closely associated with the family.' We are concerned that whilst the proposed statutory definition moves beyond seeing domestic abuse just in terms of intimate partner abuse, it will not cover the perpetrators of spiritual abuse, who can be family members, but often are those in positions of religious authority outside of the family who exercise a substantial and controlling influence over the home.

Research carried out by Karma Nirvana, a charity supporting victims of honour-based abuse and forced marriage, suggests 'in most honour-based abuse cases there are multiple perpetrators from the immediate family, sometimes the extended family and occasionally the community at large' with often mothers-in-law or extended family members being the prime abuser. For example, in January 2018, a priest in Oxfordshire was convicted by a church tribunal of the spiritual abuse of a teenage boy, whom he had applied 'unacceptable pressure' during classes in religious instruction.<sup>1</sup> For the teenager in Oxfordshire, expanding this definition would mean that he could have sought criminal redress against his abuser in the secular court system - something that is not currently possible.

For many victims of religious abuse there are few legal avenues open to them to report abuse. Within these closed religious communities dispute resolution often involves pseudo 'religious courts.' Many victims, predominantly women, are often not aware that judgements from so-called 'sharia courts', as well as other settings like beth din courts, are not legally recognised, that there is institutionally less favourable treatment of women, or they will have the right to redress in divorce, inheritance and custody disputes in the civil courts.

We believe that guidance surrounding the definition should focus on the intersectionality of domestic abuse with other characteristics protected under the Equality Act beyond sex and sexual orientation. For apostates, as well as many other groups that are likely to experience abuse, such behaviour is interlinked to religious, racial, and cultural identities. Each of these factors can disguise abuse or prevent a victim from feeling able to report abuse. So it is vital that the guidance is clear enough to encompass the complexity of the problem.

**2. Will the new definition change what your organisation does? Please select 1. (This question is for organisations only)**

Yes, in a positive way

**Explain how it will change what your organisation does.**

This definition, especially if it expanded to include spiritual/religious abuse and its perpetrators, will positively improve our support work with apostates. It will provide us with a legal framework within which victims can understand and come to terms with their experiences of domestic abuse. It will provide a more nuanced understanding of domestic abuse of all types, including spiritual abuse, with professional bodies with safeguarding obligations. As a result of this definition we would seek to provide more in-depth training courses for such bodies on apostasy and how to recognise spiritual abuse. We are currently providing training courses on these issues with the London Metropolitan Police Service and Childline. We would seek to expand this training programme.

**3. How can we ensure that the definition is embedded in frontline practice?**

To ensure that this definition is taken up and used appropriately on the frontline there needs to be substantial investment in training both with state bodies dealing with domestic abuse on the frontline, such as the police and NHS

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<https://www.churchtimes.co.uk/articles/2018/12-january/news/uk/oxfordshire-vicar-tim-davis-guilty-of-spiritually-abusing-a-teenage-boy>

services, but also with third sector organisations.

- 4. What impact do you think the changes to the age limit in the 2012 definition have had? In 2012 the Government consulted on the definition of domestic abuse and widened it to include 16 to 17 year olds. We want to review that decision in order to assess its impact.**

Don't know/no answer

**Please explain your answer.**

- 5. We are proposing to maintain the current age limit of 16 years in the statutory definition – do you agree with this approach?**

Don't know/no answer

**Please explain your answer.**

### **Section 3: Educating young people on relationships**

- 6. In addition to the changes being made to how relationship education will be taught in schools, what else can be done to help children and young people learn about positive relationships and educate them about abuse?**

We campaigned for and have welcomed the introduction of compulsory relationships education in primary schools and relationships and sex education in secondary schools. To ensure that all children and young people receive positive benefits from this change, the guidance to this subject must ensure that all teaching is evidence-based, impartial, and LGBT inclusive. It must also cover at primary school level topics such as consent, my body and my rights: bodily integrity, safety, harm, keeping secrets, privacy, body parts accurately named with no shame (critical for enabling children to speak out, and in fact a safeguarding obligation). At secondary level, this should be expanded to include intimate relationships including respect, equality, jealousy and control, healthy relationships based on respect and equality, never controlling or harmful to your partner, sexual and reproductive rights, the law on consent, seeking and giving consent, and consent as ongoing and relational process. These themes are relevant to FGM, child sexual abuse, domestic and sexual violence in the home, and the taking and sharing of private images, all of which are relevant in every local authority area in England. These principles must be upheld in all schools regardless of religious character, and parents should not be able to opt children out of this subject. The age at which young people determine their own right of withdrawal must match Gillick competence.

We would support the Secretary of State using the power granted under the Children and Social Work Act 2017 to make Personal, Social, Health and Economic (PSHE) Education compulsory in all English schools as well. All schools are required to promote the social, moral, spiritual, and cultural development of their pupils, and to prepare them for life beyond the school gates. Schools should be encouraged to do this in the way the school as a whole is run, of course, but delivering a full PSHE curriculum is an important and effective way of fulfilling this duty.

The Department for Education acknowledged this only recently in a briefing on the value and effectiveness of PSHE. The briefing states:

'The evidence shows that personal, social, health and economic (PSHE) education can improve the physical and psychosocial well-being of pupils. A virtuous cycle can be achieved, whereby pupils with better health and well-being can achieve better academically, which in turn leads to greater success.

'... PSHE education provides an opportunity to provide or enhance skills such as perseverance, conflict resolution, emotional intelligence, self-management, self-respect, teamwork, locus of control, time and stress management.'<sup>2</sup>

This evidence is well-established and has been helpfully rounded up by the PSHE Association on its website.<sup>3</sup>

The value of PSHE is currently reflected in the fact that independent schools are required to provide PSHE to their pupils, as set out by the Independent School Standards. These standards state explicitly that PSHE 'encourages respect for other people', 'enables them to make informed choices about a broad range of career options', 'and helps to encourage them to fulfil their potential'.<sup>4</sup> It is not acceptable that pupils at private schools are able to avail themselves of these benefits, while pupils at state-funded schools are not.

If the Government is to ensure that all children are prepared for life in modern Britain, PSHE must be made compulsory in **all** schools. Due to the provisions of the Children and Social Work Act 2017, the Government is now able to make this change through regulation rather than primary legislation. We urge it to seize this opportunity as soon as possible.

We also support the recommendations of the House of Commons Women and Equalities Committee report into sexual harassment and sexual violence in schools, which focused on providing updated guidance for schools addressing incidents of sexual harassment, sexual violence, sexting, and other examples of negative relationship behaviour.

## **Section 4: Reporting domestic abuse to statutory agencies**

### **7. Which statutory agencies or groups do you think the UK Government should focus its efforts on in order to improve the identification of domestic abuse? Please tick your top 3 from the list.**

- Education professionals (for example teachers, school staff)
- Children's services
- Police

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<sup>2</sup> PSHE: a review of impact and effective practice, DfE, March 2015:

<https://www.pshe-association.org.uk/system/files/Review%20of%20effective%20practice.pdf>

<sup>3</sup> Evidence and research, PSHE Association, May 2018:

<https://www.pshe-association.org.uk/what-we-do/evidence-and-research>

<sup>4</sup> Independent School Standards 2014:

[http://www.legislation.gov.uk/uksi/2014/3283/pdfs/uksi\\_20143283\\_en.pdf](http://www.legislation.gov.uk/uksi/2014/3283/pdfs/uksi_20143283_en.pdf)

**8. In addition to improving training programmes and introducing guidance, what more can the government do to improve statutory agencies' understanding of domestic abuse?**

Currently we are the only organisation in the UK providing support and training for statutory agencies and third sector organisations into abuse experienced within closed coercive religious communities and cults. We recommend the Government build into their training programmes with the police, the Ministry of Housing, Communities and Local Government, the Crown Prosecution Service, with health agencies, social workers, Cafcass, and JobCentre Plus, a section dealing with apostates, spiritual abuse, and intersectional problems faced by those who leave extreme and coercive religious groups. We have piloted such training and has provided it to both Childline and the Metropolitan Police Service.

**Section 5: Alternative ways to report domestic abuse**

**9. What further support can we provide to the public (employers, friends, family, community figures) so they can identify abuse and refer victims to help effectively?**

Creating a short pack of simple guides, with good signposting to appropriate agencies and organisations would be a good place to start. These could take the form of a version for public bodies and staff (like teachers), and a version for friends and family on what to look out for. We also think that a series of public discussions about the issues in the form of panel discussions might support a more open and transparent conversation about the issues specific communities face and what could be done.

**Section 6: Improving support services for all victims of domestic abuse and their children**

**10. We are in the process of identifying priority areas for central Government funding on domestic abuse. Which of the following areas do you think the UK Government should prioritise? Please select up to 3.**

Accommodation Services

Helpline services for those affected by domestic abuse to call for advice and support

Rolling out new multi-agency approaches

**11. What more can the Government do to encourage and support effective multi-agency working, in order to provide victims with full support and protection? Please select up to 3.**

- Guidance
- Training
- Sharing effective practice

**Section 7: Supporting victims with specific needs**

**12. What more can the Government do to better support victims who face multiple barriers to accessing support?**

Apostates are a particularly vulnerable group, who experience multiple and unique barriers to accessing support services, both whilst still living within their religious group or cult and after leaving. The Government could better support

these victims by having a clear definition of domestic abuse that encompasses controlling and coercive behaviour based upon religious doctrines and recognises that perpetrators might not necessarily be family members but individuals or organisations that nonetheless maintain a significant influence over family life.

There is an intersectionality between abuse experienced within closed religious communities and the protected characteristics between religion, sexual orientation, and ethnicity, which can make abuse hard to identify by outside agencies. Many apostates form a minority within a minority, such as LGBT ex-Muslims and ex-Charedi Jews and Ex-Jehovah's Witnesses, and are at acute risk of homelessness or honour killing after familial rejection. Specialised training to identify victims and those at risk of religious abuse is needed across state agencies.

Many apostates have experienced abuse and due to the restrictive nature of their religious community are not prepared for life outside of the community and are unaware of support services. For example, some ex-members of the Charedi Jewish community despite living in the UK for the whole of their lives are not taught English and are taught to mistrust secular authorities. The Government could better support apostates and the victims of spiritual/religious abuse by recognising this group as one requiring specific attention. Unlike many other groups of victims of abuse there has been very little research at Government level into apostasy and its connection to abuse. We believe that the Government could greatly support victims by commissioning such research.

## **Section 8: Supporting female offenders**

### **13. How can we work better with female offenders and vulnerable women at risk of offending to identify their domestic abuse earlier?**

No answer

### **14. How can we make greater use of women-specific services to deliver interventions in safe, women-only environments? Please select your top 3.**

No answer

## **Section 9: Supporting those with difficulties getting financial support**

### **15. In addition to reviewing who may be eligible for the Destitute Domestic Violence Concession, what other considerations could the Government make in respect of protecting domestic abuse victims with no recourse to public funds?**

No answer

## **Section 10: Keeping victims safe - creating a new domestic abuse protection order**

### **16. Do you agree that the Domestic Abuse Protection Notice issued by the police should operate in broadly the same way as the existing Domestic Violence Protection Notice (except that it would also be able to be issued in cases of abuse which do not involve violence or the threat of violence)?**

Yes

**Please explain your answer.**

We broadly support the extension of the circumstances in which a notice could be issued, in line with the new definition of abuse. However, it is unclear how that measure improves the confusion surrounding whether there is any penalty for a perpetrator who breaches a notice.

**17. Which of the following individuals/organisations should be able to apply for a Domestic Abuse Protection Order? Please select all that apply.**

- The victim
- Certain persons on behalf of the victims (for example certain family members) on behalf of the victim
- The police (following the issue of a Domestic Abuse Protection Notice or at any other time)
- Relevant third parties, who would be specified by regulations, on behalf of victims (see Question 18 for further details)
- With permission of the court, any other person or organisation

**18. Which persons or bodies should be specified by regulations as 'relevant third parties' who can apply for a Domestic Abuse Protection Order on a victim's behalf? Please select all that apply.**

- Local authority safeguarding or social care professionals
- Providers of probation services
- Specialist domestic abuse advisers/ Independent Domestic Violence Advisors (IDVAs)
- Specialist non-statutory support services (for example refuge support staff)

**19. We propose that there should be multiple routes via which an application for a Domestic Abuse Protection Order can be made, including:**

- **at a magistrates' court by the police following the issue of a Domestic Abuse Protection Notice or at any other time;**
- **as a standalone application by, for example, the victim or a person or organisation on the victim's behalf to a family court;**
- **by a party during the course of any family, civil or criminal proceedings**

**Do you agree?**

Yes

**If you choose Yes or No, please explain your answer:**

Given the multiple barriers that a victim may experience in being able to access support for domestic abuse and the high level of victims who fear to speak out, we think that it is appropriate to have several access routes for these victims or a person or organisation acting on their behalf to apply for an order.

**20. Do you agree that family, civil and criminal courts should be able to make Domestic Abuse Protection Orders of their own volition during the course of any proceedings.**



Yes

**If you selected Yes or No, please explain your answer**

We believe that a judge in cases before a family, civil, or criminal court should be able to independently assess the evidence before them to determine to whether an individual poses a risk of committing domestic abuse or of repeating a previous offense and to make an order to protect against that risk.

**21. Do you agree that courts should be able to impose positive requirements as well as prohibitions as part of the conditions attached to the proposed order?**

Yes

**If you selected Yes or No, please explain your answer**

We believe that both positive and negative requirements form part of the process of preventing offending.

**22. Do you agree that courts should be able to require individuals subject to a domestic abuse protection order to notify personal details to the police?**

Yes

**If you selected Yes or No, please explain your answer**

In the case of conviction, we support the proposal to create requirements to notify police of certain details. This information is key to police being able to manage offenders and for new partners to be made aware of an offender's past convictions for domestic and potential risks that they might pose to themselves or their children, in the same way as for sex offenders.

**23. If you selected 'Yes' to question 22 what personal details should the courts be able to require individuals to provide to the police? Select all that apply.**

- Name/change of name
- Home address/change of home address
- Formation of new relationship with an intimate partner
- Change of circumstances relating to household - including where a new child is born or otherwise joins the household
- Details of child arrangements orders for where and with whom a child is to live and with whom a child is to spend time or otherwise have contact.

**24. Do you agree that breach of the proposed order should be a criminal offence?**

Don't know /no answer

**If you selected Yes or No, please explain your answer**

**25. If you do agree that breach of the proposed order should be a criminal offence, should it be possible for breach to alternatively be punished as a contempt of court?**

Don't know/no answer

**If you selected Yes or No, please explain your answer**

**26. Do you agree that courts should be given an express power to impose electronic monitoring as a condition of a Domestic Abuse Protection Order?**

Don't know/no answer

**If you selected Yes or No, please explain your answer**

**27. Which particular statutory safeguards relating to the use of electronic monitoring with Domestic Abuse Protection Orders should be put in place?**

No answer

### **Section 11: Anonymous registration**

**28. How much easier do you think it will be for domestic abuse victims to register to vote anonymously, once the changes summarised above happen?**

Easier

**29. What further support could survivors receive to prove their safety would be at risk if their name and address appeared on the electoral register? Please put forward one suggestion.**

No answer

**30. Do you have any further comments or suggestions on how to make it easier for domestic abuse survivors to anonymously register to vote?**

No answer

**31. Aside from anonymous registration, how else can we keep victims' addresses safe?**

No answer

### **Section 12: The Domestic Violence Disclosure Scheme**

**32. Before reading this consultation, were you aware of the Domestic Violence Disclosure Scheme (Clare's Law)?**

No

**33. Do you agree the guidance underpinning the Domestic Violence Disclosure Scheme should be put in to law?**

Don't know/no answer

**Please explain your answer**

**34. How do you think we can best promote awareness of the Domestic Violence Disclosure Scheme amongst the public?**

Don't know/no answer

### **Section 13: Economic abuse**

#### **35. What practical barriers do domestic abuse victims face in escaping or recovering from economic abuse and how could these be overcome?**

Many apostates face shunning and isolation as a result of the domestic abuse they face when they come out as apostates (or even if they are suspected of being apostates). When the whole community is told to ignore you and give you no support when you leave the religion (as is the case with Jehovah's Witnesses, Exclusive Brethren, and some Charedi Jews, amongst others), there is often no other option available to you. This involves being cut off from any financial support from their family or community, whilst at the same time experiencing a unique set of barriers to becoming self-sufficient. Many will have been brought up in very isolated conditions and are distrustful of the police, social services, and secular institutions more widely. They will not have been educated to understand financial processes such as opening bank accounts, managing finances or how to enter the secular employment market. There are additional issues with specific communities, like Ultra-Orthodox Jewish and former Wahabi Muslim communities, if their education has not included English as a subject.

### **Section 14: Online threats and the role of technology in domestic abuse**

#### **36. What more can we do to tackle domestic abuse which is perpetrated online, or through control of technology?**

Clear guidance from social media companies on privacy settings for users at risk or victims of domestic abuse on online domestic abuse

### **Section 15: Improving the police response**

#### **37. How can we continue to encourage and support improvements in the policing response to domestic abuse across all forces and improve outcomes for victims?**

We believe that the best way to improve the police response to apostates experiencing domestic abuse is through training to increase awareness of the problem. We have produced training courses for police services specifically focusing on apostasy, which are being piloted by the Metropolitan Police Service. We would like to see this training rolled out to all police services across the country.

### **Section 16: Improving victims' experience of the justice system**

#### **38. Do you think creating a legislative assumption that all domestic abuse victims are to be treated as eligible for assistance on the grounds of fear and distress (if the victim wants such assistance), will support more victims to give evidence?**

Yes

#### **If you selected Yes or No, please explain your answer**

Many victims, and especially those who have experienced financial abuse from their abuser(s), are less likely to go through criminal justice proceedings due to the concern that their abuser(s) will have significantly more funds to mount a defence of the charges. Creating a legislative assumption that all victims will be

eligible for funding will provide victims with a greater level of confidence and belief that their perpetrator can be brought to justice.

**39. Is there more this government could do to explain the range and remit of existing measures for victims to help support them in the criminal justice process?**

Yes

**If you selected Yes or No, please explain your answer**

The Government should take a broader focus in the way in which it informs victims and potential victims of domestic abuse. Whilst there is good work being done by many statutory and third sector services, this does not reflect the broad range of services that domestic abuse victims interact with – nor does it reflect an understanding of the complexities of domestic abuse. Additional opportunities should be sought to explain the range and remit of the measures through non-direct service provision. For example, mental health services, drug and alcohol services, and maternity services.

**40. Do you know of instances in criminal proceedings when an application to prevent cross-examination of a victim by an unrepresented defendant has been denied in a domestic abuse case?**

No

**41. Do you think extending the prohibition on cross-examination in criminal proceedings would support more domestic abuse victims to give evidence?**

Yes

**If you selected 'Yes' or 'No' please explain your answer**

After being in a controlling relationship for even a short period, many victims live in constant fear of facing their abuser. Many perpetrators, as part of their cycle of controlling behaviour, will also convince their victims that they will not be believed. As a result of this sustained behaviour over time, it is common for victims to want to avoid criminal proceedings so they don't have to go through the anguish of facing their perpetrator again.

**Section 17: Prosecution without victim's evidence**

**42. Do you have suggestions for how we can better support prosecutions through to conclusion, including providing better support for witnesses who currently disengage from the process?**

Don't know /no answer

**43. What more can police, witness care units and the Crown Prosecution Service do to support victims through the justice process from the point of report onwards?**

Demonstrate a much better understanding of the broad nature of domestic abuse, its impact, a range of victim and perpetrator typology.

**44. Are there other aspects of the criminal court treatment of vulnerable people which the family court could learn from?**

The family court should acknowledge that family court proceedings are often

used by perpetrators to continue to financially and mentally abuse their victims. Drawn-out proceedings can leave victims who are already destitute (especially those without access to Legal Aid) in significantly worse financial situations, whilst having to fight to keep their children safe for long drawn out-periods. Many victims now have to represent themselves against a perpetrator who can afford legal representatives.

### **Section 18: Coercive or controlling behaviour offence**

**45. Do you think there is further action the government could take to strengthen the effectiveness of the controlling or coercive behaviour offence?**

Yes

**Please give further detail.**

By broadening its definition of controlling and coercive behaviour, the Government could be much more effective at identifying such behaviour and offering avenues of support to victims. Although the Government has taken strong steps to prevent some forms of abuse linked to religious beliefs, such as honour-based killing and female genital mutilation, we are particularly concerned that the Government does not currently recognise such behaviour within a religious context as controlling or coercive, or the violence and ostracism suffered by those who choose to leave isolated religious communities or cults as abuse. Specialist training with state agencies is needed to bring awareness and establish best practice in handling abuse centred on religious adherence.

### **Section 19: Aggravating factors in sentencing**

**46. Do you think the current approach of using sentencing guidelines, as per guidelines issued in February 2018 is effective in ensuring sentences imposed reflect the seriousness of domestic abuse when it involves children?**

Don't know/ no answer

**If you selected Yes or No, please explain why.**

**47. Is a statutory aggravating factor needed in order for the court to reflect the seriousness of offences involving domestic abuse and children in sentencing?**

Don't know/no answer

**If you selected Yes or No, please explain why.**

**48. Please share any other views on how to ensure domestic abuse and its impact on children are taken into account in sentencing?**

No answer

### **Section 20: The Istanbul Convention**

**49. Do you agree that taking extraterritorial jurisdiction over these offences is sufficient to satisfy the requirements of the Convention?**

No

**50.If you answered 'No' to question 49 what additional offences do you think we should take extraterritorial jurisdiction over and why?**

Sections 58 and 59 of the Offences Against the Person Act (OAPA) 1861, which make procuring an abortion in England, Wales and Northern Ireland, a criminal offense punishable by life in prison, are no longer fit for purpose, should be amended. This legislation, which governs a medical procedure that one in three UK women will require at some point in their lives, is a remnant of a Victorian justice system. It came into force fifty years before women were enfranchised, and no longer is reflective of modern medical practice.

Fifty years on from the Abortion Act 1967, there has been significant discussion within the UK and internationally surrounding taking abortion procedures out of the criminal justice system and to regulate them through medical regulation like all other healthcare procedures. In March 2017, a bill to remove sections 58 and 59 of the OAPA passed its first reading in the UK Parliament.

In February 2018, the UN Committee on the Elimination of Discrimination Against Women (CEDAW) in a report on Northern Ireland also called for the repeal of sections 58 and 59 of the OAPA, 'so that no criminal charges can be brought against women and girls who undergo abortion or against qualified health care professionals and all others who provide and assist in the abortion'. The report describes the current restrictions on abortion access in Northern Ireland as both 'grave' and 'systemic' violations of women's rights.

Polling of MPs' views from June to September 2017, conducted by YouGov, strongly supports the decriminalisation of abortion procedures. 48% of MPs who responded disagreed with the statement 'Women who intentionally end a pregnancy without authorisation from a doctor should face criminal sanctions, including imprisonment' with only 24% expressing the opposite view. Furthermore, 71% of MPs believe that abortion services should be regulated by laws and regulations used for healthcare, with only 16% thinking that criminal law should be used.<sup>5</sup>

Section 58 and 59 of the Offences Against the Person Act should be amended to make clear that no offence is committed under these sections where a) the pregnancy is terminated by the woman herself, or she assists in or consents to such a termination and b) the pregnancy is terminated in good faith by a registered medical practitioner, a registered nurse or a registered midwife, with the consent or assistance of a pregnant woman.

These amendments would ensure that abortion procedures before 24 weeks would be subject to the substantial body of law and regulation that govern all healthcare procedures. It would remain the case that only those qualified to perform a medical procedure would lawfully be able to do perform an abortion - although this could now also include suitably qualified nurses and midwives who are today involved in an ever-expanding range of clinical procedures. Abortions,

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[https://d25d2506sfb94s.cloudfront.net/cumulus\\_uploads/document/elhvsdm1iw/YG-Archive-150917-BPAS.pdf](https://d25d2506sfb94s.cloudfront.net/cumulus_uploads/document/elhvsdm1iw/YG-Archive-150917-BPAS.pdf)

as today, would need to be performed in line with professional guidance, such as *The Care of Women Requesting Induced Abortion* (Royal College of Obstetricians and Gynaecologists, 2011), *Termination of Pregnancy: An RCN nursing framework* (Royal College of Nursing, 2017), and forthcoming guidelines from NICE to be published in September 2019, and a healthcare professionals failing to do so could face sanction. Regulatory bodies such as the General Medical Council (GMC) and Nursing and Midwifery Council (NMC) play key roles in ensuring that professional standards are maintained.

If these changes are made, this bill would effectively decriminalise abortion up to 24 weeks in England and Wales, making the 1967 Abortion Act redundant before 24 weeks. Later abortions would still be regulated by the Infant Life Preservation Act and the provisions for therapeutic exemptions to prosecution provided by the 1967 Act. Only after these changes should territorial jurisdiction be extended to fulfil the obligations of the Istanbul Treaty.

**51. Do you agree that relying on the civil law remedy in the Protection from Harassment Act 1997 is sufficient to satisfy the sexual harassment requirements of the Convention?**

Yes

**52. If you answered 'No' to question 51, what do you think is necessary to satisfy those requirements?**

No answer

**Section 21: Preventing reoffending**

**53. Do you agree we should explore (with the Crown Prosecution Service) further controlled and monitored use of conditional cautions with rehabilitation programmes than is currently permitted for lower-level, normally first time domestic abuse incidents?**

Don't know /no answer

**If yes, please explain your answer suggesting what procedures should be in place to ensure a conditional caution would only be given in appropriate cases with appropriate conditions attached.**

**If you answered No please explain your answer.**

**54. Do you have any additional evidence on current conditional caution practice which we should consider in relation to this issue?**

No

**If you answered Yes, please explain your answer.**

**Section 22: Managing serial and repeat offenders**

**55. What changes to current policies or procedures would help police and other agencies to better manage serial and repeat abusers, in particular those who are not subject to a sentence of the court?**

No answer

### **Section 23: Working with perpetrators to change their behaviour**

**56. What more could be done to work with perpetrators in prisons, particularly offenders who receive a sentence of less than 12 months and do not have sufficient time to complete a domestic abuse programme in custody?**

No answer

**57. What more could be done to work with perpetrators in the community (convicted or non-convicted) to change their behaviour?**

No answer

### **Section 24: Improving performance using data**

**58. Please select which of the following you believe should be priorities for improving data collection. Please choose up to 3.**

No answer

### **Section 25: Establishing a Domestic Abuse Commissioner in law**

**59. Do you agree with the proposed model for a Domestic Abuse Commissioner outlined above?**

Strongly agree

**Please explain your answer.**

We agree that there is a need for leadership in overseeing new provisions for tackling domestic abuse, and agree that this oversight is best invested in an independent commissioner.

**60. Of the proposed powers and resources, which do you consider to be the most important for a Domestic Abuse Commissioner? Please choose up to 3.**

Map and monitor provision of domestic abuse services against the National Statement of Expectations, and publish this information to showcase and share best practice, as well as to highlight where local provision falls short of what is expected

Provide recommendations to both national and local Government to improve the response to domestic abuse, accompanied with a duty on the responsible person/organisation to respond to these recommendations

Oversee the Domestic Homicide Review Quality Assurance process, including any potential changes implemented following this consultation, feeding lessons learned into their recommendations

**61. What would be the practical implications of complying with the proposed Domestic Abuse Commissioner's powers? This question applies to public bodies only.**

No answer



## **Section 26: Learning from Domestic Homicide Reviews**

**62. One proposal is that the Domestic Abuse Commissioner could routinely collate, quality assure and share lessons learnt from DHRs. What more could be done to increase awareness of the learning from DHRs?**

No answer

**63. How can areas best hold their own local agencies to account in terms of monitoring delivery against DHR action plans?**

No answer

## **Section 27: Sharing best practice across government**

**64. How can the government better share and promote effective practice on domestic abuse across all public services both in regard to commissioning and delivery of services?**

No answer

**65. What role should local areas play in sharing good practice?**

No answer

**For more details, information and evidence, contact Humanists UK:**

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