

## A guide to the domestic abuse Act 2021

The original and amended text can be found on [legislation.gov.uk](https://legislation.gov.uk)

This guide is designed to help laypeople understand the legislation without the confusion that comes with trying to understand legal terms.

### PART 1 Definition of domestic abuse

For the purpose of this Act domestic abuse is defined by the following: the behaviour of one person towards another over 16-years of age, connected to each other and the behaviour can be defined by one of the categories of abuse.

The categories of abuse are as follows: physical, sexual, violent or threatening behaviour, controlling or coercive, economic or financial, psychological or emotional.

It doesn't matter if this is a single or ongoing issue. This also includes if one person as defined by this Act stops the other person from having access to money or property or obtains goods in the other person's name without consent.

Further to the above is one person's behaviour is directed towards the other person's child, using the child as a weapon.

### Part 2 Definition of personally connected.

As we live in a diverse community the definition of personal connection for the purpose of this Act can be defined by a broad range of terms. These terms include the following, they are or have been married to each other, they are or have been in a civil partnership, they had agreed to marry even if they no longer intend to. They entered into a civil partnership agreement even if they have terminated this agreement. They are or have been in an intimate relationship, they are related to each other or they have at some point had a parental relationship towards the same child.

Where the two people have at some point had a parental relationship for the same child, this can be further defined by the following: they were the parent of the child or they had parental responsibility for the same child.

### 3. Children as victims of domestic abuse.

This section sets out that a child, meaning an individual under the age of 18 can be classed as a child victim of domestic abuse if the following apply: they see, hear or experience the effects of domestic abuse. They are related to either of the adults in the house.

This is an important part of this Act because it links the domestic abuse to the children within the house. As such, if you are in a domestic abuse situation as described in section 2 of this Act and you have children living with you the abuse you go through is linked to your children. It also means that if you are the abuser that the abuse you put your partner through is also abuse towards the children within the house. Basically, where a lot of parents and or adults thought that abuse towards their partner did not impact on the children because they were not abusive directly towards the children this Act states that this is now classed as abuse towards the child as well as the other adult.

## PART 2

## The Domestic Abuse Commissioner

## 4. Appointment of Commissioner.

The secretary of state has to appoint a domestic abuse commissioner, who will take and vacate office in accordance with the terms they are given and that this commissioner will not have immunity or privilege of the crown.

## 5. Funding

This section states that the commissioner will be paid by parliament as per terms and conditions set out by the secretary of state. Basically, this position is a paid job.

## 6. Staff etc

Let's be honest here, we all understand that the commissioner will need an office and enough staff to help them do their job. However, the government like to set these things out in legislation so that everyone knows that the job comes with an office and staff.

## Functions of Commissioner

## 7. General functions of Commissioner

The commissioner has a number of job roles where domestic abuse is concerned and I for one do envy them their tasks when the legislation is not currently being followed correctly by those who are supposed to follow them.

The commissioner has been given the task to encourage good practice in the prevention of domestic abuse, the detection, investigation and prosecution of domestic abuse as well as other roles which will be set out below in this section.

As part of the last paragraph, it is the commissioner's duty to try and identify victims and perpetrators of domestic abuse as well as identify the children who are witnesses and 3<sup>rd</sup> party victims to domestic abuse as well as the provision of protection and support for those who are going through domestic abuse.

In pursuance of their general duties the commissioner has to assess, monitor and publish information about the provision of services for people affected by domestic abuse. They are also supposed to make recommendations to any public authority about how they are supposed to be protecting and supporting these victims.

Help or support research into domestic abuse, which may include financial contributions. As well as provide information, education and or training as well as raising public awareness of domestic abuse, by means of consultation with public authorities, voluntary organisations or other persons.

There also a provision for co-operating or working jointly with organisations and other persons in England and Wales. Although there are restrictions on what the commissioner can do in regards of Wales.

## 8. Reports

This section sets out that the commissioner has to send a draft of the reports to the secretary of state and that they have to publish their reports. But they have to comply with GDPR in respect of ensuring the safety of any person, which includes omitting information that could identify an individual or prejudice any investigations and or court proceedings.

## 9. Advice and assistance

The commissioner may advise people or assist in relation to them carrying out their role in relation to helping victims of domestic abuse. As long as this help and or assistance does not break GDPR or prejudice any investigation and or court proceedings.

## 10. Incidental powers

The commissioner can do a lot of things in relating to carrying out their role but they can't borrow any money.

## Framework document

### 11. Framework document

There is a framework that deals with the matters pertaining to the commissioner and this framework should be published.

However, the secretary of state needs to keep this framework under constant review and may revise this framework if needed with the agreement of the commissioner.

## Advisory Board

### 12. Advisory Board

The advisory board must include between 6 and 10 persons who are willing to advise the commissioner and be appointed by the commissioner.

This board will include a person who can represent different aspects such as social care, police, victims, charities, health, academic expertise. These board members are to help the commissioner in fulfilling their duty and will be paid for their time.

## Strategic plans and annual reports

### 13. Strategic plans

This section sets out that the commissioner has to write and publish a plan of strategy in relation to their duty and ensure this is given a time limit of between 1 and 3 years. Hopefully the commissioner will break this huge topic into bite size pieces that can be achieved within the time constraint. This strategy can of course be revised and the plan as well as any revisions are to be published.

### 14. Annual reports

It is of course compulsory that there is an annual report which outlines what has been achieved within the previous financial year. Expect to see a lot of these annual reports as the commissioner is trying to abolish domestic abuse, which has been prevalent within society for over 100 years and like a lot of other issues like, child abuse it will take years for this to be eradicated from society.

## Duties of public authorities in relation to Commissioner

### 15. Duty to co-operate with Commissioner

This section sets out that specified public authorities are to wherever reasonable comply with what they are told by the commissioner.

These public authorities include but are not restricted to the following: police, including transport and ministry of defence police, immigration, crown prosecution services, parole board, English local authorities, NHS England, and any other body the commissioner names.

### 16. Duty to respond to Commissioner's recommendations

It doesn't take a brain surgeon to understand that if the commissioner recommends something that those who need to can respond to those recommendations, However, the government have decided that this needs to be made very clear in respect of this Act.

### 17. Duty to send conclusions of domestic homicide review to Commissioner

Most civilians will not need to cite this section of the Act as they are not in a position to send this information to the commissioner.

## Disclosure of information

### 18. Disclosure of information.

Pretty much if you contact the commissioner for any reason, you are giving the commissioner permission to share your information if the information you provide is in relation to their role or function as a commissioner. However, patient information will be withheld. GDPR of course will be observed.

## Miscellaneous and supplementary

### 19. Restriction on exercise of functions in individual cases

The Commissioner may not get involved in individual cases, so if you were thinking to complaining to the commissioner in regards to the treatment you are receiving or not receiving as a victim of domestic abuse please don't think that they can resolve your individual issue. They can however, use the information you supply to draw an overall conclusion in regards to services or lack of them.

### 20. Duty to report on domestic abuse services in England

This section sets out that the commissioner writes a report regarding domestic abuse and services in England.

### 21. Amendments relating to Commissioner

Sets out amendments in relation to this Act.

## PROSPECTIVE

## PART 3

## Powers for dealing with domestic abuse

## Domestic abuse protection notices

## 22. Power to give a domestic abuse protection notice

As long as the conditions are met a senior (inspector or above) police officer may give a domestic abuse protection notice to the perpetrator of the abuse. This prevents the perp from being abusive towards the victim. There needs to be reasonable grounds and a reasonable belief that the perp has been abusive, or will be abusive, is over 16 and has a personal connection to the victim and that the order is needed. These orders can't be given to someone who is under 18, so why is there a 2-year gap?????

23. What does a domestic abuse protection order do.... It stops the perp from contacting, threatening or come within a set distance of the victim. It can also stop the perp from evicting the victim from an address, stop the victim from entering a premises or excluding the victim from a premises.

## 24. Matters to be considered before giving a notice

Before an order is made the following have to be taken into consideration: the welfare of anyone under the age of 18, the opinion of the victim and the representation made by the perpetrator.

## 25. Further requirements in relation to notices

This order must be given in writing and must state the grounds for the order, that the perpetrator may be arrested for any breach of the order, that the matter will go before a court within 48 hours of the order, meaning working hours, that the order stays enforceable till the application is determined or withdrawn and any provisions placed by the magistrate's court. The order will be served by a police officer and the perp will need to supply an address for the notice of hearing to be served.

## 26. Breach of notice

This section sets out what happens if the order is breached. Including the perp being arrested and held in custody or bailed.

## Domestic abuse protection orders

## 27. Meaning of "domestic abuse protection order"

This basically says the same as the above in relation to what an order is, who can apply for an order and what is included in the order.

## 28. Domestic abuse protection orders on application.

This explains the process. The person who needs protecting, the appropriate police officer making the application, who the application is in respect to. Again, this is going over a previous section of the Act.

## 29. Applications where domestic abuse protection notice has been given

This is in regards to the time limit between the application being made and the court appearance, meaning 48 working hours.

## 30. Remand under section 29(8) of person arrested for breach of notice

Rules regarding remand of the accused.

### 31. Domestic abuse protection orders otherwise than on application

#### Family proceedings

The High Court or the family court may make a domestic abuse protection order against a person in any family proceedings to which both P and the person for whose protection the order would be made are parties.

#### Criminal proceedings

Where a person has been convicted of an offence, the court dealing with the offender for that offence may make a domestic abuse protection order.

#### Civil proceedings

The county court may make a domestic abuse protection order against a person in any relevant proceedings to which both P and the person for whose protection the order would be made are parties.

### 32. Conditions for making an order

The court may make a domestic abuse protection order under section 28 or 31 against a person if conditions A and B are met.

Condition A is that the court is satisfied on the balance of probabilities that the accused has been abusive towards a person aged 16 or over to whom they are personally connected.

Condition B is that the order is necessary and proportionate to protect that person from domestic abuse, or the risk of domestic abuse, carried out by the accused.

### 33. Matters to be considered before making an order

Here the Act reiterates that the welfare of any under 18's is taken into consideration along with the opinion of the victim and anything stated by the perpetrator in their defence. Who lives where, if the property is shared etc. this order can be made without the consent of the victim.

### 34. Making of orders without notice

This is in relation to emergency protection orders. So, it covers all aspects of domestic abuse including how dangerous it would be for the order not to be sought immediately. Furthermore, it covers situations where the victim may be threatened or coerced to remove their consent or working with the police where domestic abuse is concerned.

### 35. Provision that may be made by orders

This is for provisions to be made to keep the victim safe from the abuser. No contact, no threats, not getting someone else to threaten, not to come within a set distance of the victim. Prohibiting the eviction, exclusion from a premises and or electronic monitoring.

### 36. Further provision about requirements that may be imposed by orders

Religious beliefs must be taken into consideration. Avoidance of conflicts re work or education, conflict against any other court orders, and or any other conflicts.

Everything must be evidenced and any restrictions must be considered relevant.

### 37. Further provision about electronic monitoring requirements

If electronic monitoring is needed or directed by the court then the set policies and protocols should be followed. When specifying an area for the monitoring to cover things like work and education must be taken into consideration. Plus, the court need to be assured that this step is needed.

This also covers things like who will fit the monitor, be responsible for monitoring the device, how long the device is to be fitted for and who will remove the device.

### 38. Duration and geographical application of orders

There are different types of order in respect to duration of order. A specified time period, until a certain event has happened or until further notice (open ended) However, where electronic monitoring is concerned this may not continue past a 12-month period.

### 39. Breach of order

I am not sure how many times this Act has to set out what happens if the person given an order breach the order but here, we have it again. Summing this up, if you breach an order, you can be arrested, taken to court and there, if found guilty be fined, given conditions as per the courts pleasure and or imprisoned.

### 40. Arrest for breach of order

In case you haven't worked it out by now if you are silly enough to go against a domestic abuse protection order you can be arrested. This includes being arrested without a warrant for your arrest.

### 41. Notification requirements

If you are the subject of a domestic abuse protection order you will be notified within 3 days. This order will include the following information: the person's name and any other names they are known by, the home address. If this person also uses another name, they have to inform the police within 3 days of the other names they are known by. If the person changes address, they must also notify the police within 3 days of the change. They also have 3 days to inform the police if they become homeless.

### 42. Further provision about notification under section 41

These changes can be given in person at a police station, in writing to the police station or verbally. This should be given to the nearest police station or at the station closest to where the order was made. This will be responded to in writing. Moreover, when notifying the police of these changes the person has to allow their fingerprints and or photo so the police can verify their identity.

### 43. Offences relating to notification

It is an offense if the person given a domestic abuse protection order does the following: fails to report changes to the police, or gives false information to the police, fails to comply to a requirement imposed on the order, or commits an offence.

If found guilty of an offence under this section of the Act, the person can be fined and or imprisoned.

### 44. Variation and discharge of orders

Of course, no order would be complete without the provision for it to be varied and or discharged.

### 45. Variation and discharge: supplementary

Any application to vary or discharge an order should be made to the court who originally made the order. However, you can apply to a magistrates' court in the local justice area of the magistrates' court who made the order and, in some cases, only a Crown Court can vary or discharge the order. If in doubt speak to a solicitor.

#### 46. Appeals

As we live in a democratic society there will be grounds and rules around being able to appeal an order and the domestic abuse protection order is no exception to that. This section sets out under what circumstances a person can appeal an order, or variation of an order made against them.

#### 47. Further provision about appeals

A few more rules to take into consideration before deciding if you wish to appeal against a domestic abuse protection order.

#### 48. Nature of certain proceedings under this Part

In respect of this section the writer recommends the reader refers to the legislation as written on the government legislation site as it cites all the sections and sub sections this section refers to and to try to explain these in this guide would become confusing to the reader.

#### 49. Special measures for witnesses

Chapter 1 of Part 2 of the Youth Justice and Criminal Evidence Act 1999 (special measures directions in case of vulnerable and intimidated witnesses) applies to relevant proceedings under this Part as it applies to criminal proceedings, but with—

the omission of the provisions of that Act mentioned in subsection (2) (which make provision only in the context of criminal proceedings), and any other necessary modifications.

The provisions are—

(a)section 17(4) to (7); (b)section 21(4C) (e); (c)section 22A; (d)section 32.

Rules of court made under or for the purposes of Chapter 1 of Part 2 of that Act apply to relevant proceedings under this Part—to the extent provided by rules of court, and subject to any modifications provided by rules of court.

Section 47 of that Act (restrictions on reporting special measures directions etc) applies with any necessary modifications—to a direction under section 19 of that Act as applied by this section; to a direction discharging or varying such a direction. Sections 49 and 51 of that Act (offences) apply accordingly.

In this section “relevant proceedings under this Part” means—proceedings under section 28, 31(2) or (7), 40 or 44(2)(a); proceedings arising by virtue of section 31(3), (5) or (6); proceedings arising by virtue of section 44(2)(b) in any case within section 31(3), (5) or (6); proceedings on an appeal relating to a domestic abuse protection order (whether or not an appeal under section 46).

Notices and orders: supplementary

#### 50. Guidance



The Secretary of State must issue guidance relating to the exercise by relevant persons of functions under or by virtue of this Part. By definition relevant persons = a police officer, a person specified to make applications and orders.

The secretary of state can revise this guidance. However, they must consult the commissioner in regards to these variations and anyone else they think considers appropriate.

The Secretary of State must publish any guidance issued under this section, and any revisions of the aforementioned guidance.

#### 51. Data from electronic monitoring: code of practice

There is of course a code of practice for the monitoring of electronic monitoring devices and this code of practice covers processing any and all data collated from these devices. However, if someone fails to, act in accordance to comply with this code it doesn't mean they will be liable to criminal or civil proceedings.

#### 52. Powers to make other orders in proceedings under this Part

This section sets out where there are some cross-overs in respect to other legislations such as the children Act 1989, Family law Act 1996 etc. As this is a guide to not a re-write of this Act, please refer to the original Act on the legislation.gov.uk website.

#### 53. Proceedings not to be subject to conditional fee agreements

Please refer to the original legislation as this appears to be amendments for other legislations.

#### 54. Consequential amendments of the Sentencing Code

More amendments, this time in respect of sentencing code.

#### 55. Repeal of provisions about domestic violence protection notices and orders

Got to love some government repeals that to the normal lay-person make no sense when trying to understand legislations.

#### 56. Interpretation of Part 3

This section sets out the terminology of wording, which as it hasn't been used in this guide is not needed within this guide. If you do need to understand terms such as home address or chief of police, please read the legislation on the government legislation website.

### PART 4

#### Local authority support

#### 57. Support provided by local authorities to victims of domestic abuse

For those of you who don't naturally understand obscure wording this section appears to say that each local authority needs to assess, make arrangements for the assessment of, the need for accommodation-based support for the victims of domestic abuse. That they also need to prepare and publish a strategy for the provision of support. Plus, they must monitor and evaluate how effective that strategy is. Now the above seems clear enough although the exact wording states relevant local authority and yet there's nothing to state what makes a local authority a relevant local authority and if this means all local authorities or only set local authorities. The original wording also

leaves a question-mark in relation to if they actually need to provide this accommodation-based support or just decide if it is needed.

Just in case you need some obscure clarification in regards of the above I will leave the next subsection as it is written in the legislation.

(2) For the purposes of subsection (1)—

“Accommodation-based support” means support, in relation to domestic abuse, provided to victims of domestic abuse, or their children, who reside in relevant accommodation;

“Relevant accommodation” means accommodation of a description specified by the Secretary of State in regulations.

In this next sub-section, the original wording cites that allusive relevant local authority again in respect of the strategy they need to publish, by saying it has to give effect to the strategy.

The relevant local authorities appear to have a domestic abuse local partnership board, whom must be consulted prior to the strategy being published.

However, just in case you are not confused enough by section 57 it would also appear that the relevant local authority incorporates other local authorities within its area. Which, could mean that the relevant local authority is the term given to what most lay-persons reading this would class as the child social services local authority, whom incorporate different local authorities under their umbrella.

#### 58. Domestic abuse local partnership boards

The relevant local authority has a appoint a local partnership domestic abuse board. This board is set up a lot like the commissioner’s board but on a local scale.

#### 59. Annual reports

This section states that like the main domestic abuse board the local ones also have to write and publish an annual report.

#### 60. Guidance

This section sets out the commissioner’s guidance in relation to local authorities.

61. Interpretation of Part 4 In this Part “Local authority” means a relevant local authority; a district council for an area for which there is a county council; a London borough council; the Common Council of the City of London in its capacity as a local authority. Relevant local authority means a county council; a district council for an area for which there is no county council; the Greater London Authority; the Council of the Isles of Scilly.

### PART 5

Protection for victims, witnesses, etc in legal proceedings

Special measures

PROSPECTIVE (this section is as worded in the actual legislation)

62. Special measures in criminal proceedings for offences involving domestic abuse

(1) Chapter 1 of Part 2 of the Youth Justice and Criminal Evidence Act 1999 (giving of evidence or information for purposes of criminal proceedings: special measures directions in case of vulnerable and intimidated witnesses) are amended as follows.

(2) In section 17 (witnesses eligible for assistance on grounds of fear or distress about testifying)—

(a) in subsection (4), for “a sexual offence or an offence under section 1 or 2 of the Modern Slavery Act 2015” substitute “an offence listed in subsection (4A)”;

(b) after subsection (4) insert—

“(4A) The offences are—

(a) a sexual offence;

(b) an offence under section 1 or 2 of the Modern Slavery Act 2015;

(c) any other offence where it is alleged that the behaviour of the accused amounted to domestic abuse within the meaning of the Domestic Abuse Act 2021 (see section 1 of that Act).”

(3) In section 25(4)(a) (evidence given in private), for “a sexual offence or an offence under section 1 or 2 of the Modern Slavery Act 2015” substitute “an offence listed in section 17(4A)”.

### 63. Special measures in family proceedings: victims of domestic abuse

(1) This section applies where rules of court provide that the court may make a special measures direction in relation to a person (“P”) who is a party or witness in family proceedings.

(2) Rules of court must provide that where P is, or is at risk of being, a victim of domestic abuse carried out by a person listed in subsection (3), it is to be assumed that the following matters are likely to be diminished by reason of vulnerability—

(a) the quality of P's evidence;

(b) where P is a party to the proceedings, P's participation in the proceedings.

(3) The persons referred to in subsection (2) are—

(a) a party to the proceedings;

(b) a relative of a party to the proceedings (other than P);

(c) a witness in the proceedings.

(4) Rules of court may provide for an exception to the provision made by virtue of subsection (2) where P does not wish to be deemed to be eligible for the making of a special measure's direction by virtue of that subsection.

(5) In this section—

“Family proceedings” has the meaning given by section 75(3) of the Courts Act 2003;

“relative” has the meaning given by section 63(1) of the Family Law Act 1996;

“Special measures” means such measures as may be specified by rules of court for the purpose of assisting a person to give evidence or participate in proceedings;

“Special measures direction” means a direction by the court granting special measures.

## PROSPECTIVE

## 64. Special measures in civil proceedings: victims of domestic abuse etc

(1) Rules of court must make provision enabling the court to make a special measures direction in relation to a person who is a party or witness in civil proceedings where that person—

- (a) is, or is at risk of being, a victim of domestic abuse;
- (b) is the victim, or alleged victim, of a specified offence.

(2) Rules made by virtue of subsection (1) must, in particular, provide for the court to consider—

(a) whether—

- (i) the quality of the person's evidence, or
- (ii) where the person is a party to the proceedings, the person's participation in the proceedings, is likely to be diminished by reason of vulnerability, and
- (b) if so, whether it is necessary to make one or more special measures directions.

(3) For the purposes of this section—

(a) a person is the victim of a specified offence if another person has been convicted of, or given a caution for, the offence;

(b) a person is the alleged victim of a specified offence if another person has been charged with the offence.

(4) In this section—

“Civil proceedings” means—

- (a) proceedings in the county court,
- (b) proceedings in the High Court, other than—

(i) proceedings in the Family Division of the High Court which are business assigned, by or under section 61 of (and Schedule 1 to) the Senior Courts Act 1981, to that Division of the High Court and no other, and

(ii) proceedings in the exercise of its jurisdiction under the Extradition Act 2003, and

(c) proceedings in the civil division of the Court of Appeal;

“Special measures” means such measures as may be specified by rules of court for the purpose of assisting a person to give evidence or participate in proceedings;

“Special measures direction” means a direction by the court granting special measures;

“Specified offence” means an offence which is specified, or of a description specified, in regulations made by the Lord Chancellor.

## PROSPECTIVE

## Prohibition of cross-examination in person

## 65. Prohibition of cross-examination in person in family proceedings

In family proceedings, no party to the proceedings who has been convicted of or given a caution for, or is charged with, a specified offence may cross-examine in person a witness who is the victim, or alleged victim, of that offence.

In family proceedings, no party to the proceedings who is the victim, or alleged victim, of a specified offence may cross-examine in person a witness who has been convicted of or given a caution for, or is charged with, that offence.

#### 66. Prohibition of cross-examination in person in civil proceedings

In civil proceedings, no party to the proceedings who has been convicted of, or given a caution for, a specified offence may cross-examine in person a witness who is the victim of that offence.

In civil proceedings, no party to the proceedings who is the victim of a specified offence may cross-examine in person a witness who has been convicted of, or given a caution for, that offence.

#### Orders under section 91(14) of the Children Act 1989

#### 67. Orders under section 91(14) of the Children Act 1989

The Children Act 1989 is amended as follows.

In section 91 (effect and duration of orders etc.), at the end of subsection (14) insert— “For further provision about orders under this subsection, see section 91A (section 91(14) orders: further provision).”

After section 91 insert— “91A Section 91(14) orders: further provision

This section makes further provision about orders under section 91(14) (referred to in this section as “section 91(14) orders”).

The circumstances in which the court may make a section 91(14) order include, among others, where the court is satisfied that the making of an application for an order under this Act of a specified kind by any person who is to be named in the section 91(14) order would put the child concerned, or another individual (“the relevant individual”), at risk of harm.

In the case of a child or other individual who has reached the age of eighteen, the reference in subsection (2) to “harm” is to be read as a reference to ill-treatment or the impairment of physical or mental health.

Where a person who is named in a section 91(14) order applies for leave to make an application of a specified kind, the court must, in determining whether to grant leave, consider whether there has been a material change of circumstances since the order was made.

A section 91(14) order may be made by the court on an application made by the relevant individual; by or on behalf of the child concerned; by any other person who is a party to the application being disposed of by the court; of its own motion.

In this section, “the child concerned” means the child referred to in section 91(14).”

## PART 6

### Offences involving abusive or violent behaviour

## PROSPECTIVE

## Controlling or coercive behaviour

## 68. Controlling or coercive behaviour in an intimate or family relationship

The Serious Crime Act 2015, the offence of controlling or coercive behaviour in an intimate or family relationship is amended. Controlling and coercive behaviour is a crime, some changes have been made as in regards to wording of this offence.

## Disclosure of private sexual photographs and films

## 69. Threats to disclose private sexual photographs and films with intent to cause distress

Section 33 of the Criminal Justice and Courts Act 2015 is amended to include threats to disclose private sexual photos and films as well as other changes.

## PROSPECTIVE

## 70. Strangulation or suffocation

Part 5 of the Serious Crime Act 2015 (protection of children and others), after section 75 insert Strangulation or suffocation

A person ("A") commits an offence if, A intentionally strangles another person ("B"), or) A does any other act to B that affects B's ability to breathe, and constitutes battery of B.

## 71. Consent to serious harm for sexual gratification not a defence

This section applies for the purposes of determining whether a person ("A") who inflicts serious harm on another person ("B") is guilty of a relevant offence.

## 72. Offences against the person committed outside the UK: England and Wales

If a person who is a United Kingdom national or is habitually resident in England and Wales does an act in a country outside the United Kingdom, the act constitutes an offence under the law in force in that country, and the act, if done in England and Wales, would constitute an offence to which this subsection applies, the person is guilty in England and Wales of that offence.

The offences to which the above applies are: murder, manslaughter, actual bodily harm, poisoning, and other serious crimes.

## 73. Offences against the person committed outside the UK: Northern Ireland

These are the same as section 72.

## 74. Amendments relating to offences committed outside the UK

This section sets out amendments.

## PART 7

## Miscellaneous and general

## Prosecution and management of offenders

## 75. Strategy for prosecution and management of offenders

The Secretary of State must, before the end of the period of 12 months beginning with the day on which this Act is passed, prepare and publish a document setting out a strategy for: detecting, investigating and prosecuting offences involving domestic abuse, assessing and managing the risks posed by individuals who commit offences involving domestic abuse, including (among others) risks associated with stalking, and reducing the risk that such individuals commit further offences involving domestic abuse.

The Secretary of State) must keep the strategy under review, revise and publish the document and revisions.

#### 76. Polygraph conditions for offenders released on licence

In Part 3 of the Offender Management Act 2007 (other provisions about the management of offenders), section 28 (application of polygraph condition) is amended.

#### Disclosure of information by police

#### 77. Guidance about the disclosure of information by police forces

The Secretary of State must issue guidance to chief officers of police about the disclosure of police information by police forces for the purposes of preventing domestic abuse.

#### Homelessness

#### 78. Homelessness: victims of domestic abuse

Part 7 of the Housing Act 1996 (homelessness: England) is amended.

#### Secure tenancies

#### 79. Grant of secure tenancies in cases of domestic abuse

Part 4 of the Housing Act 1985 (secure tenancies and rights of secure tenants) is amended.

#### Medical evidence of domestic abuse

#### 80. Prohibition on charging for the provision of medical evidence of domestic abuse

No person may charge a fee or any other remuneration for the preparation or provision of relevant evidence relating to an assessment of an individual carried out by a relevant health professional in England or Wales under a qualifying medical services contract.

No person may charge a fee or any other remuneration for the preparation or provision of relevant evidence relating to an individual by a relevant health professional in England or Wales if the services provided by the relevant health professional are wholly or mainly services provided under a qualifying medical services contract.

#### Data processing for immigration purposes

#### 81. Review of processing of victims' personal data for immigration purposes

The Secretary of State must, before the end of the relevant period review the processing of domestic abuse data carried out by specified public authorities for immigration purposes, prepare and publish a report setting out the findings of the review, and lay a copy of the report before Parliament.

#### 82. Code of practice

The Secretary of State may issue a code of practice relating to the processing of domestic abuse data for immigration purposes.

Contact centres

#### 83. Report on the use of contact centres in England

The Secretary of State must, before the end of the relevant period, prepare and publish a report about the extent to which individuals, when they are using contact centres in England, are protected from the risk of domestic abuse or, in the case of children, other harm.

Guidance

#### 84. Power of Secretary of State to issue guidance about domestic abuse, etc

The Secretary of State may issue guidance about the effect of any provision made by or under Parts 1 to 5, section 68 or 70, section 72 or Part 1 of Schedule 3, section 76, 77, 78 or 79, or section 80 so far as relating to England; other matters relating to domestic abuse in England, and so far, as not relating to Welsh devolved matters, in Wales.

Powers to make consequential or transitional provision, etc

#### 85. Power to make consequential amendments

The Secretary of State may by regulations make provision that is consequential on any provision made by or under Parts 1 to 5, section 68, 69, 70 or 71, section 72 or Part 1 of Schedule 3, or section 76, 77, 78, 79, 81 or 82.

Final provisions

#### 87. Regulations

Any power of the Secretary of State, the Lord Chancellor or the Welsh Ministers to make regulations under this Act is exercisable by statutory instrument.

Any power of the Department of Justice in Northern Ireland to make regulations under this Act is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12)).

#### 88. Financial provision

There is to be paid out of money provided by Parliament any expenditure incurred by a Minister of the Crown under or by virtue of this Act, and any increase attributable to this Act in the sum's payable under any other Act out of money so provided.

89 Extent

Except as set out below, this Act extends to England and Wales only.

Any amendment or repeal made by Part 2 or 3 or Schedule 2 has the same extent within the United Kingdom as the provision amended or repealed. Section 74(2) and Part 2 of Schedule 3 extend to Scotland only. Sections 73 and 74(3) and Part 3 of Schedule 3 extend to Northern Ireland only.

#### 90. Commencement

The following provisions of this Act come into force on the day on which this Act is passed—



- (a) section 71;
- (b) section 75;
- (c) section 81;
- (d) section 83;
- (e) sections 85 to 89, this section and section 91;
- (f) any power to make regulations under or by virtue of this Act.

The rest of this section sets out when the different sections come into force. All sections will be in force by 2022.

91 Short title

This Act may be cited as the Domestic Abuse Act 2021.

