

# Communities, Equality and Local Government Committee

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Meeting Venue:

**Committee Room 2 – Senedd**

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Meeting date:

**Wednesday, 1 October 2014**

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Meeting time:

**09.00**

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Cynulliad  
Cenedlaethol  
Cymru

National  
Assembly for  
Wales



For further information please contact:

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Committee Clerk

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## Agenda

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At its meeting on 25 September, the Committee resolved to exclude the public from item 1 of today's meeting, in accordance with Standing Order 17.42(vi)

**1 Consideration of the Legislative Consent Memorandum – Deregulation Bill (9:00–9:15) (Pages 1 – 10)**

**2 Introductions, apologies and substitutions**

**3 Gender-based Violence, Domestic Abuse and Sexual Violence (Wales) Bill: Evidence Session 6 Minister for Public Services (9.15 – 10.45) (Pages 11 – 40)**

Leighton Andrews AM, Minister for Public Services

Sarah Rhodes, Bill Manager

Rhys Davies, Lawyer

**Break (10:45–11:55)**

#### **4 Gender-based Violence, Domestic Abuse and Sexual Violence (Wales)**

**Bill: Evidence Session 7 (Third Sector) (10.55 – 11.30)** (Pages 41 – 51)

Simon Borja, Project Development Officer, Safer Wales Dyn Project

Mark Brooks, Chairman, Mankind

#### **5 Gender-based Violence, Domestic Abuse and Sexual Violence (Wales)**

**Bill: Evidence Session 8 (Public Sector) (11:30–12:30)** (Pages 52 – 68)

Naomi Alleyne, Director, Social Services and Housing, WLGA

Jackie Stamp, Chief Executive, New Pathways

Detective Superintendent Lian Penhale, South Wales Police

Detective Inspector Bryan Heard, South Wales Police

#### **6 Papers to note** (Page 69)

## **SUPPLEMENTARY LEGISLATIVE CONSENT MEMORANDUM (MEMORANDUM NO. 4)**

### **DEREGULATION BILL: AMENDMENT IN RELATION TO TENANCY DEPOSIT LEGISLATION**

1. This Legislative Consent Memorandum is laid under Standing Order (“SO”) 29.2. SO29 prescribes that a Legislative Consent Memorandum must be laid, and a Legislative Consent Motion may be tabled, before the National Assembly for Wales if a UK Parliamentary Bill makes provision in relation to Wales for a purpose that falls within, or modifies the legislative competence of the National Assembly.
2. The Deregulation Bill (“the Bill”) was introduced in the House of Commons on 23 January 2014. The Bill can be found at:

<http://services.parliament.uk/bills/2013-14/deregulation.html>

#### **Summary of the Bill and its Policy Objectives**

3. The Bill is sponsored by the Cabinet Office. The UK Government’s policy objectives for the Bill are to remove or reduce unnecessary regulatory burdens that hinder or cost money to businesses, individuals, public services or the taxpayer.
4. The Bill includes measures relating to general and specific areas of business, companies and insolvency, the use of land, housing, transport, communications, the environment, education and training, entertainment, public authorities and the administration of justice. The Bill also provides for a duty on those exercising specified regulatory functions to have regard to the desirability of promoting economic growth. In addition, the Bill will repeal legislation that is no longer of practical use.

#### **Provisions in the Bill for which consent is sought**

5. The consent of the Assembly is sought to the amendment to the Deregulation Bill, tabled on 16 June 2014, which makes amendments to add four sections to Chapter 4 of Part 6 of the Housing Act 2004 (Tenancy Deposit Schemes). The amendment was tabled by Tom Brake MP, Deputy Leader of the House of Commons and Oliver Heald QC MP, Solicitor General. The amendment reference is NC20.
6. These Tenancy Deposit Scheme amendments follow a Court of Appeal decision in 2013<sup>1</sup> which interpreted existing tenancy deposit legislation differently from its original intention and accompanying Government guidance. The decision concerned a tenancy which commenced shortly before the commencement of mandatory deposit protection legislation in

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<sup>1</sup> *Superstrike Ltd v Rodrigues* [2013] EWCA Civ 669

2007. The decision means that where a fixed term shorthold tenancy came to an end and was replaced with a statutory periodic tenancy, landlords should have registered the deposit with a tenancy deposit protection scheme and issued information relating to the scheme to the tenants<sup>2</sup>. This decision meant that landlords in this situation may be subject to sanctions for not complying with the tenancy deposit legislation, despite following Government guidance. The penalties for breach of these obligations by the landlord results in two alternative but simultaneously available sanctions: (a) a landlord cannot serve a s.21 notice to terminate the tenancy for so long as he or she had failed to comply with those requirements<sup>3</sup>; and (b) a tenant would be entitled to both the return of the deposit and a compensatory sum equivalent to three times that deposit's value<sup>4</sup>. This means that landlords may be unable to evict a tenant, or be at risk of court action and financial penalties, despite following Government guidance. The amendment tabled on 16 June is intended to remove this risk.

7. Having these amendments apply to Wales will mean the risk of court action and fines for letting agents and landlords in Wales, and the risk of an eviction notice by the landlord being frustrated, are removed in the same way as for letting agents and landlords in England in regard to these elements of tenancy protection legislation. At the same time agreeing to these amendments will not disadvantage tenants in Wales but mean the tenancy deposit legislation across England and Wales operates in the way it was intended to work.
8. The amendments are to Chapter 4 of Part 6 of the Housing Act 2004 (Tenancy Deposit Schemes). After section 215, the amendment inserts sections 215A to 215D which provide for the following:
  - **Section 215A Statutory periodic tenancies: deposit received before 6 April 2007.** This applies to cases where a tenancy deposit was received in connection with a fixed term tenancy prior to 6 April 2007 and, on or after that date, a statutory periodic tenancy arose on the expiry of the fixed term tenancy.
    - Subsection (2) provides that in cases where the periodic tenancy is still in existence as at the date of commencement of this section and some or all of the deposit paid in connection with the fixed term tenancy continues to be held by the landlord in connection with the periodic tenancy, the tenancy deposit protection requirements do apply. However, the landlord has an extended period within which to comply with those requirements.
    - Subsection (3) provides that instead of the landlord being required to comply with the tenancy deposit requirements at the start of the statutory periodic tenancy, a date which is likely to have long

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<sup>2</sup> Section 213(3), (5) and (6) of the Housing Act 2004

<sup>3</sup> Section 215 of the Housing Act 2004

<sup>4</sup> Section 214 of the Housing Act 2004

passed in such cases, there is an extended period within which to comply. This is any time prior to the date which is 90 days after commencement of the new provisions or, if earlier, at any time prior to the date on which a court determines an application for penalties under section 214 of the 2004 Act (where the requirements relating to the deposit under section 213 have not been complied with) or determines whether to make a possession order under section 21 of the Housing Act 1988 (or decides an appeal against either type of determination).

- Subsection (4) provides that in cases where, at the time this clause is commenced, the landlord no longer holds any deposit in connection with the periodic tenancy or the tenancy has ended, the landlord will be treated as having complied with the requirements in section 213(3), (5) and (6) of the 2004 Act. By virtue of new section 215D(1), this section is treated as having had effect since 6 April 2007 subject to the exceptions provided for in the remainder of section 215D.
- **Section 215B - Statutory periodic tenancies: deposit received on or after 6 April 2007.** This section concerns cases where a deposit is received on or after 6 April 2007 in connection with a fixed term tenancy and, at the expiry of the fixed term, the tenant continues to occupy the property under a statutory periodic tenancy arising under section 5 of the Housing Act 1988. The effect of this section is that where the tenancy deposit requirements are complied with in relation to the deposit held in connection with the fixed term tenancy, then as long as the deposit continues to be held in the same authorised tenancy deposit scheme when the statutory periodic tenancy arises, the landlord will be treated as having complied with the tenancy deposit protection requirements afresh at the start of the statutory periodic tenancy.
- **Section 215C - Renewed fixed term or contractual periodic tenancies: deposit received on or after 6 April 2007.** This section is similar to new section 215B but concerns cases where a deposit is received on or after 6 April 2007 in connection with an assured shorthold tenancy and, at the end of that tenancy, the same landlord grants the same tenant a new fixed term tenancy or a new contractual periodic tenancy in respect of the same premises, i.e. the landlord expressly renews the tenancy. The effect of this section is that where the tenancy deposit requirements are complied with in relation to the deposit held in connection with the earlier tenancy, then as long as that deposit continues to be held in accordance with the same authorised tenancy deposit scheme from one tenancy to the next, the landlord is not required to re-issue the same prescribed information to the tenant at the start of each new, renewed tenancy, the requirements of section 213(5) and (6) will be treated as if they have been complied with.

- **Section 215D - Sections 215A to 215C: transitional provisions.**  
Section 215D provides that new sections 215A to 215C are to be treated as having had effect since 6 April 2007, the date on which tenancy deposit provisions in the 2004 Act came into force. However, subsection (2) provides that they do not have effect in relation to legal proceedings under section 214 of the 2004 Act or section 21 of the Housing Act 1988 which have either been finally determined by a court or settled between the parties prior to the date on which this clause comes into force. Further transitional provisions are made by this section in relation to ongoing proceedings.

9. All the provisions outlined above apply in relation to Wales.

10. The amendment to the Deregulation Bill described above inserts sections 215A to 215D into the Housing Act 2004. This amendment to the Deregulation Bill does not provide any powers for the Welsh Ministers to make subordinate legislation.

11. It is the view of the Welsh Government that these provisions fall within the legislative competence of the National Assembly for Wales in so far as they relate to tenancy deposit schemes under paragraph 11 of Part 1, Schedule 7 to the Government of Wales Act 2006.

#### **Advantages of utilising this Bill rather than Assembly legislation**

12. It is the view of the Welsh Government that it is appropriate to deal with these provisions in this UK Bill as it represents the most practicable and proportionate legislative vehicle to enable these provisions to apply in relation to Wales. The inter-connected nature of the Tenancy Deposit legislation, and the fact that the schemes are run on an England and Wales basis, overseen by the Department for Communities and Local Government, mean that it is most effective and appropriate for the Bill provisions for both to be taken forward at the same time in the same legislation.

#### **Financial implications**

13. There are no financial implications for the Welsh Government.

**Carl Sargeant AM**  
**Minister for Housing and Regeneration**  
**June 2014**

Lesley Griffiths AC / AM  
Y Gweinidog Cymunedau a Threchu Tlodi  
Minister for Communities and Tackling Poverty



Llywodraeth Cymru  
Welsh Government

Christine Chapman  
Chair Communities, Equality and Local Government  
Committee

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24 September 2014

Dear Christine

You wrote on 19 September seeking clarification on how the Tenancy Deposit Scheme (TDS) amendments to the Deregulation Bill, covered in Supplementary Legislative Consent Memorandum No.4 for the Bill, are in line with the Welsh Government's policy intentions in relation to tenancy deposit protection and the forthcoming Renting Homes Bill.

By way of background, the requirement for the TDS amendments arises directly from the *Superstrike vs Rodrigues* Court of Appeal judgement in 2013. The judges in that case have interpreted the tenancy deposit legislation to have a different effect to its original intention when enacted by the UK Parliament as per the accompanying UK Government advice given at the time. The judgement was not appealed which means the Court of Appeal's view is the definitive interpretation of the TDS legislation. This means potentially a significant number of landlords and letting agents are unable to evict tenants because of the judgment.

The amendment to the TDS legislation in the Deregulation Bill is intended to address this problem. The amendment provides that where the TDS requirements have been complied with by a landlord in relation to a fixed term shorthold tenancy, those requirements will not need to be complied with again for a replacement tenancy, either where a tenancy becomes a periodic shorthold tenancy, or where a replacement fixed term tenancy is entered into. Where those requirements did not apply to the first tenancy and a replacement statutory periodic tenancy is still in place, the amendment provides extra time for compliance. The amendments apply retrospectively.

These amendments fit with our overall TDS policy as it will mean TDS legislation works in the way it is was originally intended whilst not disadvantaging tenants or landlords or creating unnecessary bureaucracy and complexity. The forthcoming Renting Homes Bill will introduce further measures which will also provide simplified and fairer arrangements for renting, by introducing two types of contract for renting. Both of these measures accord with the Welsh Government's vision of a modern and better private rented sector for all.

As the current TDS legislation was introduced on an England and Wales basis and the schemes are run on behalf of Wales by the Department for Communities and Local

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Government, it seems sensible this change to the legislation should also be introduced on an England and Wales basis so the changes are identical and are implemented at the same time. This will avoid any unnecessary delay in introducing the amendments in Wales which would disadvantage landlords and tenants in Wales, compared to their English counterparts.

Regards  
Lesley

**Lesley Griffiths AC / AM**  
**Y Gweinidog Cymunedau a Threchu Tlodi**  
Minister for Communities and Tackling Poverty

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By virtue of paragraph(s) vi of Standing Order 17.42

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## **Safer Wales**

### **1 Introduction**

**1.1.** Safer Wales would like to thank the Committee for the opportunity to provide evidence towards scrutiny of the 'Gender –based Violence, Domestic Abuse and Sexual Violence (Wales) Bill', which we applaud as a step forward for victims in Wales.

**1.2.** Safer Wales has over 17 years experience in developing and delivering evidence-based services for victims of Domestic Abuse, Sexual Violence, Women and Girls exploited through street based prostitution and Women offenders.

### **2 About Safer Wales**

**2.1** Safer Wales manages Women's Safety Unit which provides a fully qualified team of CAADA qualified Independent Domestic and Sexual Violence advocates to support women who are high risk victims of domestic abuse and sexual violence; developing the MARAC, Specialist Domestic Violence Court (SDVC) and the IDVA service.

**2.2** Safer Wales developed the Safer Wales Dyn project, launched 2006. Safer Wales Dyn project is the lead project working with men experiencing domestic abuse and sexual violence. Dyn Wales Helpline and training to support services across Wales and the UK.

**2.3** Safer Wales develops and delivers services to reduce violence, exploitation and slavery. Safer Wales StreetLife project works with women at risk of violence and exploitation, particularly women exploited through street-based prostitution. Safer Wales StreetLife provides outreach and intensive support and case management to improve personal and community safety reducing violence and abuse. Safer Wales StreetLife developed the Sex Workers Operational Team (SWOT): Safer Wales targeted prevention service for young girls reduces risks of child sexual exploitation through positive engagement, increased disclosure and access to learning.

Safer Wales is a member of the Violence Against Women Action Group and Welsh Women's Aid and we fully support their written evidence submissions in particular:

### **3 General Principles and purpose of the Bill: removal of Violence Against Women'**

**3.1.** Safer Wales is disappointed with the loss of the term 'Violence Against Women' from the title of the Bill. Safer Wales feels its replacement with 'Gender Based Violence' has presented a gender neutral response to Domestic Abuse, Sexual violence, FGM, Forced Marriage, crimes committed in the name of honour, slavery, stalking and harassment. All of which are crimes that disproportionately effect women and girls. *In*



Wales in 2013/14, there were **6,325** prosecutions for offences of violence against women and girls , with a conviction rate of 76.7%. Of these, **5,637** were cases of domestic abuse; **257** cases of rape, and **431** cases of sexual offences.

**3.2.** Both domestic abuse and sexual violence are included within the internationally accepted understanding of what constitutes ‘violence against women’ along with other forms of violence and abuse which disproportionately affect women, such as female genital mutilation (FGM), women and girls exploited through street based prostitution, forced marriage, crimes committed in the name of ‘honour’, human slavery, stalking and harassment.

The current internationally accepted definition of ‘violence against women’ used by the United Nations, World Health Organisation, Crown Prosecution Service, UK Government and international governments is:

*‘Any act of gender-based violence that results in, or is likely to result in, physical, sexual or mental harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.’<sup>1</sup>*

This definition is particularly significant as it firmly places violence against women as a violation of women’s human rights and reflects international understanding of this. Safer Wales is proud of Wales taking a lead in this area, as recognised by the UN Rapporteur, however, we are concerned that the dilution of the title of the Bill may weaken the potential positive and pro-active international and local impact of eradicating violence against women and girls.

Safer Wales developed the Dyn project to support men who experience domestic abuse. Men and Boys will continue to experience domestic abuse and sexual violence and Safer Wales is strongly supportive of the principle that all victims should have access to effective, appropriate support services. Safer Wales recognition of all victims including children as victims is important to combat the harmful impact of such violence. Safer Wales feels that the inclusion of the term ending violence against women and girls does not detract from appropriate and effective victim services.

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<sup>1</sup> United Nations: ‘Declaration on the Elimination of Violence against Women’, General Assembly <http://www.un.org/documents/ga/res/48/a48r104.htm>



**3.3.** Safer Wales is concerned that the gender neutral term will mislead the public commissioners, and victims who access services across Wales. The success of the Womens Safety Unit and the Dyn project are that they are gender-informed; designed for women and men. Safer Wales believes that a gender neutral response will not engage with victims, or recognise the differences in women’s and men’s services.

**3.4.** The Safer Wales Dyn project developed an assessment tool, based on research, This assessment ensures that we are able to offer appropriate support to all victims based upon risk of harm, identification of primary victim, increasing safety and provide appropriate support for cases where counter allegations exist. Safer Wales’ frontline delivery experience supports a direct difference of approach is required for men and women to maximise service effectiveness.

#### **4 General principles and purpose of the Bill: role of the Advisor**

**4.1** Safer Wales welcomes the Advisor role and would strongly suggest that the proposed Advisor role has the authority to hold parties to account, with scope to issue sanctions should public authorities not comply. Safer Wales would suggest the setting up of an independent advisory group from specialist third sector organisations to inform and support the Advisor.

#### **5 General principles and purpose of the Bill: omission of education and prevention**

**5.1** Safer Wales request that the Welsh Government ensure that prevention is at the forefront to prevent future victims of violence against women. Safer Wales recognises that the current curriculum review will consider domestic violence. However, Safer Wales supports embedding the prevention agenda at every level across the education system, incorporating a whole school approach. Safer Wales believes prevention needs to be set in statute, which will serve to support the curriculum review.

**5.2** Safer Wales request that more work be done with boys to break the cycle of violence against women and girls including boys who have witnessed violence against women. Safer Wales recommend that the Welsh Government take the lead to do more work to ensure that boys are engaged with and specific programmes developed and evaluated. Safer Wales recommends that more work be done, to challenge the root causes of violence against women which include; sexism and lad culture.



## **6 The financial implications of the Bill –Increased pressure on services**

6.1 Increase in people accessing services due to increased public sector awareness through 'Ask and Act' and Welsh Government campaigns e.g. live fear free will put pressure on frontline services, particularly IDVA services. Safer Wales recognises that domestic abuse is costly to the Welsh economy. (Recent Wales figures on the cost of just domestic abuse on the Welsh economy was a total of £826.4 million, which included £303.5m [health care, criminal justice costs, social service, housing, legal and economic] and £522.9m [human and emotional costs]).<sup>2</sup> However, Safer Wales believes these costs will be mitigated in the long-term, by appropriate identification and response, beneficial for future generations. Safer Wales recommends compulsory audit of demand for services, relevant costs and where evidenced savings across public sector service areas.

6.2 Safer Wales would recommend that the Welsh Government reference the CAADA review of Domestic Abuse services in South Wales to support the influencing of commissioning of services in other areas across Wales.

6.3 Safer Wales would recommend that evidence based services be protected e.g. IDVA services and that the standards are maintained across the sector e.g. formal CAADA qualifications maintained and funded. Safer Wales would recommend that commissioners recognise an IDVA particular role and qualifications to ensure that consistency for victims across Wales is maintained. Safer Wales recognises that there will be an unlikely increase in funding, however it is vital that evidence based interventions are protected.

6.4 Safer Wales recommends that funding is sustained for evidenced based services for longer periods e.g. three to five years



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## **The ManKind Initiative Response: Consultation on the Gender-based Violence, Domestic Abuse and Sexual Violence (Wales) Bill**

### **(A) Executive Summary**

1. The charity is supportive of the Welsh Government’s Gender-based Violence, Domestic Abuse and Sexual Violence (Wales) Bill in principle and recognises that it is a step forward in ensuring the victims of these crimes receive the protection and support they need.
2. However, the charity believes there are a number of issues that will need to be addressed to ensure that in Wales, all victims of these crimes receive the protection and support they need. A law that supports victims of domestic abuse is supported, but often from the charity’s experience, the application of law in terms of the provision of services for male victims, is lacking.
3. These issues, include:
  - (i) recognising and accepting that domestic abuse is not a gender-based crime. It is therefore vital that the part of the bill’s title entitled “Gender-based Violence” is recognised and interpreted as being separate to “domestic abuse”. An answer could be to rename the Bill on an alphabetical basis: Domestic Abuse, Gender-based Violence and Sexual Violence (Wales) Bill.
  - (ii) if forced marriage and honour-based violence are viewed as being gender-based crimes, then how will male victims of these crimes be equally recognised and supported as female victims of these crimes.
  - (iii) ensuring national and local strategies fully recognise male victims of domestic abuse and sexual violence and that the strategies explicitly address the needs of male victims. This also includes service commissioning, staff training and awareness raising.

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## **(B) About the ManKind Initiative**

4. The ManKind Initiative, is a UK-wide charity based in Taunton in Somerset.
  5. The charity's vision is all for male victims of domestic abuse to feel able to seek help and to escape, if necessary, from the situation they are in. In addition, for statutory and voluntary agencies to respond adequately to male victims of domestic abuse, and, that domestic abuse is regarded as a gender neutral crime.
  6. The charity carries out this activity out by:
    - (i) providing direct help and support for male victims of domestic abuse and domestic violence, primarily through running a national helpline which receives 1,500 calls per year. This provides information, signposting and information support for male victims.
    - (ii) providing information to voluntary and statutory services, and also runs a national conference and directory of services.
    - (iii) campaigning to ensure there is political and societal recognition of male victims, and be seen as equally supported as are female victims. It recently produced a viral video that has received 7.5 million views worldwide, highlighting the issue.
  7. The charity firmly believes that domestic abuse should not be defined as a gendered crime – it is a crime against individuals of all genders. This includes vulnerable groups such as older people and disabled people. The gender of the victim, while important it, is secondary to the fact that legally, constitutionally and morally - domestic abuse has to be primarily viewed and treated as a crime against an individual. There should be a multi-gendered approach to providing domestic abuse solutions which is needs led and equality based. Services should be available to all victims whatever their gender or identification. This of course could be services for women and services for men or one service for all victims.
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## (C) Male victims and services in Wales

8. In Wales, the latest statistics<sup>1</sup> from the British Crime Survey (2012/13) show that 5.4% of men (between the ages of 16-59) suffered domestic abuse as did 8.8% of women and that 4.2% of men and 4.5% of women suffered from partner abuse. With regard to partner abuse, the figure in Wales for men was the highest in any region of England and Wales. In general terms, the ManKind Initiative states that for every three female victims of domestic or partner abuse, there are also two male victims.
9. Taking into account the numbers of Welshmen between 16 and 59 in the UK census, the charity estimates that c32,000 Welshmen suffer partner abuse every year.
10. In 2011, of those victims who reported being a victim to the four Welsh police forces, 18.2% were male (2,554) and 81.9% were female (11,502). The figures for 2013/14 are currently being obtained through Freedom of Information requests. The difference between actual reports to the police and the higher ratios for male victims set out in paragraph 8 is due to the higher level of under-reporting by male victims. The 2012/13 British Crime Survey<sup>1</sup> highlights that men are nearly three times less likely to tell the police than a female victim.
11. With regard to services for male victims of domestic abuse in Wales, the charity is aware of six organisations that explicitly support male victims as part of their domestic abuse services. These are:
  - Amman Valley Women's Aid
  - Cedar House\*
  - Hafan Cymru
  - Montgomeryshire Family Crisis Centre\*
  - North Denbighshire DA Service (formerly Rhyl and District Women's Aid)\*
  - Safer Wales Dyn Project
12. Three of the organisations (\*starred) provide 11 safe house accommodation places for male victims in total. Wales is far more advanced proportionally than England with regard to the provision of safe house accommodation.

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## **(D) Inquiry section 1(i): The publication of national and local strategies**

13. The ManKind Initiative welcomes the publication of national and local strategies as a means to ensuring there is a focus on these crimes.
14. The charity believes however that each strategy must expressly assess, recognise and address the needs of male victims of domestic abuse within their geographical and service remit. As well as setting out the overall strategy for victims of domestic abuse, an option that should be considered is to have a parallel sub strategy for female and male victims if it is considered there is a need. This is to ensure that the strategies both recognise the existence of male victims and their children and treat them as individuals in need in the same way female victims rightly are. It is important though to also provide solutions. Far too many domestic abuse strategies in the past have mentioned the existence of male victims, almost as a footnote to ensure a “box is ticked” but then they have not provided support services or awareness campaigns to actively support them.
15. National and local strategies should include a range of factors to support male victims and their children, and also to ensure there is compliance with the Equality Act 2010. These factors should include:
  - (i) **using national and localised statistics** and these they must include actual numbers of individuals. To do so brings the subject and existence of male victims alive rather than using percentage figures.
  - (ii) ensuring that the commissioning of domestic abuse services includes **the provision of services for male victims**. These can either be a parallel service to female victims or one service covering both genders. If the latter is chosen then the service must be make it clear it is available for male victims.
  - (iii) ensuring all staff from the statutory sector that come into contact and/or work with victims of domestic abuse **fully recognise the existence and needs of male victims** – this must form part of their training. This includes local authority and health service staff as set out in the National Institute of Clinical Excellence’s guidance issued earlier this year<sup>2</sup>. This is important with regard to community safety, emergency housing and also with in the health service at a GP and hospital level. Staff at A&E services are rightly trained in identifying females suffering from injuries which could be attributed to domestic abuse, the charity is not convinced they are as attuned in the same way for male victims of domestic abuse.

- (iv) ensuring strategies set out what **awareness campaigns** will be produced to encourage male victims and their children to come forward and seek help. As set out in 15(ii), this could be one domestic abuse campaign explicitly aimed at women and men (that is, the campaign mentions men) or a separate campaign for women and men.
  - (v) ensuring strategies must not just seek to identify services for male victims; where there are gaps, **the strategies must proactively seek to fill and address those gaps**. That is, the strategies must be active towards supporting the needs of male victims and not be passive. This should include providing seed funding for support services in local communities if no such services exist. This could be providing support to organisations that currently only support female victims to take on this role. However, this does not include refuges as it is not appropriate to mix refuge provision, but there should be more of this provision for men. The Welsh Government should place more public and funding pressure on housing associations and bodies to provide more places for men and their children – but not at the cost of reducing provision for female victims.
16. The narrative for national and local domestic abuse strategies must treat and recognise male and female victims as equals.
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### **(E) Inquiry section 1(ii): The appointment of a Ministerial Adviser on Gender-based Violence, Domestic Abuse and Sexual Violence**

17. The charity welcomes the appointment of a Ministerial Adviser in principle. However, the adviser must fully recognise the existence and needs of male victims as equals to female victims and therefore ensures that all strategies and their delivery at a national and local level supports male victims.
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### **(F) Inquiry section 2(i): any potential barriers to the implementation of these provisions and whether the Bill takes account of them**

18. A significant potential barrier is the interpretation of the Bill due to its name. This is because the issue regarding gender-based violence such as FGM should be clearly seen as a separate issue to domestic abuse which is not gender-based. This may mean that national and local strategies do not recognise or treat male victims as equals to female victims. It is therefore recommended that the name is changed by

switching the phrases around alphabetically to be called Domestic Abuse, Gender-based Violence and Sexual Violence (Wales) Bill. This would clearly show they are different.

19. An additional potential barrier to ensuring male victims are seen as equals to female victims and that the first consideration of support should be based on need rather than gender, is resistance from some stakeholders in the sector. These are those who believe domestic abuse should be defined as a gendered crime. However, the charity is confident that by sending out a clear message that the Bill and the strategies are for all victims, female and male, that view is no longer relevant.
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### **(G) Inquiry section 3(i): whether there are any unintended consequences arising from the Bill**

20. The main unintended consequence is with regard to defining forced marriage and honour-based violence as being a gendered crime. Home Office statistics shows that 18% of people in forced marriages are male<sup>3</sup>. Therefore by placing these crimes under a gender-based umbrella risks the counting lack of support and recognition for this group of people.
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### **(H) Inquiry section 4(i): the financial implications of the Bill (as set out in Part 2 of the Explanatory Memorandum,**

21. The charity cannot be precise on the actual financial figures but it does recognise that to ensure to support male victims in Wales at the same proportionate level (based on need) that female victims rightly are will mean an uplift in domestic abuse spending. This ranges from training and awareness campaigns to seed funding and the provision of more housing support. This funding must be found and should not be used as an excuse not to ensure the support male victims and their children is not available. This would be in breach of the Equality Act 2010.
22. The charity is clear however, that is not acceptable both on moral and also on practical grounds that any money is switched from the provision of services for female victims (there is not enough funding for female victims) and given to male victims.

**ENDS**

## The ManKind Initiative 30 August 2014

- 1 ONS BCS Focus on Violent Crime and Sexual Offences 2012/13 <http://tinyurl.com/nb4xga>
- 2 NICE Guidance on Domestic Violence and Abuse (NICE guidelines [PH50]): Published February 2014 - <http://www.nice.org.uk/guidance/ph50>
- 3 Home Office/Forced Marriage Unit:  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/141823/Stats\\_2012.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/141823/Stats_2012.pdf)

# Agenda Item 5

## Gender-based Violence, Domestic Abuse and Sexual Violence (Wales) Bill

September 2014



WLGA • CLILC

## **INTRODUCTION**

- 1 The Welsh Local Government Association (WLGA) represents the 22 local authorities in Wales. The three fire and rescue authorities and the three national park authorities are associate members.
- 2 It seeks to provide representation to local authorities within an emerging policy framework that satisfies the key priorities of our members and delivers a broad range of services that add value to Welsh Local Government and the communities they serve.
- 3 The WLGA welcomes the opportunity to respond to the Gender-based Violence, Domestic Abuse and Sexual Violence (Wales) Bill. The Association is supportive of the Welsh Government's aims of ending gender based violence, domestic abuse and sexual violence and is committed to working together with the Welsh Government, Local Authorities and other partners to improve the Public Sector response in Wales.
- 4 The WLGA is aware that victims of domestic abuse, violence and sexual violence are predominantly women and that there are specific areas of violence against women, such as Female Genital Mutilation (FGM), forced marriages and honour killings. However, the introduction of a gender neutral Bill gives Welsh Government and the public sector in Wales the opportunity to ensure that *all* victims of violence, domestic abuse and sexual violence receive the support they need, regardless of gender, as well as those in same sex relationships. Therefore, the Association supports the revised title and focus of the Bill and the recognition that these issues affect both women and men, albeit that we recognise the reality that different interventions and support services/approaches will be required in tackling gender based violence.

### **General Principles of the Gender-based Violence, Domestic Abuse and Sexual Violence (Wales) Bill and the need for legislation to improve the Public Sector response in Wales to domestic abuse, gender-based violence and sexual violence.**

- 5 The WLGA recognises that local government has made significant progress in relation to VAWDA in recent years, including the development of Work Place Polices and improving the support to victims. However, the WLGA also acknowledges the desire of WG to introduce legislation with the aim of further improving support services in the Public Sector in Wales.

- 6 The WLGA welcomes that the Bill relates to domestic and sexual violence against both men and women and believes this represents an important symbolic position. Nonetheless, specific reference could be made in the Bill in relation to the prevalence of violence against women and its impact. This is based on the evidence that women are disproportionately affected by such violence. For example, the role of the Adviser could include an element that relates specifically to violence against women or the Bill could also be amended to include specific duties in relation to violence against women. Such amendments would offer a proportionate response to the evidence and a practical solution to claims by some that violence against women should be the main focus of the Bill, whilst also protecting the philosophy of the Bill based on equality and fairness for all victims.

### **National and Local Strategies**

- 7 The WLGA welcomes the requirement for the development of a National Strategy by the Welsh Government in recognition of the importance of national strategic leadership, accountability and a continuing commitment to tackle these issues at the most senior level. The Strategy will need to provide clear priorities for action, specific objectives and a focus on what improvements are to be achieved and ensure transparency in the direction of travel to be taken by public bodies in improving their response to domestic and sexual violence.
8. We note the proposal to place a duty on local authorities and LHBs to prepare and publish joint local strategies. We welcome the proposal that this Strategy can be delivered through Single Integrated Plans/Public Service Plans and believe that this is appropriate in making clear strategic commitments across public services. However, the WLGA also recognises that (at least) 14 of the 22 local authorities in Wales have an equality objective included in their Strategic Equality Plans to tackle violence against women (which could also include men where a need/priority is identified and based on evidence). This demonstrates that there is a potential overlap between the existing duties on Welsh public authorities (Equality Act 2010) and the new duty to be placed on them to develop a local strategy under this Bill. Whilst it is recognised that the new duty is to be undertaken jointly with Local Health Boards care will be needed to ensure that there is no duplication with other related plans and strategies in terms of delivery. The proposed approach needs to be proportionate and fit in to existing work being undertaken to result in positive outcomes. Also in relation to employment all 22 local authorities have now reviewed and/or revised their work based policies which include issues of domestic abuse and are in the process of implementing them.

- 9 Section 14 of the Bill requires relevant authorities to follow statutory guidance, unless the authority considers that there is good reason for it not to do so and it decides on an alternative policy. The WLGA welcomes the opportunity for local authorities to not follow statutory guidance if they believe there is an alternative way to deliver progress. Local authorities are best placed to understand local priorities and issues and how these can best be addressed locally which may not clearly fit with the approach WG are proposing through the Statutory Guidance. Any process for gaining WG approval for veering away from Statutory Guidance should also be proportionate, speedy and non- bureaucratic.
- 10 The WLGA welcomes the requirement in the Bill that Welsh Ministers and the Ministerial Adviser will prepare and publish annual reports alongside the local authorities. This is consistent with the precedent set up by the Equality Act 2010 and is a good practice model to be followed in future legislation.
- 11 In order to fully implement purpose 1(1)(a) of the Bill which relates to the prevention of gender based violence, domestic abuse and sexual violence, a whole part could be added to the Bill to deal with perpetrators. This would ensure that legislation does not only relate to the punishment of the behaviour but would also address the whole offending behaviour. Without addressing the behaviour of perpetrators, domestic abuse will not truly be prevented from happening. We recognise however that the focus of this particular Bill is on victims as opposed to perpetrators and this is why we recommend that the Bill be only amended to include reference to perpetrators as opposed to regulating them. The Bill could for example be amended so that perpetrators are included in both the national indicators under section 8 and within the local strategies under section 4.

### **The Appointment of a Ministerial Adviser**

- 12 The proposal to appoint a Ministerial Adviser rather than a Commissioner is generally supported by the WLGA and it is recognised that the aim of an Advisor would be to help bring about increased strategic leadership. The Adviser role however needs to be, and be seen to be, independent of Government with the ability and freedom to work across all relevant policy portfolios within Welsh Government and across public services. The Bill should be explicit about the independence of the Advisor post and this may be an area where the Committee may wish to consider how this independence can be guaranteed.

- 13 It is also important that the Ministerial Advisor has the appropriate level of authority to ensure that the Welsh Government departments and public services do not work in silos to implement National and Local Strategies and can influence change as appropriate.

### **Barriers to implementation of these provisions and whether the Bill takes account of them**

- 14 The WLGA welcomes the creation of the National Training Framework and we note that funding is partly being provided by Welsh Government, however this is only until 2018. Looking at the timeframe for implementation it looks like the policy will just start to become fully operational in 2018. Therefore a commitment from the Welsh Government to continue its funding beyond 2018 is required so that the policy can be practically implemented. The statutory guidance in Section 12 suggests it '*may address training for staff of a relevant authority*'. Whilst the WLGA acknowledges the estimated direct costs of the National Training Framework of £439,700, plus £374,000 for Ask & Act (up to 2018) are being met by Welsh Government, the WLGA is concerned with the estimated opportunity costs for local government associated with public sector staff receiving training of £5,611,100 (up to 2018). There will be financial implications for local authorities for some staff required to attend the training, for example, the provision of cover for key front line posts, and it is suggested that the relevant Group monitors implementation of the National Training Framework, including the financial implications for public bodies.

### **Any unintended consequences arising from the Bill**

- 15 The WLGA has not identified any unintended consequences arising from the Bill although it is suggested that implementation of the Bill is closely monitored, including the financial implications for public bodies.

### **Financial implications of the Bill (Part 2 of the EM)**

- 16 There is a financial implication regarding the Ministerial Advisor who would need a supporting structure to undertake the role. The costs of the Adviser's office are substantial, £255,500 to 2018.

- 17 Recommendation 5 of the recent research publication commissioned by Welsh Government, *Building Effective Responses* (30<sup>th</sup> April 2014) recommended that '*For those interventions for which there is good evidence making sure that funding is secure and available on a continuing basis and is not susceptible to fluctuations in local budgets*'. During the current economic climate and within the current context of cuts to public services, it is important that any monies spent on implementing the Bill are used to best effect. It is also important that any new financial burdens that arise as a consequence of the Bill are clearly identified and are funded by the Welsh Government. There will also be financial implications in relation to time, resources and capacity.
- 18 Between April 2012 and April 2013 a total of 2,242 cases were heard at MARACS across the South Wales Police area (other police force areas will also hold their own figures). A total of 70% of these referrals came from the police, whilst the other 30% came from partner agencies. The Welsh Government is currently conducting campaigns designed to increase awareness of gender based violence. With an increase of awareness of campaigns and the introduction of this legislation, specialist services can expect to see an increase in disclosures and referrals. This extra-demand for services does not appear to have been taken into account in the Explanatory Memorandum, in light of this the costs of the Bill might need to be revised. The additional costs of implementing the Bill should be monitored by WG and additional resources provided as required.
- 19 Looking at the Welsh Government estimates in the Explanatory Memorandum, it would appear that local government and the public sector will have to contribute estimated opportunity costs of £5.8 million, and a direct cost of £0.2m over 3 years in relation to the implementation of the Bill, particularly in relation to staff attending training courses. Within the same estimates the Welsh Government will provide £1.4m. There seems to be a significant disproportion between the monies the Welsh Government is committing to the policy and those to be 'paid' or 'soaked up' by the public sector. Due to the current financial climate, and the savings to be made by local authorities over the next few years which is likely to result in some job losses, some authorities may struggle to either field attendees at training courses or provide appropriate cover for front line staff.
- 20 The training costs might be brought down if the training referred to in Section 12(2)(d) of the Bill were to be provided internally rather than externally. To build capacity Welsh Government could consider following the precedent of including a trainers course for

local government officers to build internal capacity – an example of where this has been successful is in relation to 'Forced Marriage and Honour Based Violence'. This 3 day development programme was conducted by a partnership commissioned by the Welsh Government which included South Wales Police, the Welsh Government, BAWSO and the Henna Foundation. The WLGA believe that upskilling people within organisations is one way of building internal capacity.

## **Appropriateness of the powers in the Bill for Welsh Ministers to make subordinate legislation**

- 21 Section 6(2) gives the Welsh Ministers a power to require additional information to be taken into account and assessments to be carried out by local authorities in preparing their local strategies. The Bill uses expressions such as 'anything specified in the regulations' or 'in relation to any matters specified in the regulations'. There is no detail or examples in the explanatory notes as to what these could be nor of the kind of extra cost such requirements could have on local authorities' budgets. While it is understandable that these provisions can be made by subordinate legislation (as they may change regularly), the contents might be more than purely technical and affirmative resolution procedure might be better for this particular set of powers.
- 22 The procedure under Section 13 looks like a super-affirmative procedure in that it allows for other drafts of the statutory guidance to be submitted to the Assembly. However it is not clear whether the additional drafts would have to be presented to the Assembly within the 40 day period or whether a new count down would be started with each new or amended draft. Clarification would need to be included in the Explanatory Notes or by an amendment to the section.

## **Other Considerations**

### ***Definitions in the Bill***

- 23 The Bill should clarify if children and young people, and older people, are included in the definition of victims. This is currently unclear although they are potential victims within the meaning of the Bill (e.g. elder abuse which can occur in the home). The Explanatory Memorandum clearly indicates that this is intended but the definition section of the Bill makes no reference to them. This equally applies to the definition of perpetrators - it should also be made clear that children and older people could also be perpetrators within the scope of Bill.

- 24 It is important that the definition of both potential victim and perpetrator includes reference to children and young people, as an acknowledgement that they represent a particularly vulnerable group in relation to domestic abuse and sexual violence. Research tells us that children and young people who are exposed to sexual and/or domestic violence, as either a witness or as a victim, are more likely to go on to engage in such behaviours than children and young people who are not. It is therefore vital that children and young are not only protected from such behaviours but also engaged in discussion and education about relationships and violent behaviour. The All Wales Core Liaison Schools Programme, an initiative from all four Welsh police forces, already fulfils this function through the delivery of a specific module on domestic abuse in all schools in Wales. In addition Graham Donaldson is currently undertaking a review for Welsh Government into the curriculum in Wales and issues such as domestic abuse and sexual violence should be considered as part of that review. Consideration could also be given to discussing domestic abuse and sexual violence through more informal learning routes, such as via the youth service.

## **Conclusion**

- 25 The WLGA offers the following comments and amendments to the draft Bill:
- a) The Bill/EM should be amended be clear and consistent to include children and older people throughout*
  - b) Local authorities should be given the opportunity to consider making use of existing mechanisms to implement local strategies*
  - c) As women are disproportionately affected by violence Welsh Government should consider the introduction of specific duties in the Bill such as requiring an element of the annual reports to focus on this group*
  - d) Further consideration should be given to how perpetrators of sexual and domestic abuse are challenged or supported to change their behaviour*
  - e) Welsh Government need to ensure that the role of the Ministerial Advisor is an independent one to remove any risk of potential bias*
  - f) Welsh Government needs to commit to further funding for implementation of the Bill post 2018.*

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**For further information please contact:**

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DRAFT



Communities, Equality and Local Government Committee  
CELG(4)-26-14 Paper 5 (Consultation response GBV64)

## **Gender-based Violence, Domestic Abuse and Sexual Violence (Wales) Bill**

Submission to the Communities, Equality and Local Government Committee

**New Pathways, Rape Crisis and Sexual Abuse Support Services**

September 2014

**NEW PATHWAYS** is a Rape Crisis and Sexual Abuse Support Service. This is our 21<sup>st</sup> year. We receive approximately 2500 referrals a year and provide face to face therapeutic services throughout east, south and west and mid Wales to children, young people, women and men. We also provide telephone support to clients from the whole of the UK. We have recently developed a subsidiary company, Mid Wales Rape Support Centre (see below) which provides enhanced services to Mid Wales (see below).

New Pathways' services include the management of four SARCs in Merthyr Tydfil, Swansea, Risca and Carmarthen and the provision of ISVA services. We are about to extend our SARC and ISVA services to Aberystwyth and Newtown. We provide counselling to survivors of rape and sexual abuse at each of our 6 centres and bespoke training to both statutory and voluntary sectors. We have a dedicated Children's Project which provides workshops in schools and support and training for professionals in that environment, as well as a dedicated Offender's Project for people who have been affected by rape or sexual abuse and have gone on to offend. Last year we developed a Human Trafficking Project, as a direct result of need identified from our other services.

**MID WALES RAPE SUPPORT CENTRE** is the new subsidiary company formed by New Pathways, and is a registered charity limited by guarantee, based in Aberystwyth which provides therapeutic services to children, young people, women and men across Mid Wales.

As well as this submission, we have also contributed to the response given by the umbrella group, The Survivor's Trust Wales (TST Wales). To avoid unnecessary duplication, I have not therefore included some of the more detailed points raised in their document and would refer you to such.

### **1. The General Principles of the Bill**

#### **1.1 Gender Focus**

There has been much debate about the title of the Bill and in particular the so-called gender-neutral wording. New Pathways would agree that women are disproportionately affected by violence of all kinds



and as such support the view that legislation is required to address violence against women as a priority. However, coming from the sexual violence / abuse sector means that our view on gender-specific legislation is more complicated. Each year we see a large number of referrals for support from men and boys who have been victims of sexual abuse; last year 25% (n. 262) of our adult counselling referrals (for historic sexual abuse) were male and 23% (n. 63) of our child counselling referrals were male. For recent referrals of rape to our SARCs, the male numbers are slightly lower but still very significant, with 16% (n. 128) of adult referrals being from men and 19% (n. 62) from boys and young men (<16 years). With this prevalence in mind, we appreciate that using the term 'Gender-based Violence' in the Bill allows for Local Authorities, Health services and other bodies to direct their funds and services to the appropriate places, be that for women-only domestic abuse services as an example, or for services such as our own which very clearly need to provide services for both men and women.

## 1.2 Consideration of ALL Forms of Violence

It is vital that *all forms* of domestic violence, sexual violence and gender-based violence are represented on the face of the Bill. Our concern here is that the Bill and corresponding papers still seem to be somewhat domestic abuse centric and there needs to be a clear and unambiguous understanding that other forms of violence, specifically sexual violence, harassment and stalking, forced marriage, so-called honour-based violence and female genital mutilation are given equal consideration. As an example of the significance of this, the Explanatory Memorandum acknowledges that little consideration is given to these other forms of violence within Single Integrated Plans (p.12, point 26). Within this Memorandum, references to the prevalence, costs and previous policies illustrate the picture for domestic abuse but exclude the other forms of violence meant to be addressed in the Bill (p. 8, 9 and 10).

## 1.3 Definitions

Some of the definitions in the Bill are confusing and unclear. There are accepted international definitions that could be included and it is our view that the people with relevant experience in each sector should be consulted to agree specific definitions. The definition of 'sexual violence' contains a reference to 'sexual exploitation', which itself has a separate definition further into the Bill. This will cause unnecessary confusion.

## 1.4 Publication of National and Local Strategies

**1.4.1 National Strategy:** At New Pathways we would welcome an unambiguous national strategy that would set out clear duties on the Public Bodies to address domestic and sexual violence/abuse and all forms of gender-based violence. It is vital that Welsh Government build upon, rather than re-invent, the current national strategy 'The Right to be Safe' document. It is important to acknowledge the short-comings in the current strategy, particularly with regard to the lack of measurable outcomes and also the lack of emphasis on sexual violence/ abuse and other forms of gendered violence, as stated previously. Consideration should be given to either separate strategies for the different forms of violence, or at least an allowance for individual emphasis to be placed on the different forms of violence. This should help avoid the domestic abuse orientation that the current strategy has.

**1.4.2 Local Strategies:** Again, there are many examples of local strategies in place, but most focus primarily on domestic abuse. Some strategies have been changed to reflect the inclusion of sexual violence



and in some cases, other forms of gendered violence, but in the main this is a change in wording only and is not reflected in the implementation of the strategies. It is paramount that strategies are written, implemented and measured to ensure that they actually make a difference in the lives of people who have suffered abuse. Legislation in the form of this Bill could be the way to ensure that a duty is put upon Public Bodies to not only have a document written, but to ensure that they are effective.

In short, any strategies need to have teeth and we see legislation as a way of ensuring this.

## 1.5 The Appointment of a Ministerial Adviser

New Pathways have advocated for a Special Advisor or Commissioner for some time. We therefore welcome, in principle, this potential appointment. However, we feel strongly that the Advisor needs to be independent from Welsh Government and civil servants if he / she is to be able to fulfil the duties to be placed upon them. If the Advisor is to scrutinise all parties with a duty to respond to this legislation, including Welsh Government and Public Bodies, then surely independence from those parties would be necessary.

Whilst acknowledging the limited means to provide this appointment, we would advocate for the Advisor to be supported by staff that have specific knowledge in the areas addressed in the Bill; domestic abuse, sexual violence and all other forms of gendered violence. The services that address these varied forms of violence are diverse by necessity and as such it would be almost impossible for one person to hold the knowledge and have the capacity to ensure that varied national indicators are met. For example, the indicators of success in a domestic abuse refuge would be completely different from the indicators that are relevant to a Sexual Assault Referral Centre (SARC).

## 2. Potential Barriers to the Implementation

**2.1 Consultation with Third Sector:** Successful implementation of this Bill will require collaboration and consultation with the Third Sector, who currently undertake most of the service provision in this field. The expertise in dealing with the extreme trauma that can result from sexual or domestic violence, including all forms of gendered violence, lies primarily in this sector and utilising this expertise will be key to achieving the aims of the legislation.

**2.2 Ability to Impose Sanctions:** In order to achieve full 'buy in' from all Public Bodies, it will in our opinion be necessary to ensure that sanctions can be imposed on Local Authorities for non-compliance with the agreed strategies.

**2.3 Lack of Funds:** Another potential barrier to the full implementation of the aims of the Bill will of course be lack of extra funds, detailed below.

**2.4 Lack of Knowledge of Gender-based Violence:** There remains a lack of knowledge and understanding, in particular within Public Bodies, about terminology used in the Bill. Gender-based violence is violence which is perpetrated against a person *because* of their gender. Therefore some types of violence that this legislation seeks to address, in particular female genital mutilation, forced marriage, honour-based violence and most domestic abuse, are specifically suffered by women. There are, however, differences when we look at sexual violence, where a much higher percentage of victims are male. This is



not usually perceived to be gendered violence, as it is assumed that most men are not sexually abused *because* they are men. Much more research needs to be done into this aspect of abuse and until then it is possible that lack of understanding of sexual abuse of men and boys will lead to further marginalisation of them and a lack of funding aimed at services for them. This is further compounded by the fact that statistics do not in any way indicate prevalence of abuse for men and boys, This is, in a large part, due to the fact that men and boys are less likely to report the sexual abuse they have suffered and there are, in fact, many fewer places for them to go to report or receive support. From our own experience we can see that the referral rate for young men drops quite dramatically when they reach adolescence.

### 3. Unintended Consequences of the Bill

**3.1 Unequal Consideration of All Forms of Violence:** Whilst we welcome the aim within the Bill to address all forms of domestic, sexual and gendered violence, we feel there is a danger that some forms of gendered violence may have less prominence, in particular so-called honour-based violence, FGM and stalking and harassment. Possibly this can be addressed by ensuring that staff appointed to support the Advisor have specific knowledge in these fields.

**3.2 Longer Waiting Lists:** New Pathways welcomes the prominence given to 'Ask and Act' within the Bill. The aim of this is obviously to raise awareness of the help and support that people can access when they report being abused. An unintended consequence is likely to be that many more people will report abuse and this will of course impact on services that are already stretched to, and often beyond, capacity. Waiting lists will therefore grow further and people will not receive the support they are promised. In some areas, services for victims of sexual abuse and violence are very scarce and waiting lists can be over 3 years long. This *must* be considered when assessing the likely impact of this important legislation.

### 4. Financial Implications of the Bill

**4.1 Increased Cost for Service Provision:** The duty to 'Ask and Act' in the Bill, along with awareness-raising campaigns such as the Welsh Government's 'Making a Stand' will all lead to increased demand on specialist services. Please refer to 3.2 above, which details the need to support not only existing sexual violence services, but also recognise and meet the need to increase funding to specialised service providers to expand services, if any attempt is to be made to meet the almost certain increase in demand this legislation will facilitate.

**4.2. Investment in Specialist Services:** With acknowledgment that there is huge financial strain on all public services right now, it is vital that we recognise the savings that are made to Public Bodies, including Health services, by the Third Sector. It is widely acknowledged that victims and survivors of all forms of abuse and trauma will look for support in other services unaware or reluctant to disclose their real needs and seek specialist support. Guidance needs to be provided to primary health care services, substance misuse services and others to provide appropriate support/ commissioning appropriate services for victims and survivors accessing these services. This will, in the long term, lead to cost savings for services. For example, The World Health Organisation estimates that up to 60% of women in the UK mental health



service population have been sexually abused in their lifetimes and 20% of victims/survivors of sexual violence will use health services in the first year but by the second year, 50% are “heavily embedded” in the health system. The mental health issues range from anxiety and depression to serious self-harm and suicide. This inevitably has a cost for the health service. The Cross-Government Action Plan on Sexual Violence and Abuse reported that the cost of sexual violence to society was £8.5 billion in 2003-4 alone. If people are able to get appropriate specialist support and to get that support earlier, money will be saved.

## 5. Subordinate Legislation

Our concerns are centred on the wording of Sections 5 and 12 of the Bill. They would appear to indicate that Welsh Government may direct a Local Authority or Health Board to review their strategy or may issue guidance on how the authority should exercise its functions with a view to contributing to the purpose of the Act. The Bill does not seem to give Ministers the power to insist on amendments or implementation of the strategies. In our opinion, this Bill needs to have ‘teeth’ to be effective and therefore we would hope to see the Bill mandate Ministers the power not just to impose a duty on Local Authorities and Health Boards, but also the power to impose sanctions for non-compliance.

## 6. Omissions from the Bill

**6.1 Education:** We were disappointed to see that Education, and therefore vital prevention provision, is missing from the Bill. With other partner organisations, New Pathways have advocated for a whole-school approach, specifically advising that healthy relationship lessons delivered by specialist providers would be a major contribution to the aim of keeping children safe. We note that a review of the Basic Curriculum is currently being done by Prof. Graham Donaldson and that this will include a review of the PSE structure, but we think that cross- government work on this important topic is vital and we would have liked to have a duty placed on Local Authorities to develop a Whole Schools Approach, to include named Champions in each primary and secondary school, as well as a duty to develop and implement policies ensuring each school can effectively and sensitively handle disclosures of sexual, domestic and gender-based abuse.

**6.2 Post Code Lottery:** A lot of work has been done to map the domestic abuse services in Wales and to establish a consistent, accessible and fair service for any victims of domestic abuse. New Pathways has 21 years of experience of running sexual violence services in Wales and therefore are well placed to identify gaps in services. It is fair to say that there still exists a post code lottery for people looking for support after rape or sexual abuse. The *Map of Gaps* research (End Violence Against Women (2007)) stated: ‘[...] the lack of voluntary / third sector sexual violence services suggest that this needs to be extended to all forms of violence against women’. We think that a duty placed on Local Authorities to have local strategies in place may be one way to try to address this issue, but much more will need to be done, some through legislation, some by other means. A duty imposed on Local Authorities and Health Boards to implement strategies will certainly go some way to help this issue, but there is no way around the need for extra funding to be made available to increase specialised services in areas where there are identified gaps. One example of a clear gap in services is the capital, Cardiff, where there is very little service provision for people who have suffered historic child sexual abuse.



**6.3 Workplace Policies:** We believe that this legislation gives the Welsh Government the chance to place a duty on all Public Bodies, not only to have a Domestic Abuse Policy in place, but to have policies which relate to all forms of domestic, sexual and other gendered violence. New Pathways think that all organisations should have policies in place that set out the way in which any person who has suffered any of the listed forms of violence can expect to be treated in the workplace and the help that they are able to access. Training and awareness raising would be key to the implementation of these policies and therefore have an obvious cost implication, but the cost of not implementing them would be far higher in the run long, both on the health of the individual, the effective working of the organisation and the cost on the various health services.



2<sup>nd</sup> September, 2014

Communities, Equality and Local Government Committee  
 CELG(4)-26-14 Paper 6 (Consultation response GBV41)

Dear Sir/Madam,

Consultation on the Gender-based Violence, Domestic Abuse and Sexual Violence (Wales) Bill

Thank you for inviting South Wales Police (SWP) to contribute to the inquiry into the above Bill.

The terms of reference of the inquiry have been considered and whilst South Wales Police acknowledge that the Bill will not directly impact upon the Police Service, it is noted that a number of the legislative proposals could indirectly impact upon our working practices with devolved Public Services, due to the key role Police play in the multi agency response to Domestic Abuse (DA) and Sexual Violence (SV).

Of the 5 key points for consideration, we support the publication of national and local strategies and the appointment of a Ministerial Advisor, as both of these will provide an increased focus and accountability for Public Authorities to engage in a robust co-ordinated response to DA and SV processes.

However, whilst SWP welcome the proposal to “formalise and standardise existing good practice” around Multi Agency Fora in order to assess *all* cases, regardless of the level of risk, we would recommend that this process be taken one step further.

Currently there are no statutory responsibilities placed on agencies that support the Multi Agency Risk Assessment Conference (MARAC) model. If MARAC was to be legislated for, greater scrutiny could be placed on the process alongside statutory requirements for relevant agencies to provide a more effective quality of service to victims of abuse. This could then be supported by Welsh Government led funding for the consistent commissioning of services or permanent employment of key roles such as MARAC co-ordinators and Independent Domestic /Sexual Violence Advocates (IDVA/ISVAs), around which there is great inconsistency.

**SOUTH WALES POLICE HEDDLU DE CYMRU**

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In an emergency always dial **999** for non-emergencies dial **101** Mewn awyrgylch ffoniwch **999** fel arall ffoniwch **101**  
 Website: [www.south-wales.police.uk](http://www.south-wales.police.uk) Gwefan: [www.heddlu-de-cymru.police.uk](http://www.heddlu-de-cymru.police.uk)

The benefits of implementing statutory requirements of agencies will enhance and strengthen the current process as well as maximising resources. The advantages of this legislative

structure is clearly evident in other business areas of protecting vulnerable persons, including All Wales Child Protection Procedures, Multi Agency Public Protection Arrangements and the All Wales Protection of Vulnerable Adults.

Therefore, Option 3 – Introduce an Assembly Bill to address the Policy Objectives (pages 50 – 53) for both National and Local Strategies along with statutory guidance is strongly supported.

Placing a duty on devolved public services will also enhance existing information sharing protocols amongst partner agencies, which on occasions can prove challenging. Improved outcomes via effective prevention, appropriate protection and high quality support for service users are all highlighted as outcomes sought from this Bill and as best practices are currently being utilised in the South Wales areas (through MARAC and WASPI), it is anticipated that information sharing will continue to improve.

It is evident that the consistency and common quality standards being sought through this Bill could provide a good opportunity for All Wales collaboration in terms of responding positively and corporately to DA and SV in Wales.

Yours faithfully

Lian Penhale  
Detective Superintendent  
Head of Public Protection  
South Wales Police

# Agenda Item 6

1 October 2014 – Papers to note

Paper No:	Issue	From	Action Point
<b>Public papers to note</b>			
7	Gender-based Violence, Domestic Abuse and Sexual Violence (Wales) Bill	Relate Cymru	Agreed to provide the report 'Young People, Sex and Relationships The New Norms' published by Relate and the Institute for Public Policy Research IPPR <a href="http://www.ippr.org/assets/media/publications/pdf/young-people-sex-relationships_Aug2014.pdf">http://www.ippr.org/assets/media/publications/pdf/young-people-sex-relationships_Aug2014.pdf</a>