



General Debate on Tackling Violence Against Women and Girls Briefing for MPs

About Us

The Bar Council represents approximately 18,000 barristers in England and Wales. It is also the Approved Regulator for the Bar of England and Wales. A strong and independent Bar exists to serve the public and is crucial to the administration of justice and upholding the rule of law.

Summary

The Bar Council supports the government's '[take back our streets](#)' mission, particularly its focus on tackling violence against women and girls (VAWG). This is often regarded as principally a criminal justice issue, but many cases in the family courts include allegations and findings of domestic abuse. If the government wants to achieve its ambition of halving violence against women and girls, it must consider the role that both the criminal and family courts play.

The Bar Council submits that the government's commitment to tackle violence against women and girls needs to be underpinned by two factors:

- (a) A clear definition of what VAWG is, namely all forms of violence and harmful practices that affect women and girls including so-called honour-based violence and female genital mutilation (FGM).
- (b) An understanding that VAWG is not inevitable so that as well as tackling VAWG after it happens, policies are formulated which focus on prevention and early intervention as a fundamental and integral part of the overall approach. A criminal justice response alone is inadequate.

We have set out a number proposals in our [spending review submission](#) to help address this.

Recommendation

We recommend the government should:

- 1. Remove means testing for legal aid for alleged victims and survivors of domestic abuse and bring all cases involving domestic abuse within legal aid scope for both parties**
- 2. Implement a package of measures to address VAWG through the family justice system**
- 3. Increase fees for RASSO (rape and serious sexual offence) cases in the Crown Court, and equalise prosecution and defence fees, to retain and recruit the specialist barristers needed for cases involving violence against women and girls**

Proposal 1: Remove means testing for legal aid for alleged victims and survivors of domestic abuse and bring all cases involving domestic abuse within legal aid scope for both parties

All victims and survivors of domestic abuse – whether in the criminal or family court – should be entitled to legal advice and representation. In May 2023 the Ministry of Justice introduced passporting for victims of domestic abuse on universal credit¹, meaning that they are not subject to means testing in order to access legal aid. We welcomed this development but called for recommendation 9 of the Domestic Abuse Commissioner’s Report² to be fully implemented and all means testing removed for alleged victims of domestic abuse. This would provide critical support to them when navigating the legal system.

In addition, non-means tested legal aid should be made available to both parties where there are allegations of domestic abuse. This means legal representation not only for the alleged victim, but also the alleged perpetrator. Currently, in circumstances where the unrepresented alleged abuser wishes to cross examine their alleged victim, the court is required to find and appoint a qualified legal representative (QLR) to carry out the cross-examination. However, there has been difficulty with many courts finding an available QLR in time. The role is a limited one and can be no proper substitute for full advice and representation throughout the proceedings.

Proposal 2: Implement a package of measures to address VAWG through the family justice system

A February 2024 National Audit Office report found from January to March 2023, in 40% of family dispute cases neither the applicant nor respondent had legal representation.³ Litigants in person (LiPs) often slow down the court process as judges have to explain legal processes to the litigant in person, and time is taken up by the individual raising unarguable points, which – if they were advised and represented – would not be made.

Within the family justice system, we propose a package of measures to support this commitment which are:

- Specialist domestic abuse and child abuse support and assessment services for all members of the affected family.
- Implement special trauma-informed measures in courts, for example the provision of screens in all court buildings, trauma-awareness training for Cafcass and case progression officers, and independent domestic violence advisors (IDVAs) trained in family justice as well as criminal justice. The provision of Domestic Abuse Perpetrator Programmes and supervised contact centres.
- Implementation of ‘Jade’s Law’ to automatically suspend parental responsibility in cases of femicide. This will require funding to ensure all parties, including the children and care givers, are represented and have access to non-means-/non-merit-tested legal aid.
- Funding for the rollout of the Pathfinder Courts across England and Wales following the successful pilots – these courts take an investigative and problem-solving approach to

¹ Ministry of Justice (May 2023), ‘Government response to the legal aid means test review’

<https://www.gov.uk/government/consultations/legal-aid-means-test-review>

² Domestic Abuse Commissioner (July 2023), ‘The Family Court and domestic abuse: achieving cultural change [DAC Family-Court-Report- 2023 Digital.pdf](#)

³ National Audit Office (February 2024), ‘Government’s management of legal aid’

<https://www.nao.org.uk/wp-content/uploads/2024/02/governments-management-of-legal-aid.pdf>

private law proceedings to improve the court responses to domestic abuse and enhance the voice of the child within proceedings.

- Commitment that applications under the Domestic Abuse Protection Orders and Notices (DAPOs and DAPNs) scheme will remain free for complainants and the police to give immediate and ongoing protection to victims of domestic abuse.
- Continued support for the DAPOs and DAPNs pilot schemes to enable immediate and ongoing protection of domestic abuse victims, including training for magistrates and judges.
- Consideration of primary legislation to bring children under the age of 16 years under the scope of those who can be protected with a DAPO and DAPN.

Proposal 3: Increase fees for RASSO (rape and serious sexual offence) cases in the Crown Court, and equalise prosecution and defence fees, to retain and recruit the specialist barristers needed for cases involving violence against women and girls

In the Crown Court, there is an increasing number of RASSO cases (nearly one in six cases), but a shortage of criminal barristers due to heavy workload, case complexity and poor remuneration. A survey conducted by the Criminal Bar Association (CBA) in early 2024 found a majority of barristers approved to prosecute and defend RASSO cases would not reapply to the list of accredited RASSO counsel.⁴ Six out of 10 surveyed cited poor fees as the reason for refusing to conduct RASSO cases and half of all those surveyed pointed to poor wellbeing.

We support the CBA call for an equalisation of fees between prosecution and defence, plus an additional £1,500 per case on the Basic Fee, in order to retain and recruit the specialist counsel needed.⁵ To bring the fee paid to the prosecutor in a RASSO case up to the level of a defence barrister in a RASSO case, the Bar Council estimates it would require additional funding of between £1.4m and £1.8m per annum. To add an additional £1,500 per case, at an estimate of 4,350 trials, would be an additional £6.5m per annum.

Conclusion

For victims to have confidence in the justice system, the administration needs to work properly. A real injection of resources not only in the criminal but also in the family justice system is needed to halve violence against women and girls. We urge the government to consider our proposals.

The Bar Council
January 2025

⁴ Criminal Bar Association (February 2024), 'Survey of rape and serious sexual offence: criminal Bar capacity' [CBA-RASSO-Survey-Press-Release-12.02.24-Final....pdf](#)

⁵ Criminal Bar Association (March 2024) submission to the Criminal Legal Aid Advisory Board