



Live Fear Free Helpline

Providing confidential support and information on domestic abuse, sexual violence and violence against women in Wales

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Welsh Women's Aid

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Putting Women & Children First

Justice Commission for Wales

Consultation Response by Welsh Women's Aid

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Name:	<i>Gwendolyn Sterk, Public Affairs Manager</i>
Organisation:	<i>Welsh Women's Aid</i>
Email address:	<i>GwendolynSterk@welshwomensaid.org.uk</i>
Telephone number:	<i>02920 541 551</i>
Address:	<i>Pendragon House, Caxton Place, Pentwyn, Cardiff CF23 8XE</i>
These are the views of:	<i>Welsh Women's Aid (Third Sector) - the national charity in Wales working to end domestic abuse and all forms of violence against women.</i>

About Welsh Women's Aid

Welsh Women's Aid is the umbrella membership organisation in Wales that supports and provides national representation for 23 independent third sector violence against women, domestic abuse and sexual violence (VAWDASV) specialist services in Wales (our membership of specialist services).¹ These services deliver life-saving and life-changing support and preventative work in response to violence against women, including domestic abuse and sexual violence, as part of a network of UK provision.

As an umbrella organisation, our primary purpose is to prevent domestic abuse, sexual violence and all forms of violence against women and ensure high quality services for survivors that are needs-led, gender responsive and holistic. We collaborate nationally to integrate and improve community responses and practice in Wales; we provide advice, consultancy, support and training to deliver policy and service improvements across government, public, private and third sector services and in communities, for the benefit of survivors.

We also deliver direct services including the Welsh Government funded Live Fear Free Helpline; a National Training Service; the national Children Matter programme of work which, for example, supports local services to help children and young people affected by abuse and to deliver preventative Safety, Trust and Respect (STAR) programmes across Wales, and refuge and advocacy services in Colwyn Bay and Wrexham. We are piloting the Survivors Empowering and Educating Services (SEEdS) project, which is empowering survivors of violence and abuse to collectively influence and inform services and commissioning frameworks, and help change attitudes.

We also deliver the Wales National Quality Service Standards, a national accreditation framework for domestic abuse specialist services in Wales (supported by the Welsh Government) as part of a UK suite of integrated accreditation systems and frameworks. (More information on the NQSS can be found here: <http://www.welshwomensaid.org.uk/what-we-do/our-members/standards/>)

1. Introduction

1.1 Welsh Women's Aid has recently held consultation sessions with specialist service providers and survivors for the UK Government's Transforming Responses to Domestic Abuse consultation in which

Pendragon House, Caxton Place | Pentwyn, Cardiff | CF23 8XE

Tel: 02920 541551 | Fax: 02920 736128 |

Email: info@welshwomensaid.org.uk | Web: www.welshwomensaid.org.uk

Registered Charity Number: 1140962



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we have gathered feedback on survivors' experiences of the justice system and the effectiveness of collaborative working on all forms of violence against women, domestic abuse and sexual violence in Wales.

1.2 While violence against women, domestic abuse and sexual violence (VAWDASV) cuts across all areas of government, including health and education, the justice system has a significant role in its prevention, the protection and support survivors and their children, and holding perpetrators to account.

1.3 Central to addressing violence against women, domestic abuse and sexual violence in Wales, agencies must work together across the boundaries of devolved and non-devolved areas of responsibility. Justice system responses to violence against women, domestic abuse and sexual violence in Wales cover criminal, civil and family justice remits. These areas need to work effectively with devolved public sector services and third sector specialist services to ensure a robust and holistic response to perpetrators of abuse.

2. Statistical information highlights the significant number of cases dealt with by the justice system in Wales

2.1 The Crown Prosecution Service¹ produces an annual report that shows the prosecution and convictions of violence against women and girls crime types, including desegregated data for Wales. Last year this showed there were 7,409 'violence against women and girls' crimes prosecuted in Wales in 2016/17 - 75.6% (5,598) of which were convicted. This data report does not cover the very significant number of survivors who supported by our members and our own direct services who feel too scared to report to the justice system or to pick up the phone to ask for help. In the last year 2016-17 Welsh Women's Aid members across Wales provided support for 14,129 survivors and their children, and the Live Fear Free helpline received 30,036 contacts. More needs to be done to ensure that survivors of abuse have confidence to report abuse and to help survivors obtain justice.

2.2 Violence against women and girls is a cause and consequence of gender inequality. Therefore, a systematic approach is needed to raise awareness and increase accountability to create a shift in culture whereby pervasive oppressive gender norms and ideals that are discriminatory to women and girls are no longer acceptable.

2.3 The following points are areas that are pertinent to consider in relation to promoting better outcomes for survivors of violence against women and girls crime types within the justice system for the Justice Commission for Wales. They address the issues that can impact on access to justice, reduction in crime and promoting rehabilitation:

- Adequate training in violence against women, domestic abuse and sexual violence for all professionals working across all areas of the justice system.
- An effective joined-up approach across criminal and family justice systems for improved protection of survivors and their children and more effective action to hold perpetrators to account to prevent abuse.

¹ Crown Prosecution Service, 'Violence against Women and Girls Report: Tenth Edition, 2016-17', CPS, 2017.



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- Special measures available as standard for all survivors in all courts and accompanied by specialist advocacy and support for survivors and children.
- Support improvements in the Family Justice System around violence against women and girls.
- Improved access to legal aid to ensure adequate legal support for survivors.
- Holding perpetrators of violence against women domestic abuse and sexual violence to account for their behaviour and enabling access to accredited perpetrator programmes and interventions
- Civil and protection orders effectively used to hold perpetrators of violence against women domestic abuse and sexual violence to account and prevent further abuse of survivors and their children.
- Improved quality and consistency of data collected by the justice system disaggregated for Wales, including by protected characteristics and the relationship between perpetrator and 'victim(s)'.
- Ensure the support of sexual violence survivors to access justice in a safe and non-judgemental environment.
- Adequate early identification, access to community support and effective diversion for women involved in the criminal justice system or at risk of offending.

3. Adequate training for all professionals working across all areas of the justice system

3.1 Survivors report that there is a need for increased understanding of violence against women domestic abuse and sexual violence across policing, prosecution, courts, prisons and probation professionals. All professionals across the justice system need to be adequately trained at the beginning of their careers and receive on-going refresher training on all forms of violence against women and girls and the impacts on the survivor and their children. Welsh Women's Aid is working with police forces in Wales to roll out 'coercive and controlling behaviour' training. This has been developed alongside South Wales Police and is being well received in regards to supporting learning and education to utilise section 76 of the Serious Crime Act (2015).

3.2 Expert training for family court professionals including judges and magistrates, court staff, lawyers, social workers and CAFCASS Cymru, and effective implementation of the new Practice 12J for family courts guidance is also paramount to survivors' access to justice. Welsh Women's Aid contributes to CAFCASS Cymru Stakeholder Advisory Board and to their coercive control training.

3.3 Survivors have also raised that the police and other justice system professionals need training to address any unconscious bias perpetuated by their own negative assumptions of gender roles and how this may intersect with sex, race, disability, age, sexuality and class. In addressing multiple disadvantage it is also important to address structural issues which impact on a survivor's experience. Survivors who face multiple barriers to accessing support, like experiencing substance misuse, mental health concerns, homelessness, exploitation through the sex industry, insecure immigration status or involvement in the criminal justice system, may also have cumulative or multiple experiences of violence against women and girls crime types. Survivors' experiences can be exacerbated because they are frequently labelled as an 'offender', 'benefit claimant' or 'mental health client', which can lead to



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secondary abuse by the systems that should offer protection, support, safety and justice.² Mechanisms need to be in place to enable any form of sexism or other prejudice to be identified and challenged so that all officers are held to account on how their behaviour or assumptions may negatively impact on someone reporting violence against women domestic abuse and sexual violence.

3.4 The justice system needs to adhere to a trauma-informed approach that recognises that trauma can impact on a survivor’s ability to engage and remain engaged in support. The onus should be on courts and support agencies to take action to facilitate engagement through the recognition of the experience of trauma and its impact on someone’s emotional, cognitive and psychological well-being.³ For this to be effective guidance and training must be provided to all relevant court officials in partnership with specialist services.

3.5 At present training is ad hoc and inconsistent across the system. Justice systems professionals do not necessarily have violence against women and girls training as part of their vocational or career development training. It is not standardised across professions and there is little or no accountability. The Judicial College is responsible for the content and delivery of training for judges and magistrates on domestic violence issues, including the identification of domestic abuse, the dynamics involved in domestic abuse and the impact it has on survivors and children. The President of the Family Division has stated that the Judicial College is providing the judiciary with high quality and up-to-date training in domestic abuse.⁴ This needs to be effectively aligned to the Welsh VAWDASV context and ensure that it covers all forms of violence against women, domestic abuse and sexual violence.

3.6 It cannot be stated clearly enough that this lack of consistent training and awareness directly contributes to the culture of shame and silence that perpetuates and colludes with all forms of violence against women domestic abuse and sexual violence, which the Justice Commission for Wales has the opportunity to identify and challenge in order to protect those who are the most vulnerable, and allow them direct access to justice.

3.7 Recommendations to improve the justice system in Wales:

- 1) A formalised, standardised ‘Violence against Women and Girls’ training plan needs to be established as part of the framework of each level of the legal and judiciary system that aligns to the Welsh Government National VAWDASV Strategy 2016-2021.⁵
- 2) Violence against women and girls training needs to include all aspects of violence against women, domestic abuse and sexual violence and be developed and co-delivered with specialist services and survivors to ensure that it is informed by experience and aligns with referral pathways to specialist support.

² Against Violence & Abuse (AVA) & Agenda, ‘Mapping the Maze: Services for women experiencing multiple disadvantages in England and Wales’, AVA & Agenda, 2017.

³ E. Giller, ‘What is Psychological Trauma?’, Sidran Institute: Traumatic Stress Education and Advocacy, <https://www.sidran.org/resources/for-survivors-and-loved-ones/what-is-psychological-trauma/>

⁴ <https://www.judiciary.gov.uk/wp-content/uploads/2017/01/PD12J-child-arrangement-domestic-violence-and-harm-report-and-revision.pdf>

⁵ <https://gov.wales/docs/dsjlg/publications/commsafety/161104-national-strategy-en.pdf>



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- 3) Judges need specific training on violence against women domestic abuse and sexual violence Attitudes need to be challenged within training, as if they have a negative unconscious bias they should be removed from the case.
- 4) There needs to be specific training on coercive and controlling behaviour for justice system professionals, particularly the police and CAFCASS Cymru, to improve identification of and responses to survivors and perpetrators to minimise how the family court system can perpetuate abuse post relationship.
- 5) Training needs to be refreshed and updated to allow for changes in legislation and staff turnover.

4. An effective joined-up approach across all courts for improved protection of survivors and their children.

4.1 There is a need to ensure that there is joined-up decision making in family and criminal courts and more effective joint working with other agencies, including devolved public sector and specialist third sector services. Survivors have spoken of a lack of a joined up approach between criminal and family court cases, where in some cases family court professionals were not aware there was also a criminal case being investigated, and of the lack of understanding by family court professionals specifically of the impact of domestic abuse on a survivor and their family.

4.2 Survivors' experience between different systems is often contradictory and conflicting, which is a direct result of the gaps in services and, in some instances, the different messaging and advice survivors receive in regards to protecting the welfare of their child / children. An example of this is a family court child arrangement order being issued by judges, which could put the children at risk due to on-going abuse and controlling behaviour by the non-resident parent. At the same time, survivors contact the police or children's services to report domestic abuse and are advised that they needed to 'keep the children safe' by prohibiting contact with the perpetrator, only then to be advised they are in breach of family court orders.

4.3 Recommendations to improve the justice system in Wales:

- 1) Improved information sharing between family and criminal courts to ensure that there is consistency in approach t focused on the safety of the survivor and their children informed by a good understanding of the risks the perpetrator poses to the survivor and their children.

5. As part of a trauma informed response, special measures should be offered as standard for all survivors in all courts and accompanied by specialist advocacy and support.

5.1 Support for survivors across the justice system should include an assumption that all survivors of violence against women, domestic abuse and sexual violence need special measures, unless they state otherwise. Survivors of abuse should also have a right to independent advocacy and support before, during and after court proceedings and a legal right that they will not be cross examined by their perpetrator. It is essential that all survivors are treated as eligible for special assistance to ensure they are able to provide their best evidence and have fair and equal access to justice.

5.2 Across Wales, there has been a loss of Specialist Domestic Violence Courts (SDVCs) and a reduction in the provision of courts in local areas. This has been specifically raised in North Wales, where courts



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are covering large geographic areas that are not well connected. This means survivors have to travel significant distances to attend court and may not have had the opportunity to meet with court advocates prior to the court date. It has also lead to issues of ‘funneling’ where survivors are more likely to encounter their perpetrator when traveling on limited public transport to a more remote court. Similarly, survivors and services are reporting that special measures are not in place when they have been requested, court rooms used are not appropriate even when raised by advocates (i.e. survivor has to walk closely past the defendant to the witness box or screens have fallen down). Survivors also report having limited opportunity for discussions with the prosecuting counsel.

5.3 In addition to the loss of SDVCs, specialist service providers have reported a reduction in relationships with their local Crown Prosecution Service and witness care units, this is often due to the reduction in services based in their local area. These relationships between specialist services and criminal justice agencies at a local level can be critical in ensuring survivors are at the heart of the justice process. For survivors it is often vital for the provision of clear information, clarity on expectations and reasoning around decision making, and to ensure clear referral pathways to support throughout the process.

5.4 The courts service needs to have the equipment and training to ensure all survivors can access the right special measures for their case. The use of video links and screens should be fully discussed with the survivor, as the measures need to be appropriate for the case. Survivors reported that they wanted to be consulted on the special measures. To ensure that this is the case all survivors must have the right to being supported by an independent specialist advocate. The independent advocacy should be specialist in violence against women, domestic abuse and sexual violence, and available to all survivors across the whole of the justice system. Specialist advocacy can have a significant impact on justice outcomes and reduce the numbers of victims ‘disengaging’ from the system. There are very poor outcomes in the criminal justice system for women who have insecure immigration status and the lack of consistent police response, the varying protocols on how to deal with reports, and the insistence by some forces to move straight to an immigration enforcement response is contributing to this failure. So access to specialist advocacy and support is particularly helpful for all women and has a particular impact on Black and minority ethnic (BME) and marginalised women. Access to specialist advocates like IDVAs (Independent Domestic Violence Advisors) and ISVAs (Independent Sexual Violence Advocates) should be a guaranteed offer to all survivors, and sufficiently resourced so that a trusting relationship can be built with the survivor prior to key dates.

5.5 Advocacy support in Wales is often commissioned/funded by local authorities as well as police and crime commissioners, it is therefore vital that there is join up between devolved and non-devolved commissioning agencies to ensure that there is sufficient support provision for all courts. Without joined up commissioning funding for specialist services providing advocacy can be significantly reduced. For instance, the loss of Home Office funding in 2016-17 has contributed to a 49% reduction in funding allocated to ISVA services in the third sector in Wales.⁶

5.6 Recommendations to improve the justice system in Wales:

⁶ <http://www.welshwomensaid.org.uk/wp-content/uploads/2017/12/WWA-State-of-the-Sector-2017-ENG.pdf>



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- 1) Guarantee special measures are available for survivors of violence against women and girls including separate entrances and waiting areas, screens and video links and ensure they are provided in consultation with the survivor across family and criminal courts.
- 2) In line with the commitment in the National VAWDASV Strategy 2016-2021 to provide a model for sustainable funding for specialist services, ensure joined up commissioning for the provision of specialist advocacy support for survivors to accompany them to all court proceedings.
- 3) Assess the impact of the loss of SDVC provision and local justice system offices in Wales, particularly in rural areas and take action to increase the access to courts that specifically provide a safe and supportive environment for domestic abuse cases across Wales.

6. Support improvements in the Family Justice System

6.1 Research undertaken by an independent facilitator, for Welsh Women's Aid, with 69 survivors of violence and abuse across Wales specifically recommended *"improved awareness of and response to violence against women, domestic abuse and sexual violence by professionals involved in the family justice system (CAFCASS Cymru, judges and court personnel, contact centres), and safe child contact with parents/carers following separation, in cases of domestic abuse and sexual violence."*⁷

6.2 Survivors have spoken explicitly of perpetrators using the family court system to continue to abuse and control them, and of the family justice system prolonging and reinforcing the abuse they had experienced. They felt the system promotes the abusive parent's right to see their children in a way that overrides the rights, safety and well-being of children, during family court proceedings, despite the intent of the law to put the child's safety, wishes and feelings first. They reported that domestic abuse perpetrators were using family courts and child arrangement order applications as a mechanism of ongoing control and that these concerns were either not understood or dismissed by the court and related agencies.

6.3 Children who have experienced domestic abuse may continue to be placed at risk and be fearful of further abuse from the non-resident parent/perpetrator if a contact order is in place. This is a continuation of abuse on the child / children, however it is not recognised nor is any support offered to negate this harm. Children themselves may also be used by perpetrators to perpetuate their abuse against the resident parent, and will not necessarily associate this behaviour with abuse. Children's rights (under the UN Convention of the Rights of the Child) to remain in contact with both parents on separation *unless this causes them harm*, as well as their rights to safety and protection and support from abuse, and to be involved in decision-making about their lives, must be upheld by the family justice system in Wales.

6.4 Survivors felt that the family justice system was a 'patriarchal system' where the 'mother's role is used against her,' whereby, as one survivor said: 'if you step up in your role to be protective, you're penalised. If you're continually contacting police or social services, you're malicious.' This negative

⁷ Y. Rehman, 'Are you listening and am I being heard? Survivor Consultation: A report of the recommendations made by survivors of violence against women, domestic abuse and sexual violence, to inform the National Strategy in Wales', <http://www.rhianbowendavies.com/wp-content/uploads/2016/09/Are-you-listening-and-am-I-being-heard-FINAL-July-2016.pdf>, Welsh Women's Aid, 2016.



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perception of motherhood, inequality and gender permeates the system at every level and is a key component in the on-going oppression of families within the context of domestic abuse.

6.6 We have also been told by survivors that they feel perpetrators are capitalising on the opportunity of cross-examining survivors in family courts as a method of continuing their abuse, and preventing survivors from safely being able to access justice after the relationships has ended. The UK Government has committed to prohibit perpetrators from cross-examining victims in the family and criminal justice systems through new legislation. Welsh Women's Aid has recommended that this legislation should be laid as soon as possible either in the proposed Domestic Abuse Bill, or the Courts Bill.

6.7 Recommendations to improve the justice system in Wales:

- 1) Support legislation that bans the cross examination of survivors by their abusive ex-partners across family as well as in the criminal courts.
- 2) Ensure there is adequate understanding of the impact of coercive control on children to inform child arrangement orders and safeguarding decisions.
- 3) Ensure the provision of sufficient accredited supervised contact centres in Wales and the prohibition of 'unsupervised' contact where a case is awaiting trial, on bail or there are ongoing criminal proceedings for domestic or sexual abuse.
- 4) Revoke the presumption of shared parenting enshrined in legislation, when children have been harmed from, and continue to be at risk of, domestic or sexual abuse.

7. Access to legal aid to ensure adequate legal support for survivors.

7.1 The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO) has curtailed legal aid in England and Wales. Women are significantly more reliant on legal aid than men, so this had a devastating impact on their access to justice and enforcement of rights.

7.2 Survivors and their families are also usually the ones experiencing on-going economic abuse, being left in debt or other financial restrictions post separation. They then face the costs of the legal system and having limited access to legal aid has led to survivors being forced into self-representing and navigating their way through the process with no advice, guidance or support.

7.3 Survivors have spoken about the significant financial challenges of pursuing justice or protecting their children, such as the requirement to borrow against the value of their home, putting themselves at further precarious risk. *"Perpetrators should not be allowed to increase hearings, as you need money to apply for prohibitive orders (e.g. restraining orders)."* – Abby⁸ (survivor)

7.4 Recommendations to improve the justice system in Wales:

- 1) Look at how the Welsh Government can support survivors impacted by ongoing legal costs. In particular, there needs to be an end to the capital means test, which treats equity in homes as funds available towards legal costs from the eligibility process for legal aid, to ensure survivors are able to access justice.

⁸ Name changed



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8. Holding perpetrators to account for their behaviour and enabling access to accredited perpetrator programmes.

8.1 The success of any response to perpetrators is to restrict their 'space for action' and reduce their ability to abuse. This can be achieved through behaviour change, but also by limiting the opportunities a perpetrator has to be abusive. Every local community needs a whole system approach to violence against women, domestic abuse and sexual violence perpetrators that puts the safety, wellbeing and freedom of survivors and children at its heart. This approach should include:

- Coordinated multi-agency action
- Early intervention
- Assessment of harm, capacity to change and need
- A range of responses
- Intensive case management
- Justice
- Disruption activities
- Behaviour change programmes
- Principles and standards

8.2 Key to the management of perpetrators and protection of survivors is an effective criminal justice system. High quality evidence gathering to ensure a successful prosecution where crimes have been committed is essential, as is appropriate sentencing and robust management of offenders. Despite improvements, the attrition rate for domestic and sexual violence is still far too high. In cases where there isn't enough evidence to prosecute, other sanctions can be employed, such as a Domestic Abuse Prevention Order or Out of Court Disposal, to restrict and manage perpetrators. It is essential that these options are only used where the threshold for charging has not been reached, and not as a diversion from prosecution.

8.3 Perpetrator behaviour change is the best long-term solution to domestic abuse. For those ready, willing and able to change there is clear evidence from the Mirabal research findings⁹ that Respect accredited¹⁰ programmes have a positive effect, particularly in reducing physical and sexual violence. Currently only a small proportion of perpetrators of violence against women, domestic abuse and sexual violence have access to a specialist intervention which gives them opportunities to change their behaviour, which manages the risk they pose and is centred on increasing the safety of survivors. Very few public sector agencies focus on perpetrators or have a strategy for managing the risk that they pose. Welsh Women's Aid is working in partnership with Respect UK,¹¹ South Wales Police and local specialist providers to develop, test and evaluate an approach to perpetrators which aligns with the Change that Lasts Model¹² that is targeted, needs-led, designed to keep survivors safe, reduce further abuse and change the lives of the families affected.

⁹ <https://www.dur.ac.uk/resources/criva/ProjectMirabalfinalreport.pdf>

¹⁰ <http://respect.uk.net/wp-content/uploads/2017/02/Respect-Standard-15.11.17.pdf>

¹¹ www.respect.uk.net the UK lead on work with perpetrators of domestic violence and abuse

¹² <http://www.welshwomensaid.org.uk/what-we-do/our-approach-change-that-lasts/>



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8.4 It is essential that statutory services beyond criminal justice take a lead in responding to violence against women, domestic abuse and sexual violence perpetrators, and is not solely seen as a criminal justice issue. This should include training on identifying and responding to perpetrators as well as survivors. This training must be informed by evidence-based practice in responding to perpetrators, we would advocate that this falls within the principles of Respect UK standards¹³ that put the safety of the survivor and their children at their heart. This means providing a service which reduces the risk to survivors of violence and abuse, is gender-informed and provided by well trained and supported staff.

8.5 Access to perpetrator programmes that are aimed to create sustainable change and ensure the safety of the survivor and their children must be available for those outside of the criminal justice system. These need to be sufficiently resourced alongside the support work for the survivor and their children.

8.6 Evidence based interventions with perpetrators of all forms of violence against women, domestic abuse and sexual violence must be available consistently across Wales. It is critical that effective interventions are researched and provided for sexual violence offenders, both in custody and out in the community. Currently the research and evidence based practice on sexual violence offender interventions has limited profile in Wales.

8.7 Beyond direct work with perpetrators, it is essential that broader, strategic and resourced work takes place in all communities to proactively name, tackle and prevent all forms of violence against women, domestic abuse and sexual violence. Such work would help ensure an unambiguous message to perpetrators that abuse will not be tolerated. This includes wide-scale community and national media campaigns including a zero tolerance message.

8.8 Recommendations to improve the justice system in Wales:

- 1) Ensure an effective criminal justice system that holds perpetrators to account. This includes high quality evidence gathering to ensure a successful prosecution where crimes have been committed, and appropriate sentencing and robust management of offenders.
- 2) Ensure, in cases where there isn't enough evidence to prosecute, other sanctions can be employed, such as protection and prevention orders, reverse tagging and other disposals available to public services to restrict and manage perpetrators. It is essential that these options are only used where the threshold for charging has not been reached, and not as a diversion from prosecution.
- 3) Ensure that training and guidance for statutory services on identifying and responding includes information dealing with perpetrators of VAWDASV.
- 4) Ensure there is access to perpetrator programmes that are aimed to create sustainable change and operate within the principles of Respect UK standards that put the safety of the survivor and their children at their heart, and that there is sufficient resourcing provided to deliver all aspects of the programme.

¹³ <http://respect.uk.net/what-we-do/accreditation/>



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9. Civil and protection orders effectively used to hold perpetrators to account and prevent further abuse of the survivor and their children

9.1 Welsh Women's Aid has heard evidence from specialist services of Domestic Violence Protection Orders being used to varying degrees across Welsh police forces. There are concerns that the cost of orders is inhibiting their use where police forces are attempting to manage lower budgets.

9.2 The Protection order system must (1) have the survivor's consent and support at its heart (2) proactively prevent further perpetration and hold the perpetrator to account for their actions. The monitoring of the compliance with the orders/notices often falls to the survivor, it is critical that there is sufficient resourcing to make sure that the monitoring of compliance is focused on the perpetrator and their actions. Welsh Women's Aid has welcomed the UK Government's proposal to make a breach of an order an arrestable offence.

9.3 Recommendations to improve the justice system in Wales:

- 1) Survivor consent to orders and notices is sought as part of the process.
- 2) The provision of protection orders should be aligned to advocacy and other specialist support for survivors.
- 3) Monitoring of compliance should be sufficiently resourced to ensure that it does not fall to the survivor to monitor.

10. A need to improve the quality of data collected by the justice system in Wales

10.1 There needs to be national oversight of the consistency in data collection across the justice system in Wales that adequately monitors practice to ensure consistent high quality approaches, to give an accurate picture of violence against women, domestic abuse and sexual violence within the justice system.

10.2 There is a significant lack of consistency in the collection and collating of data across the justice system. This was raised in regards to policing by Her Majesty's Inspectorate of Constabulary and Fire and Rescue Services (HMICFRS) report that raised continuing cause for concern in regards to poor-quality data on domestic abuse.¹⁴ Data systems across policing, crown prosecution services and other courts do not currently correlate to give an accurate picture of the system wide response in Wales.

10.3 This data is vital to provide evidence of the response by the justice system and how effective it is in providing access to justice, and achieving outcomes that adequately address violence against women, domestic abuse and sexual violence in order to continue to improve conviction rates and encourage women to have confidence in a justice system that works for them.

10.4 It is essential that more effective data about perpetrators and survivors, along with the frequency of incidents (with no upper limit on number of incidents) is collected to ensure a real picture of the prevalence and harm caused by these crime types, so that this is better understood by agencies. More information about the type of harm, covering all the different types of abuse and the context in which it happened would be extremely useful. The relationship between perpetrators and survivors should

¹⁴ <https://www.justiceinspectorates.gov.uk/hmicfrs/wp-content/uploads/progress-report-on-the-police-response-to-domestic-abuse.pdf>



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be collected, disaggregated by protected characteristics, to ensure a full understanding of the gender dynamics of these types of violence and abuse. Information about the household, and others including children within the household is very relevant to ensuring collected data is useful.

10.5 Recommendations to improve the justice system in Wales:

- 1) Sustainably fund specialist services to collate data to evidence the needs of survivors in order to offer them the support and protection they need to achieve independence.
- 2) Ensure more comprehensive data on perpetrators and 'victims' is recorded and data is shared across relevant agencies in order to improve practice.

11. Ensure the support of sexual violence survivors to access justice in a safe and non-judgemental environment.

11.1 Survivors of sexual violence need support to ensure they feel able to talk about their experience in a safe and non-judgmental environment. In Wales only 55.4% of rape cases that get to court were successfully convicted in 2016-17¹⁵. For sexual offences (excluding rape) crimes in Wales the conviction rate was 79.2%.¹⁶ These statistics only represent a small percentage of the rapes, sexual assaults and other sexual violence that occur every year in Wales as it is estimated that only 15% of rapes are reported to the police in the first place.¹⁷ It is crucial that survivors are able to have confidence in the criminal justice system to come forward to report sexual violence in the first place, without fear of being labelled, blamed or judged during the court hearing.

11.2 An area of current court practice that can have negative impact on the survivor and their access to justice is the allowance of questions about the prior sexual history of survivors to be introduced during a trial under Section 41 of the Youth Justice and Criminal Evidence Act 1999. This may re-traumatise, blame and judge survivors for previous behavior or appearance, which are not relevant to the case. Research has shown that in a significant minority of rape trials the complainants' previous sexual history is being used in evidence - often without the defence even making an application to the judge for permission.¹⁸

11.4 We have seen Section 41 used in the high profile case of Ched Evans in Cardiff Crown Court. His defence team's argument hinged on the complainants' alleged behaviour towards Evans being 'so similar' to her behaviour with other partners, that it could not reasonably be described as a coincidence on these grounds.

11.5 A recent report¹⁹ by the Crown Prosecution Service highlighted the impact of concerns were raised over how disclosure was handled by the CPS and the police. Complainants are now being required to supply a vast quantity of their personal data, including all electronic communications, medical and social service records. The process needs to recognize the fears survivors have about not

¹⁵ Crown Prosecution Service, 'Violence against Women and Girls Report: Tenth Edition, 2016-17', CPS, 2017

¹⁶ Ibid

¹⁷ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/214970/sexual-offending-overview-jan-2013.pdf

¹⁸ <http://limeculture.co.uk/wp-content/uploads/2017/11/Application-of-Section-41-JYCEA-1999-ISVA-Survey-September-2017-Final.pdf>

¹⁹ <https://www.cps.gov.uk/cps/news/cps-publishes-outcome-sexual-offences-review>



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being believed, invasion of their privacy, and the potential for being treated as if they're on trial themselves can play a significant part in the decision not to report these crimes.²⁰

11.6 There have also been improvements to the court process for sexual violence survivors. Welsh Women's Aid welcomed the announcement in March 2017 by the previous Justice Secretary, Liz Truss MP, for new measures that will spare sexual violence survivors the trauma of giving evidence in open court. This has sent a critically important message that anyone who has been raped or sexually abused should not have to experience psychological trauma associated with giving evidence in front of their alleged abuser in court.

11.7 Further confidence can be developed through increasing awareness of communities across Wales of sexual violence and ensure there is a clear understanding of sexual consent. Welsh Women's Aid has welcomed the Welsh Government announcement that Relationships and Sexuality Education (RSE) will become a statutory part of Wales' new curriculum for children aged five to 16, from 2022. It is also critical to have a commitment to dispelling myths and raising awareness and understanding of sexual violence, as well as providing services to survivors in wider communities across Wales. It is particularly important in regards to juries, as these are made up from members of our wider communities. Ensuring jury members have the information to challenge rape myths and a clear understanding of sexual consent is vital to ensuring conviction in cases of sexual violence.

11.8 Sexual violence services are also critical to ensuring survivors can access justice. Sexual violence services have received a significant reduction in funding levels between 2016/17 and 2017/18, while demand has continued to increase. One sexual violence specialist service in Wales has seen an increase in demand of 78% for one service area over a three year period.²¹ Welsh Women's Aid's survey of specialist services in Spring 2017 showed a reduction of 20.2% of funding with the loss of Home Office funds, which was not picked up by local commissioners (as had been expected by the Home Office). Further reductions in contracts with the Welsh Government from the Department of Health and Social Services also impacted these services, with a 60% funding reduction from all departments combined.²² Support services are vital in enabling sexual violence survivors to have the confidence to report and to support them to contend with the psychological trauma of a criminal justice process.

11.9 Recommendations to improve the justice system in Wales:

- 1) Promote the dispelling rape myths and raising awareness and understanding of sexual violence across wider communities in Wales.
- 2) Ensure jury members have the information to challenge rape myths and a clear understanding of sexual consent.
- 3) Ensure that there is specialist provision including ISVA, SARC, rape support centres and therapeutic support to ensure sexual violence survivors have adequate support alongside a criminal justice process.

²⁰ <https://rapecrisis.org.uk/news/rape-crisis-responds-to-cps-report-on-disclosure-of-evidence>

²¹ Welsh Women's Aid, 'Report to National Task and Finish Group to inform the development of a Model for Sustainable Funding for VAWDASV Specialist Services in Wales', 2017.

²² Welsh Women's Aid, 'Report to National Task and Finish Group to inform the development of a Model for Sustainable Funding for VAWDASV Specialist Services in Wales', 2017.



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- 4) Ensure there is adequate support for sexual violence survivors who chose not to report sexual violence.
- 5) Support the case for an amendment of Section 41 of the Youth Justice and Criminal Evidence Act 1999 to exclude the admission of any sexual behaviour of the survivor with a third party in court as evidence of consent and to ensure that the survivor has adequate representation to address.

12. Adequate support for women involved in the Criminal Justice System.

12.1 The Corston Report²³, a seminal review into women in the criminal justice system, was published in 2007. Over ten years on, Women In Prison have produced an audit of the progress made towards the recommendations made by Baroness Corston.²⁴ The original report was created because of the number of women dying in custody, but unfortunately these numbers are again on the rise with 12 self-inflicted deaths of Welsh women in prisons in 2016, the highest numbers since 2004.²⁵

12.2 Thousands of women are inappropriately criminalised every year to the detriment of individuals, families and communities. For many women it is their repeated victimisation which has led to involvement in the justice system. A large number of the women involved in the justice system have acute and multiple unmet needs. It is crucial that services in the community for these women are prioritised - the criminal justice system must not be the gateway to access services. Most women involved in the criminal justice system will be victims of domestic abuse (65%), sexual violence, exploitation or other forms of violence against women, and their offending is often related to this. Women involved in the criminal justice system are 5 times more likely to have mental health problems than women in the general population. 41% women remanded by the Crown Courts are not convicted and do not go on to receive a prison sentence, and nearly half.

12.3 Money is not being spent in the right places. Thousands of women are sentenced each year to serve expensive and destructive short term prison sentences, yet successful women's centres and diversion schemes are poorly and insecurely funded. Women suffer disproportionately to men when imprisoned, with higher rates of anxiety and depression to men. The difficulties faced by mothers and women in prison have also been shown to often be worse than those experienced by fathers and men.²⁶ Most women serve very short sentences. In the 12 months ending June 2014, 9,204 women entered custody either on remand or under sentence (Ministry of Justice, 2015). Of those serving a sentence, 77 % were sentenced to less than twelve months, 71 % less than six months 52 % less than three months. 83% women in prison have committed a non-violent offence.

12.4 Improved mental health responses in custody are important, but there should also be a priority focus on diversion from the justice system including from custody for women, as recommended by Corston. Recent numbers published by the Wales Governance Centre Report show that the

²³<http://webarchive.nationalarchives.gov.uk/20130206102659/http://www.justice.gov.uk/publications/docs/corston-report-march-2007.pdf>

²⁴<http://www.womeninprison.org.uk/research/reports.php?s=2017-03-07-corston-10>

²⁵ Jones, R., *Imprisonment in Wales: A Factfile*, Wales Governance Centre at Cardiff University & University of South Wales, p.26. <http://sites.cardiff.ac.uk/wgc/files/2018/06/WGC-Report-Imprisonment-FinalPDF.pdf> (accessed 08.06.18).

²⁶ Ibid.



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overwhelming majority of Welsh women in prison have been convicted of non-violent offences for a term of less than six months.²⁷ Diversion to non-custodial sentences would therefore be of benefit to the majority of those women, along with the welfare of their children and families.

12.5 The Women's Pathfinder Programme in Wales has been working with specialist services for women involved with the criminal justice system. A number of Welsh Women's Aid members provide dedicated support for women involved with the criminal justice system including diversion schemes, and also deliver resettlement support to women exiting prisons in England.

12.6 Recommendations to improve the justice system in Wales:

- 1) Ensure sustainable women-centred services are provided across Wales that support women in the community and prevent or divert women from the justice system.
- 2) Resource and capacity build existing networks of women-centred women's services - supported by government drawing on cross departmental budgets on three to five year funding cycles - so they can support women in conflict with the criminal justice system.
- 3) Develop an effective national strategy to meet the needs of women involved in the criminal justice system, and ensure no women's prison is built in Wales.

Welsh Women's Aid would like to thank the Justice Commission for Wales for the opportunity to provide written evidence on this important issue. Welsh Women's Aid is also available to provide further written and oral evidence around this issue if required.

Any comments or questions regarding our response can be directed to:

Gwendolyn Sterk – Public Affairs Manager

02920 541 551

GwendolynSterk@welshwomensaid.org.uk

ⁱ Our membership of 23 third sector violence against women, domestic abuse and sexual violence specialist services in Wales, with whom we have national partnership agreements to ensure our work is coordinated and integrated includes: Aberconwy DAS, Atal y Fro, Bangor and District Women's Aid, Clwyd Alyn Housing Association (CAHA) Women's Aid, Stepping Stones, New Pathways, Safer Merthyr Tydfil, Carmarthen Domestic Abuse Service, Calan DVS, Cardiff Women's Aid, Cyfannol Women's Aid, Domestic Abuse Safety Unit (DASU), Gorwel (Grwp Cynefin), Montgomeryshire Family Crisis Centre, Newport Women's Aid, North Denbighshire Domestic Abuse Service, Port Talbot & Afan Women's Aid, RCT Women's Aid, Safer Wales (including Dyn Project), Swansea Women's Aid, Threshold, West Wales Domestic Abuse Service and Rape and Sexual Abuse Support Centre (RASASC) North Wales.

²⁷ Ibid, p.22.