



Ministry  
of Justice

# **Research investigating the domestic violence evidential requirements for legal aid in private family disputes**

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**Ministry of Justice**

2017

## **Acknowledgements**

I would like to thank David Martin, Hannah Cook, Natalie-Elizabeth Corbett, William Bowditch, Rose Verrill, Samantha Dine and Cris Coxon for their invaluable contribution to this research. Thanks are also due to our external advisory group for assisting in the development of the surveys and for all of their insight, and guidance, into the rule of law regarding this topic: Estelle Du Boulay and Mandip Ghai (Rights of Women); Ellie Cronin and Jenny Beck (The Law Society); Cris McCurley (Ben Hoare Bell LLP); Rachel Rogers (Resolution); and David Emmerson (Anthony Gold Solicitors). Thanks also to Women's Aid Federation England and Welsh Women's Aid, and in particular Jacqui Kilburn and Lizzie Magnusson, in helping to facilitate the victim focus groups. Thanks also to Nicola Sharp-Jeffs for sharing her knowledge and expertise on financial and economic abuse.

Finally, I would like to thank everyone who gave up their time to participate in this research.

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# 1. Executive Summary

## 1.1 Research background

In February 2016, the Court of Appeal issued judgment in judicial review proceedings brought by Rights of Women in *The Queen (on the application of Rights of Women) v The Lord Chancellor and Secretary of State for Justice*.<sup>1</sup> The case concerned the evidential criteria that victims or potential victims of domestic violence need to satisfy in order to be eligible for legal aid in private family law proceedings (such as those concerning child custody and contact arrangements following separation or divorce). The evidential criteria were introduced in April 2013 following implementation of the Legal Aid, Sentencing and Punishment of Offenders Act 2013 (LASPO) and are set out in regulation 33 of the Civil Legal Aid (Procedure) Regulations 2012.

The judgment declared that the evidential criteria frustrated the purpose of LASPO in two specific areas. These were the two year time limit and the lack of provision for victims of financial abuse. The Government chose not to appeal the judgment but instead laid regulations in April 2016 on an ‘interim’ basis.<sup>2</sup> These regulations extended the time limit for evidence from two to five years and introduced a provision allowing the Legal Aid Agency (LAA) discretion to accept any form of evidence that they considered demonstrated financial abuse.

Upon laying the interim regulations the Minister that then had responsibility for legal aid, Shailesh Vara MP, noted that further evidence was needed to inform a longer term solution and described work that had been set in motion to ‘inform an evidence based solution to the court’s concerns, with the aim of drawing up replacement regulations’.<sup>3</sup> This report describes the background, methodology and findings of the research undertaken by the Ministry of Justice during the summer of 2016 following on from these events.

## 1.2 Research methodology

The research approach was threefold: an online survey was completed by legal aid providers who work in private family law<sup>4</sup> and domestic violence support organisations<sup>5</sup>; two

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<sup>1</sup> For the judgment, see: [http://www.publiclawproject.org.uk/data/files/2276\\_001.pdf](http://www.publiclawproject.org.uk/data/files/2276_001.pdf)

<sup>2</sup> The changes were made by the Civil Legal Aid (Procedure) (Amendment) Regulations 2016.

<sup>3</sup> See the statement of Shailesh Vara MP at: <http://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2016-04-21/HCWS690/> [Accessed 9 December 2016].

<sup>4</sup> Identified by The Legal Aid Agency (LAA) as having the relevant contract allowing them to conduct this type of work.

<sup>5</sup> Identified by an external advisory panel of support organisations and the policy team working on this project.



focus groups were conducted with private family legal aid providers; and five focus groups were conducted with victims of domestic violence who had experience of applying for legal aid and of the evidence criteria. In addition to this, a literature review was undertaken to consider existing evidence that is directly relevant or provides important contextual information.

### **1.3 Summary of key findings**

These key findings have been structured according to the following three research questions:

*To what extent are victims of domestic abuse who require legal representation to resolve private family issues able to access legal aid?*

- All survey respondents came from firms and organisations from England and Wales who stated that they work with a variety of victim groups.
- Victims come into contact with these organisations via a plethora of routes, including by making contact themselves or through outreach programmes.
- Legal aid provider and domestic violence support organisation survey respondents varied in their estimates of the number of victims per year they encountered that succeeded in accessing legal aid.
- Victims stated that obtaining help in accessing evidence from a domestic violence support organisation; the experience/expertise of their solicitor in applying for legal aid; and the means test are all factors that influence whether or not they can access legal aid.

*Is there anything that hinders individuals from evidencing their abuse?*

- Respondents to the survey, as well as both legal aid provider and victim focus group participants, highlighted a number of factors that hinder individuals from evidencing their abuse in order to access legal aid, including:
  - Difficulties in accessing certain pieces of evidence: such as the cost of acquiring it; the unwillingness of organisations, and health professionals in particular, to write letters<sup>6</sup>; data protection issues when attempting to access evidence from the police; language barriers or other vulnerabilities

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<sup>6</sup> The LAA requires professionals to follow strict, specified wording in letters provided as evidence and individuals have claimed to be denied legal aid because they submit letters with wording that deviates from the template.

experienced by victims that prevent them from obtaining the necessary evidence.

- Difficulties in evidencing domestic violence if victims did not disclose the violence at the time to the various organisations that can supply evidence.
- Problems with the time limit – for example if the perpetrator has been away for a period of time (e.g. in prison, had another relationship) and then returns, the individual could be at risk of experiencing further violence.
- Respondents to the survey in particular felt that the time limit is arbitrary – respondents felt that a victim does not stop being a victim after the passage of time. Similarly, they felt that the risk of experiencing violence does not necessarily dissipate over time.
- The rigidity of the current process for applying for legal aid and the inability for all applications, regardless of violence type, to be assessed without reference to a specific list of criteria.

*What is the most straightforward way for victims to evidence their domestic abuse that can be easily verified by family legal aid providers/Legal Aid Agency?*

- Respondents to the survey and the legal aid provider focus group participants suggested relatively similar alternative pieces of evidence that might be added to the current criteria in order to make it easier for victims to qualify. These include, but are not limited to:
  - A letter from a domestic violence accredited solicitor, charity or domestic violence support service.
  - A victim's sworn statement; self-referral to a domestic violence support service; evidence of seeking support from a domestic violence support service.
  - Evidence of police involvement, such as callouts; reports; Police Information Notices (or PIN notices)<sup>7</sup>; warnings issued; crime reference numbers; referrals to domestic violence support services.

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<sup>7</sup>The police sometimes issue warning notices - referred to as PIN notices - to individuals where there are allegations of harassment. These notices (sometimes called Harassment Warning Notices or Early Harassment Notices) are not covered by legislation, and don't themselves constitute any kind of formal legal action. One reason the police get people to sign these notices is to show in possible future legal proceedings that a suspect was aware that their behaviour would count as harassment. This is important because the offence of harassment occurs where there has been a "course of conduct" (not just one event); and the perpetrator knows or ought to know that their conduct amounts to harassment.

- Anecdotal third party evidence, such as a sworn statement/witness statement/a letter from relatives, friends, neighbours, school teachers or other people in the victim's social circle.
- Social media, such as text messages; emails; photos; diary entries of harassment, threats or acts committed.
- In terms of individuals **at risk** of experiencing domestic violence, respondents suggested, amongst other things, that the perpetrator's history of conduct (such as violence in a previous intimate relationship) and violent behaviour (for example previous arrests and convictions for GBH offences) should be an adequate form of evidence.

## 2. Background

### 2.1 Policy context

In April 2013 the vast majority of the legal aid provisions in the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO) came into force. Amongst other changes, LASPO reduced the number of legal proceedings for which legal services could be funded through legal aid. This scope reduction occurred particularly in ‘private family law’ proceedings, which involve disputes or issues associated with families or relationships that are brought by individuals rather than a public authority (such as a local authority).

An exception was made for private family cases where domestic violence was a factor, though such cases were subject to financial means and merits criteria.<sup>8</sup> Domestic violence is described in regulations as ‘any incident of threatening behaviour, violence or abuse (whether psychological, physical, sexual, financial or emotional) between individuals who are associated with each other.’

Aside from means and merits, victims or potential victims of domestic violence must also provide evidence of the violence or risk of violence in order to be eligible for legal aid in private family matters. The forms of evidence that can be accepted are prescribed in regulation 33 of the Civil Legal Aid (Procedure) Regulations 2012. Upon LASPO’s implementation in April 2013 the list referred to various types of evidence, such as the perpetrator having a relevant police caution for a domestic violence offence. It also specified that the evidence should be subject to a two year time limit – so a police caution, for example, would only qualify as evidence if it had been given within the two years immediately preceding the application for legal aid.

The domestic violence evidence requirements have been kept under review since their implementation in April 2013. A number of amendments have been made to the list of

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<sup>8</sup> See Paragraph 12, Schedule 1 of LASPO 2012 which prescribes the availability of legal aid to fund civil legal services to victims of domestic violence in ‘matters arising out of a family relationship’: <http://www.legislation.gov.uk/ukpga/2012/10/schedule/1/enacted>

qualifying evidence. In April 2014<sup>9</sup>, the list of qualifying evidence was expanded to include, subject to the two year time limit, evidence:

- from psychologists that the victim had a condition consistent with a victim of domestic violence;
- that a health professional had referred a victim to a specialist domestic violence support organisation;
- that a victim had been unable to access a refuge due to lack of accommodation;
- that the perpetrator had been on police bail for a domestic violence offence; and,
- that a Domestic Violence Protection Notice or Order had been issued against the other party.

In July 2015<sup>10</sup> the regulations were changed such that applicants only need to provide evidence once during the lifetime of their case rather than having to provide it separately when applying for advice and assistance and again when applying for representation at court. The July 2015 changes also meant that relevant convictions for domestic violence or child abuse offences remained valid evidence for either two years or until spent, whichever period was longer.

In April 2016 the regulations were amended again<sup>11</sup> to change the time limit for evidence from two to five years and to introduce a provision allowing the Director of Legal Aid Casework to determine whether or not an applicant had been a victim of financial abuse. The regulations did not specify a specific type of evidence of financial abuse; rather, they allowed a determination of whether financial abuse has occurred to be made upon any evidence provided.

In February 2016, the Court of Appeal issued judgment in judicial review proceedings brought by Rights of Women against the domestic violence evidence criteria in *The Queen (on the application of Rights of Women) v The Lord Chancellor and Secretary of State for Justice*.<sup>12</sup> The judgment declared that the evidential criteria frustrated the purpose of LASPO in two specific areas – the time limit on evidence and the lack of provision for victims of

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<sup>9</sup> See the Civil Legal Aid (Procedure) (Amendment) Regulations 2014.

<sup>10</sup> See the Civil and Criminal Legal Aid (Amendment) Regulations 2015.

<sup>11</sup> See the Civil Legal Aid (Procedure) (Amendment) Regulations 2016.

<sup>12</sup> For the judgment, see: [http://www.publiclawproject.org.uk/data/files/2276\\_001.pdf](http://www.publiclawproject.org.uk/data/files/2276_001.pdf)

financial abuse. The Government chose not to appeal the judgment but instead made amendments to the regulations in April 2016 on an 'interim' basis.

Upon laying the interim regulations the Minister that had responsibility for legal aid at the time, Shailesh Vara MP, noted that further evidence was needed to inform a longer term solution and described work that had been set in motion to 'inform an evidence based solution to the court's concerns, with the aim of drawing up replacement regulations'.<sup>13</sup> This report describes the background, methodology and findings of the research undertaken by the Ministry of Justice during the summer of 2016 following on from these events.

The research aimed to explore the following research questions:

1. To what extent are victims of domestic abuse who require legal representation to resolve private family issues able to access legal aid?
2. What is the most straightforward way for victims to evidence their domestic abuse that can be easily verified by family legal aid providers/Legal Aid Agency?
3. Is there anything that hinders individuals from evidencing their abuse?

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<sup>13</sup> See the statement of Shailesh Vara MP at: <http://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2016-04-21/HCWS690/> [Accessed 9 December 2016].

### 3. Methodology

To address the research questions it was necessary to a) consider existing evidence that is directly relevant or provides important contextual information, and to b) collect data from organisations and individuals who have direct experience of applying for legal aid and /or the process of doing so. Therefore the following was carried out:

1. A literature review was undertaken into four areas surrounding legal aid provision and domestic violence: accessing legal aid in private family matters through the domestic violence evidence requirements; the impact of not receiving legal aid in such matters; domestic violence victims' experiences with government services more generally; and issues related to evidencing different forms of domestic violence. An exploratory literature search was completed using academic (Google Scholar, ProQuest, EBSCO) and internal databases. The literature review also presents the relevant statistics and data from the Legal Aid Agency.
2. A survey was distributed by the Ministry of Justice (MoJ) to over 1000 organisations who had experience in either private family law or who work with domestic violence victims. Appropriate providers and support organisations were identified by the MoJ policy team to ensure that only legal aid providers who work in private family law<sup>14</sup>, and domestic violence support organisations who work with victims of domestic violence<sup>15</sup> were selected, as their views and experiences were essential in answering the research questions accurately. Please note that the responses garnered from the survey were not obtained using a random sample and we cannot be sure that responses are representative. Therefore figures – percentages in particular – should be taken as relative to the survey respondents rather than legal aid providers/domestic violence support organisations in general. Please also note that not all respondents answered every question in the survey. Therefore the total number of respondents who answered each question within the survey varies, and as such percentages should be taken as relative to the number of respondents of that particular question rather than the number of respondents in total.

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<sup>14</sup> Identified by The Legal Aid Agency (LAA) as having the relevant contract allowing them to conduct this type of work.

<sup>15</sup> Identified by an external advisory panel of support organisations and the policy team working on this project.

3. The top 20 providers (in volume terms) of private family law work funded by legal aid<sup>16</sup> were invited to participate in focus groups; 17 members from 15 firms attended two focus group sessions. Again, please note that participants of the focus groups were not obtained using a random sample and we cannot be sure that responses are representative. Therefore all responses should be taken as relative to the focus group participants rather than legal aid providers in general.
4. Five focus groups with victims of domestic violence who had experience of accessing legal aid were held in five locations across England and Wales<sup>17</sup>. In total, 40 victims attended the five focus groups. These were held in conjunction with Women's Aid Federation England and Welsh Women's Aid who have the facilities and expertise to conduct focus groups with victims of domestic violence.
5. Data collected from the LAA, on the types of evidence victims of financial violence have submitted since the interim regulations, were due to be analysed as part of the overall methodology. However, too few have been submitted since the judgment to be assessed as part of this exercise without adequately countering disclosure risks.

### **3.1 Sample**

Over 700 respondents started the survey, of which 513 respondents completed the survey and were deemed suitable for analysis.<sup>18</sup> Of these, 355 respondents were individual lawyers within the legal aid provider firms, or representatives of those firms, and 158 respondents were employees or representatives of a domestic violence support organisation. Two focus groups were held in June 2016, consisting of 17 members from 15 legal aid firms. Five focus groups were held in August and September 2016, consisting of 40 victims of domestic violence who had experience of applying for legal aid, were held in locations across England and Wales<sup>17</sup>. Appendices B-E contain demographic information of the survey respondents, a copy of the survey and the focus group topic guides used in the legal aid provider and victim focus groups. Although it may have been beneficial to speak to women who had never been in contact with a domestic violence support organisation, accessing this demographic would have proven too difficult for this exercise.

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<sup>16</sup> The top 20 providers were determined by the volume of work completed in the calendar year 2015, by summing their completed legal help matters and completed civil representation certificates.

<sup>17</sup> Focus groups were held in Nottingham, London, Rotherham, Cardiff and Bristol at domestic violence support organisations that work with Women's Aid.

<sup>18</sup> Just under 200 responses were disregarded in the data cleaning process. These respondents had started the survey, answered a few basic questions on demographic information but had not completed any part of the main survey.



## **3.2 Ethical considerations**

Domestic violence is a very sensitive topic and as such, every question asked about this subject was conducted with the utmost care and sensitivity. Appropriate safeguards were put in place according to departmental standards. All victim focus group participants signed an informed consent form (Appendix F). Legal aid provider focus group participants gave their consent to attend via email when confirming their attendance, and consent was implied from survey respondents by their completion of the survey.

For the victim focus groups, Women's Aid Federation England and Welsh Women's Aid led all of the focus groups with a social researcher from the MoJ facilitating the group. Women's Aid have the expertise, training and experience needed to run focus groups with such a vulnerable participant group, as well as support workers on site should any of the victims need support after participating in the group. Participants signed consent forms to give their consent to participating and being audio recorded, were informed of their right to confidentiality and anonymity, and were also informed of their right to withdraw their responses from the research should they have wished to.

## **3.3 Type(s) of qualitative and quantitative analyses**

Qualitative data were analysed using a thematic analysis approach. Quantitative data were analysed using formulae and other appropriate calculations on Microsoft Excel 2013.

## **4. Domestic Violence Evidence and Legal Aid in Private Family Law: Literature Review**

This section summarises current literature covering: current access to legal aid in private family proceedings for domestic violence victims; the impact of not receiving legal aid in such cases; domestic violence victims' experiences of interacting with government agencies more generally, and variability in evidencing different types of domestic violence such as physical or financial abuse. First, though, it covers the relevant statistics available from the LAA's data systems.

### **Legal Aid Agency statistics**

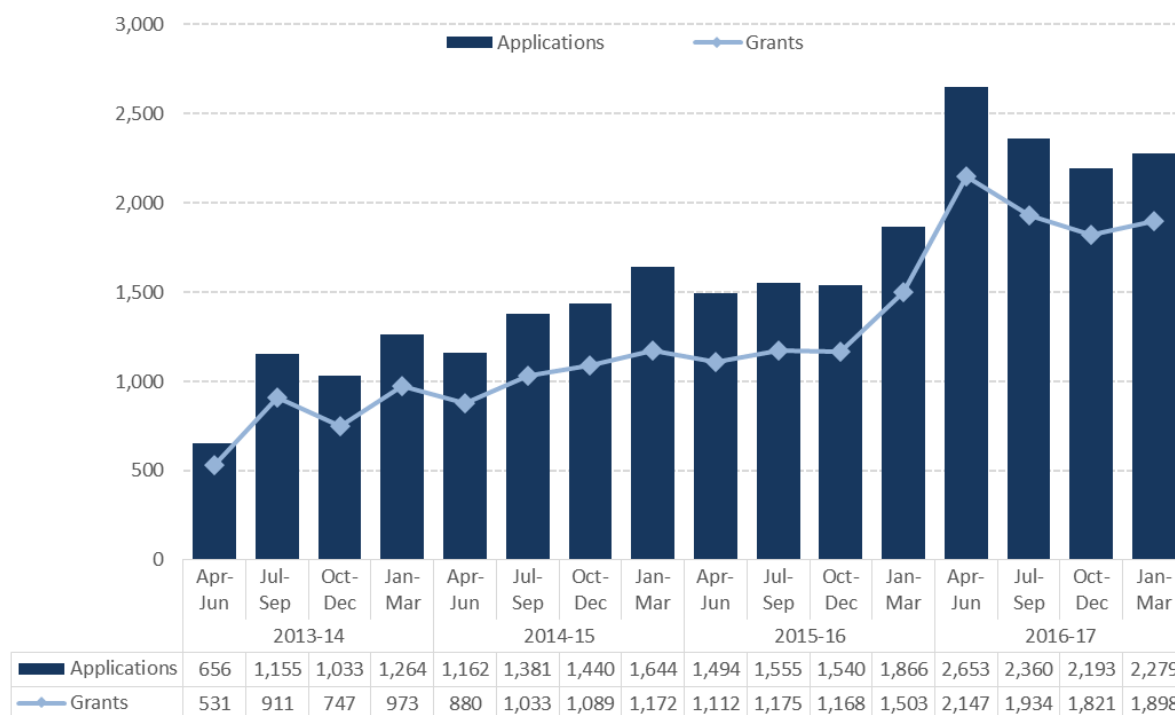
The Legal Aid Agency collects data on applications for civil legal aid and those cases in which legal aid is granted. This section summarises the available data pertinent to private family matters where evidence of domestic violence has been submitted. The data is only available for applications for civil legal representation (i.e. representation during the court process). It is not available for legal help (i.e. initial advice and assistance prior to proceedings).

In 2016-17 there were 9,485 applications where evidence of domestic violence was provided for legally aided representation in private family law proceedings.<sup>19</sup> Of these, 7,800 (or 82%) were granted. The number of applications and grants have, generally speaking, increased over time since the evidential arrangements first came into force in April 2013 – as Figure 4.1 shows.

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<sup>19</sup> The quarterly legal aid statistics bulletin show applications split by whether the evidence provided relates to domestic violence, child abuse, both domestic violence and child abuse or it was unknown/unclear on the LAA's recording systems what the evidence relates to. The statistics in this section refer only to applications where the evidence relates to domestic violence and both domestic violence/child abuse – i.e. those applications where we can be sure domestic violence evidence was provided.

**Figure 4.1: Applications and grants for legal aid in private family proceedings where evidence of domestic violence is provided**  
*April 2013 to March 2017*



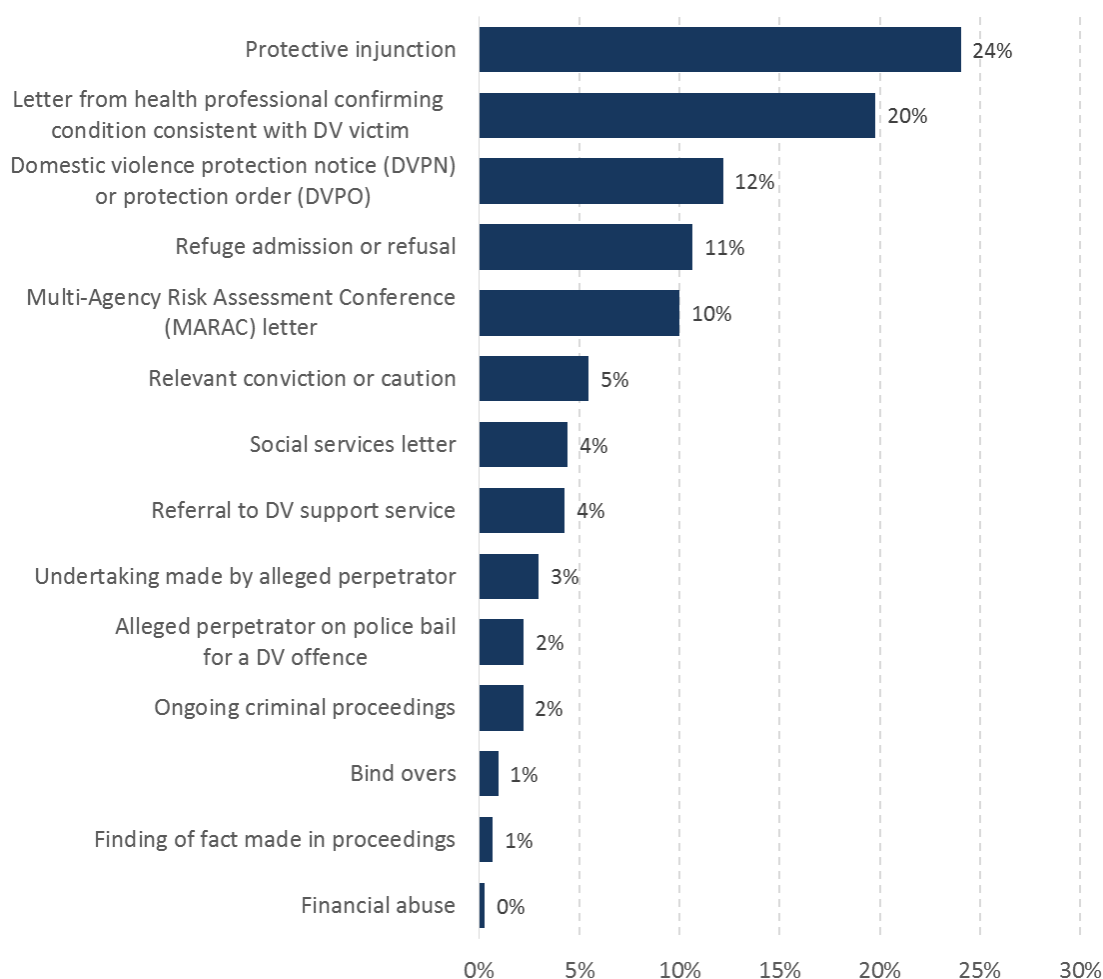
The evidential criteria have been expanded three times since April 2013 - in April 2014, July 2015 and April 2016 respectively. Despite this, the proportion of applications granted has remained broadly consistent at around 70% to 80% each quarter, with a mean grant rate of 78% per quarter. Data on the reasons why applications are not granted are also published by the Ministry of Justice and the Legal Aid Agency<sup>20</sup>. For those refused applications where data is available, the majority fail based on the means/merits of the case; 80% of failed applications in 2016-17 failed for this reason alone. In the same period, 14% failed because the evidence provided did not meet the required criteria, with a further 6% failing because both the evidence and means/merits of the case were not sufficient.

The LAA also collect data on the forms of evidence submitted by applicants in order to evidence that they have been a victim of domestic violence or at risk of being a victim. Figure 4.2 below shows the frequency with which different types of evidence are included within applications for legal aid, for applications made in 2016-17. Evidence that a protective injunction was in force or was granted within a five year period prior to applying for legal aid

<sup>20</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/647531/legal-aid-statistics-more-detailed-data-apr-jun-2017.zip](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/647531/legal-aid-statistics-more-detailed-data-apr-jun-2017.zip)

was the most common form of evidence.<sup>21</sup> Letters from a health professional examining the victim and confirming they had injuries or a condition consistent with those of a victim of domestic violence was also common. Together these two forms of evidence make up almost half of all types submitted in 2016-17. Forms of evidence related to the criminal justice system, such as a relevant conviction or caution for a domestic violence offence, were less common.

**Figure 4.2 Percentage of applications for legal aid where each form of qualifying of evidence is submitted<sup>22</sup>**  
2016-17



It should be noted that all of the above statistics only refer to applications that are actually submitted to the LAA; the LAA data systems will not record details for applications that are not made. An application may not be made for several reasons – for example, it may be

<sup>21</sup> Protective injunctions can include non-molestation orders, occupation orders, and harassment injunctions under the Protection from Harassment Act 1997, restraining orders, forced marriage protection orders and female genital mutilation protection orders.

<sup>22</sup> Applications where the evidence category is unknown or unclear from the data held for reporting purposes are not included in the table.

obvious to the legal aid provider that the applicant would fail the means test if they did apply or the applicant may not have the qualifying evidence. A potential applicant may also be told by the legal aid provider to source the evidence, but is unable to and so does not return to the solicitor. As such, these figures only present a partial picture of the system rather than a holistic picture.

### **Accessing legal aid and evidence of domestic violence**

Much of the available research reports that the evidence requirements have impaired access to legal aid, to varying degrees, for victims of domestic violence in private family proceedings. The Citizens Advice Bureau reported in 2015 that the majority (61%) of its advisors agreed that the legal aid changes that came into force April 2013 have affected the help they could provide to clients.<sup>23</sup> Further, 28% of advisors had been unable to successfully resolve a client's issue (involving domestic violence) due to problems with gathering sufficient evidence. In a similar vein, the All-Party Parliamentary Group on Domestic Violence conducted an online survey to investigate the experiences of organisations and individuals that support victims of domestic violence, as well as victims themselves. This was completed by key stakeholders and openly hosted online (on the Women's Aid forum) and therefore not necessarily representative. However it showed that 83% of respondents agreed that recent cuts to legal aid are, or will be, impinging on female survivor's access to justice.<sup>24</sup>

The vast majority of more in-depth research investigating the impact of LASPO on accessing legal aid in private family proceedings has thus far been undertaken by Rights of Women. Predominantly their research consists of an online survey conducted annually over the past three years since the introduction of LASPO in 2013.<sup>25</sup> Before discussing the findings of these surveys one must first acknowledge their caveats: firstly, the surveys were circulated online via organisations that seek to support women who are experiencing problems with legal matters.<sup>26</sup> Thus, respondents to the survey are disproportionately likely to be individuals

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<sup>23</sup> Citizens Advice Bureau (2015) - Victims of domestic violence: struggling for support? (An online survey circulated between 8<sup>th</sup> December 2014 – 19<sup>th</sup> January 2015).

<sup>24</sup> The survey ran for four weeks in October 2013 (specific dates are not reported). A degree of scepticism should be employed as non-probability sampling was used. More specifically, a mixture of purposive and voluntary sampling was used.

<sup>25</sup> Rights of Women conducted three surveys between 1/Apr/2013 – 31/Jul/2013 (141 respondents) <http://rightsofwomen.org.uk/wp-content/uploads/2014/10/Evidencing-DV-a-barrier-2013.pdf>, 1/Dec/2013 – 3/Mar/2014 (117 Respondents) <http://rightsofwomen.org.uk/wp-content/uploads/2014/10/Evidencing-DV-a-year-on-2014.pdf>, and 22/Apr/2014 – 30/Nov/2015 (239 respondents) <http://rightsofwomen.org.uk/wp-content/uploads/2014/09/Evidencing-domestic-violence-V.pdf>

<sup>26</sup> The sample methodology is broad. To quote the 2015 report: "The survey was circulated via *Right of Women's* website and to member services of both Women's Aid Federation of England and Welsh Women's Aid as well as via partner organisations and social media".

who have experienced problems accessing legal aid and the results are unlikely to be representative of all cases. Secondly, the surveys were publicly accessible online, and Rights of Women do not report any steps taken to ensure the responses were all valid. Finally, all three of the surveys have a relatively small sample of between 117-239 respondents per survey and many questions were not completed by all respondents. Thus, where possible, the surveys have been combined to provide a more representative assessment (see Appendix A).

The number of individuals who reported in the Rights of Women survey that they had no form of acceptable evidence that would support their application for legal aid has fallen each year; from 49% in 2013, to 43% in 2014, and – following the expansion of the accepted forms of evidence – 37% in 2015. The majority of proceedings in which legal aid was sought concerned child contact arrangements following a divorce or separation (67%), although other varieties of case were also cited (see Appendix A). Combining the results of all three Rights of Women surveys (see Appendix A) revealed that the most common forms of evidence sourced by survey respondents came from health professionals; either in the form of a referral to a domestic violence support organisation (18%) or directly as evidence of an injury incurred as a result of domestic violence (16%). Reports from social services (16%) were similarly common forms of evidence, shortly followed by Multi Agency Risk Assessment Conference (MARAC) referrals (14%) and protective injunctions (13%).<sup>27</sup>

In the most recent Rights of Women report, 46% of respondents did not have evidence prior to seeking legal aid and 34% of respondents did not know where to obtain evidence from.<sup>28</sup> A literature search found no other evidence that directly assessed domestic violence victims' experiences of accessing legal aid for private family law matters.<sup>29</sup>

### **The impact of not receiving legal aid**

The literature relayed above suggests that a number of domestic violence victims are unable to qualify due to the evidence requirements. This section shall consider the impact and outlook for individuals who do not qualify for legal aid. The Rights of Women survey (2015) reported that 53% of women unable to provide the evidence ceased the pursuit of legal

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<sup>27</sup> These findings on the different types of evidence sourced are quite different to the numbers cited in the legal aid data above. There is a clear disparity which could be used as an indicator for why the survey with its low sample size should be interpreted with caution.

<sup>28</sup> Rights of Women do not report the number of respondents for this question and therefore aggregating responses to this question across all three surveys is not possible. The most recent survey contained the largest number of respondents and is therefore most likely to be representative.

<sup>29</sup> Google Scholar, ProQuest, and EBSCO databases were searched for articles published after 2013 containing combinations of the following keywords: "legal aid", "domestic", "evidence", "private family law", "England".

action, 29% paid for a solicitor themselves, and 28% represented themselves at court. Similarly, the Citizens Advice Bureau reported that 59% of advisors agreed that fewer domestic violence clients are proceeding with legal action following LASPO in private family law proceedings, and 20% agreed that more victims are representing themselves in court.<sup>23</sup> Across all family court cases, the National Audit Office reported a 30% increase in cases where both parties were unrepresented in 2013-2014 when compared with 2012-2013, and at least one party was unrepresented in 80% of cases between January and March 2014.<sup>30</sup>

The primary reason litigants cite when deciding to represent themselves is the cost of otherwise paying for legal services<sup>31</sup>. There are a number of consequences to litigation in person: firstly, judges estimate that cases involving litigation in person take 50% longer in court than those where each party is represented.<sup>32</sup> In family cases, litigation in person has been linked to longer case duration due to a tendency not to settle when compared to represented cases,<sup>33</sup> although the evidence is generally mixed<sup>34 35</sup>. Other studies have found litigants in person cause procedural problems in court; being more likely to miss the hearing (due to mitigating circumstances or refusal to engage with the process), submit unmeritorious applications, or behave violently in court.<sup>31</sup> A recent MoJ literature review concluded that the impact of litigation in person largely depends on the person in question: some are able to present their cases competently, whilst others experience problems and find the process overwhelming.<sup>34</sup> This shouldn't imply that the impact is limited to the litigant themselves. Rather, the review highlights that litigation in person can burden court staff, judges, and introduces ethical challenges for the judiciary in cases where only one party is represented. A meta-analysis that combined studies investigating the outcomes of cases with or without representation found that representation had a positive effect on case outcomes.<sup>36</sup>

There is a distinct lack of evidence regarding the effect litigation in person has on victims of domestic violence, although it is clear that a number of complications may arise if a domestic

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<sup>30</sup> See <https://www.nao.org.uk/wp-content/uploads/2014/11/Implementing-reforms-to-civil-legal-aid1.pdf>

<sup>31</sup> Trinder et al (2014) Litigants in person in private family law cases.

<sup>32</sup> National Audit Office – Implementing reform to civil legal aid <https://www.nao.org.uk/wp-content/uploads/2014/11/Implementing-reforms-to-civil-legal-aid1.pdf>.

<sup>33</sup> Dewar, J., Banks, C. A., & Smith, B. (2000). Litigants in person in the Family Court of Australia.

Hunter, R. (1998). Litigants in Person in Contested Cases in the Family Court. *Australian Journal of Family Law*, 12, 1998.

Rosenbloom, J. D. (2002). Exploring Methods to Improve Management and Fairness in Pro Se Cases: A Study of the Pro Se Docket in the Southern District of New York. *Fordham urban law journal*, 30(305).

<sup>34</sup> Williams (2011) – Litigants in person: a literature review

<sup>35</sup> Moorhead, R. L., & Sefton, M. (2005). *Litigants in person: Unrepresented litigants in first instance proceedings*. Department for Constitutional Affairs.

<sup>36</sup> Sandefur, Rebecca L. "Elements of Expertise: Lawyers Impact on Civil Trial and Hearing Outcomes." unpublished paper (currently under review) (2011) as cited in 34.

violence victim is faced with their perpetrator in court. Rights of Women (2015) report anecdotal evidence that women who represent themselves in court find the experience traumatic and feel disadvantaged by a lack of representation.

As highlighted by the Rights of Women (2015) survey, there is a concern that some victims of domestic violence will simply not pursue legal action if they are unable to access legal aid. There is no research that directly assesses the consequences of this in private family law proceedings. However, it seems clear that not doing so may leave victims of domestic violence and their children in unsuitable or unstable conditions. A recent literature review suggests that witnessing domestic violence can have a number of negative consequences for children<sup>37</sup> and continued witnessing of inter-parental violence has been associated with disruptions to children's psychological functioning.<sup>38</sup>

### **Domestic violence victims' experiences with government services**

Crime statistics (Focus on Violent Crime and Sexual Offences, 2012-13) show that the majority of victims disclose information of their domestic violence to someone they know personally (71%; such as a family member or friend), whilst a minority disclose it to a government agency (33%) or support organisation (25%). Citizens Advice Bureau reported that 21% of domestic violence victims had not disclosed their violence to anyone at the time of seeking advice. Given the necessity of providing evidence to obtain legal aid, which at present requires some form of official documentation, the lack of disclosure to government/professional agencies could be problematic. However, the Office of National Statistics reports that, whilst the prevalence of domestic violence has remained stable between 2008 and 2014, police reporting has steadily increased. This could, in part, be due to improved reporting of incidents.<sup>39</sup> Relatedly, a recent review of police responses to domestic violence cases suggested that evidence gathering and reporting could be improved through the use of technology, such as body cameras.<sup>40</sup>

In a study that analysed data from the 2008-09 Scottish Criminal Justice Survey, MacQueen and Norris performed a logistic regression to establish which factors influenced police awareness of domestic violence cases (on a sample of 335).<sup>41</sup> Of the subset of cases for

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<sup>37</sup> Holt, S., Buckley, H., & Whelan, S. (2008). The impact of exposure to domestic violence on children and young people: A review of the literature. *Child violence & neglect*, 32(8), 797-810.

<sup>38</sup> Kitzmann, K. M., Gaylord, N. K., Holt, A. R., & Kenny, E. D. (2003). Child witnesses to domestic violence: a meta-analytic review. *Journal of consulting and clinical psychology*, 71(2), 339.

<sup>39</sup> ONS (2015) - Violent Crime and Sexual Offences - Intimate Personal Violence and Serious Sexual Assault [http://www.ons.gov.uk/ons/dcp171776\\_394500.pdf](http://www.ons.gov.uk/ons/dcp171776_394500.pdf)

<sup>40</sup> Vigurs, C., Wire, J., Myhill, A., Gough, D. (2016) Police Initial response to domestic violence.

<sup>41</sup> MacQueen, S., & Norris, P. A. (2016). Police awareness and involvement in cases of domestic and partner violence. *Policing and Society*, 26 (1), 55-76.



which the police were aware of domestic violence (approximately 33%), only 41% of respondents reported being a victim to police themselves. The remainder were unsure of how the police became aware (43%), or reported that a witness (2%) or family member (4%) informed the police. The results revealed that the police were more likely to be aware if the victim had a lower socio-economic status, was female, or had experienced more violence. Age was also a significant mediator; the likelihood that violence would be reported gradually increased up until the mid-forties and gradually declined thereafter. Interestingly, victims' ratings of the criminal justice system and of the local police did not significantly predict police involvement. Qualitative research suggests that ethnic minority women who have been victims of domestic violence may experience additional language or cultural barriers (such as concepts of honour or shame) that further prevent disclosure beyond immediate family<sup>42</sup><sup>43</sup>. Future research could establish how police disclosure could be encouraged in these groups.

Research investigating domestic violence victims' experience of the private family court has largely focused on child contact proceedings. Conversation analysis of fifteen in-court conciliation or dispute resolution sessions found that domestic violence is often marginalised in family court proceedings.<sup>44</sup> Hester argues that there is a fundamental lack of coordination between the domestic violence and private family law services that stems from the narrow remit of each respective service; with adult victims' safety taking the forefront at domestic violence proceedings, whilst residency and contact arrangements take the focus in private family cases.<sup>45</sup> For example, it is not uncommon for special measures to be implemented in domestic violence proceedings (such as separating victim and perpetrator with a screen), that are overlooked in subsequent private family cases involving the very same individuals.<sup>46</sup> Although entirely anecdotal, some respondents to the Rights of Women survey highlight that a lack of special measures in private law proceedings was problematic during the proceedings, particularly when litigating in person.

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<sup>42</sup> Burman, E., Smailes, S. L., & Chantler, K. (2004). 'Culture' as a barrier to service provision and delivery: domestic violence services for minoritized women. *Critical social policy*, 24(3), 332-357.

<sup>43</sup> Gill, A. (2004). Voicing the silent fear: South Asian women's experiences of domestic violence. *The Howard journal of criminal justice*, 43(5), 465-483.

<sup>44</sup> Trinder, L., Firth, A., & Jenks, C. (2009). 'So presumably things have moved on since then?' The management of risk allegations in child contact dispute resolution. *International Journal of Law, Policy and the Family*, ebp010.

<sup>45</sup> Hester, M. (2011). The three planet model: Towards an understanding of contradictions in approaches to women and children's safety in contexts of domestic violence. *British Journal of Social Work*, 41(5), 837-853.

<sup>46</sup> The Youth Justice and Criminal Evidence Act 1999 (YJCEA) introduced a range of measures that can be used to facilitate the gathering and giving of evidence by vulnerable and intimidated witnesses. The measures are collectively known as "special measures". Special measures are a series of provisions that help vulnerable and intimidated witnesses give their best evidence in court and help to relieve some of the stress associated with giving evidence. Special measures apply to prosecution and defence witnesses, but not to the defendant and are subject to the discretion of the court.

There is little research investigating victims' perceptions and experiences of MARAC. However, a review that questioned MARAC staff and volunteers found that 97% of respondents thought that their MARAC is 'very' or 'fairly' effective at improving the lives of domestic violence victims.<sup>47</sup> Information sharing is particularly relevant here, as the procurement of evidence will likely require various agencies to share information. 95% of respondents agreed that their MARAC had an established information sharing protocol. A literature search found no further evidence that directly assessed domestic violence victims' experiences of government agencies.<sup>48</sup>

### **Evidencing different forms of domestic violence**

The cross-government definition of domestic violence is: "any incident or pattern of incidents of controlling, coercive, threatening behaviour, violence or violence between those aged 16 or over who are, or have been, intimate partners or family members regardless of gender or sexuality."<sup>49</sup> The violence can encompass, but is not limited to: psychological, physical, sexual, financial, and emotional violence". Whilst non-physical forms of violence have not received as much attention as physical forms of violence, they are highly prevalent.<sup>50</sup> One recent study of victims of domestic violence in Michigan found that all 103 women interviewed had experienced psychological abuse and the vast majority (99%) had experienced financial abuse.

Difficulties providing evidence of abuse are likely to vary for different forms of violence, although there is no research that directly compares this. However, research assessing risk assessments undertaken by the police revealed a systemic bias towards prioritising victims of physical abuse. Police officers and staff tend to prioritise criminal offences (especially physical violence and injury) at both initial responses and secondary risk-assessments.<sup>51</sup> The same inquiry found that most officers could not recall receiving any specific training relating to domestic violence and lacked an understanding of coercive control. This corroborates the findings of an earlier study into police assessments of domestic violence that found officers' lacked an understanding of coercive control, which could allow it to go

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<sup>47</sup> Cordis Bright (2011) Research into Multi-Agency Risk Assessment Conferences (MARACs).

<sup>48</sup> ProQuest, EBSCO, and Google Scholar databases were searched for articles published after 2013 containing the following keywords: "domestic violence" "police / NHS / MARAC / courts" and "perceptions / attitudes / opinion / experience / view / reflection". Here / denotes an OR statement.

<sup>49</sup> Home Office (2016). 'Guidance: Domestic Violence and abuse' (online) <https://www.gov.uk/guidance/domestic-violence-and-violence> [Accessed 08th November 2016].

<sup>50</sup> Citizen's Advice Research: <https://www.citizensadvice.org.uk/relationships/gender-violence/domestic-violence-and-abuse/#h-financial-abuse>.

<sup>51</sup> Robinson, Myhill, Wire, Roberts & Tilley (2016). Risk-led policing of domestic violence and the DASH risk model.

undetected.<sup>52</sup> Taken together, this suggests that physical incidents are more likely to be prioritised and subsequently easier to evidence than more subtle forms of domestic violence. Evidencing, and subsequently prosecuting, financial/economic abuse for example is a long standing issue worldwide. Research conducted by the Office of Manhattan, South Asian Women and the Worker Institute at Cornell (2012) in the USA shows that in New York City 'and beyond', economic abuse is not currently recognised in city or state law as a form of domestic violence.<sup>53</sup> Even in countries that it is, such as Tasmania, prosecutions are fairly recent despite the law existing for a number of years.<sup>54</sup>

Nonetheless, financial/economic abuse is a prevalent form of domestic violence. Forms of financial/economic abuse are nuanced and varied, yet can be broadly subdivided into three categories<sup>55</sup>: financial control (e.g. limiting the victim's access to a joint account), financial exploitation (e.g. abuser putting debts in the victim's name), and financial sabotage (e.g. not allowing the victim to work). A nationally representative survey ( $N=4,001$ ) found that 18% ( $N=730$ ) of British adults had experienced financial abuse in a current or past relationship.<sup>56</sup> A study by Michigan University found that 99% of women in abusive relationships had experienced economic abuse at some point during their relationships<sup>57</sup>. However, the women sampled in this study were all receiving support from domestic violence victim service agencies and therefore unlikely to be representative of the co-occurrence of physical and financial abuse in the general population. Economic abuse fosters economic dependence on the abuser and threatens both short- and long-term economic prosperity. In turn, due to the established economic dependence, leaving an abusive relationship may leave victims of limited resource in a position of economic uncertainty<sup>57</sup>.

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<sup>52</sup> Myhill A and Johnson K (2016) Police use of discretion in response to domestic violence. *Criminology and Criminal Justice* 16(1): 3-20.

<sup>53</sup> See <https://www.ilr.cornell.edu/sites/ilr.cornell.edu/files/Economic-Violence-Untold-Cost-of-DV.pdf> for the full report.

<sup>54</sup> See <http://mobile.abc.net.au/news/2016-08-01/tasmanian-man-prosecuted-for-alleged-economic-violence/7679922> for the full story.

<sup>55</sup> Postmus, J. L., Plummer, S., McMahon, S., Shaanta Murshid, N. and Sung Kim, M. (2012)

— Understanding Economic Abuse in the Lives of Survivors *Journal of Interpersonal Violence*. 27(3) 411-430.

<sup>56</sup> Money Matters' Refuge and Co-Op research, Page 17: <http://www.refuge.org.uk/files/Money-Matters.pdf>

<sup>57</sup> Development of the scale of economic abuse: [http://wbg.org.uk/GBA\\_Present\\_2\\_2951060362.pdf](http://wbg.org.uk/GBA_Present_2_2951060362.pdf)

# 5. Results

This section details the results of the survey and both focus groups in relation to the three research questions outlined in the executive summary.

## 5.1 To what extent are victims of domestic abuse who require legal representation to resolve private family issues able to access legal aid?

### Background data

Tables 5.1 & 5.2: In terms of accessing either legal aid providers or domestic violence support organisations, victims come into contact via a plethora of routes, with direct contact and referral from a support organisation as the most common responses given by survey respondents.

**Table 5.1: ‘Q2: By what routes do victims of domestic violence come into contact with your organisation? Select all that apply’ (please note that respondents could choose more than one option).**

*Legal Aid Provider Survey Respondents*

Route	Number of responses	Percentage of total survey respondents
Direct contact	324	63%
Word of mouth	239	47%
Referral from a support organisation	234	46%
Referral from another lawyer	203	40%
Specialist domestic violence organisations	187	36%
Found via internet search	176	34%
Local refuges	168	33%
Citizen’s Advice	168	33%
Local authorities	141	27%
Referral from the police	92	18%

Children's centres	69	13%
Outreach clinic by the organisations itself	56	11%
Local specialist advocacy services	48	9%
Other NGO's/local organisations (not domestic violence specific)	37	7%
Referral by the CLA <sup>58</sup> helpline	20	4%
Other – please specify	9	2%

**Table 5.2: 'Q2: By what routes do victims of domestic violence come into contact with your organisation? Select all that apply' (please note that respondents could choose more than one option).**

*Domestic Violence Support Organisation Survey Respondents*

<b>Route</b>	<b>Number of responses</b>	<b>Percentage of total survey respondents</b>
Direct contact	136	27%
Referral from a support organisation	119	23%
Referral from the police	112	22%
Local authorities	107	21%
Word of mouth	104	20%
Specialist domestic violence organisations	101	20%
Local refuges	85	17%
Children's centres	84	16%
Found via internet search	83	16%
Local specialist advocacy services	73	14%
Other NGO's/local organisations (not domestic violence specific)	73	14%
Citizen's Advice	68	13%
Outreach clinic by the organisations itself	58	11%
Referral from another lawyer	56	11%
Other – please specify	19	4%
Referral by the CLA helpline	18	4%

<sup>58</sup> Civil Legal Advice Helpline.

Tables 5.3 & 5.4: Responding organisations varied in their experience of the number of victims approaching them for advice each year.

**Table 5.3: ‘Q6: What is your best estimate of the number of people each year who seek advice from your organisation who have experienced domestic violence?’**

*Legal Aid Provider Survey Respondents*

Estimated number of advice seekers per year	Number of responses	Percentage of responses
0-10	35	10%
11-25	43	12%
26-50	78	22%
51-75	37	10%
76-100	47	13%
100+	90	25%
Don't Know	25	7%
<b>Total</b>	<b>355</b>	<b>100%</b>

**Table 5.4: ‘Q6: What is your best estimate of the number of people each year who seek advice from your organisation who have experienced domestic violence?’**

*Domestic Violence Support Organisation Survey Respondents*

Estimated number of advice seekers per year	Number of responses	Percentage of responses
0-10	9	6%
11-25	6	4%
26-50	5	3%
51-75	6	4%
76-100	10	6%
100+	110	70%
Don't Know	12	8%
<b>Total</b>	<b>158</b>	<b>100%</b>

Tables 5.5 & 5.6: Responding organisations varied in their estimates of the number of victims requiring legal advice or representation for a private family problem per year. Notably, the average number of victims requiring legal advice or representation as estimated by legal aid providers was 81, compared to 270 estimated by domestic violence support organisations.

**Table 5.5: ‘Q7: Of those that present themselves to your organisation, how many do you estimate require legal advice or representation for a private family problem per year?’<sup>59</sup>**

*Legal Aid Provider Survey Respondents*

Estimated number of advice seekers per year	Number of responses	Percentage of responses
0-10	40	11%
11-25	50	14%
26-50	92	26%
51-75	39	11%
76-100	97	27%
101-200	21	6%
201-300	6	2%
301-400	1	0%
401-500	6	2%
501-1000	3	1%
1001+	0	0%
<b>Total</b>	<b>355</b>	<b>100%</b>

<sup>59</sup> The ranges presented in Table 5.3 and Table 5.4 are different to the ranges presented here and in subsequent tables due to the fact that Q6 of the survey (Tables 5.3 and 5.4) had a set range of responses presented in the table, at the suggestion of the key stakeholders previously mentioned who were involved in the research. Qs7-9 (Tables 5.5 to 5.10) were free text and allowed respondents to provide any number they wished. As such, the ranges presented in these tables were decided during analysis.

**Table 5.6: ‘Q7: Of those that present themselves to your organisation, how many do you estimate require legal advice or representation for a private family problem per year?’**

*Domestic Violence Support Organisation Survey Respondents*

<b>Estimated number of advice seekers per year</b>	<b>Number of responses</b>	<b>Percentage of responses</b>
0-10	19	12%
11-25	7	4%
26-50	21	13%
51-75	21	13%
76-100	36	23%
101-200	12	8%
201-300	6	4%
301-400	4	3%
401-500	2	1%
501-1000	17	11%
1001-2000	13	8%
2000+	0	0%
<b>Total</b>	<b>158</b>	<b>100%</b>

Tables 5.7 & 5.8: Responding organisations varied in their estimates of the number of victims who succeeded in accessing legal aid for advice or representation in private family cases. On average, legal aid providers estimated that 35 victims in the last year succeeded in accessing legal aid in these cases, compared to 105 victims estimated by domestic violence support organisations.



**Table 5.7: ‘Q8: Approximately, in the last year how many victims has your organisation worked with who succeeded in accessing legal aid for advice or representation in these cases, if any?’**

*Legal Aid Provider Survey Respondents*

Estimated number of advice seekers per year	Number of responses	Percentage of responses
0-10	78	41%
11-25	33	18%
26-50	45	24%
51-75	12	6%
76-100	14	7%
101-200	1	1%
201-300	5	3%
301-400	0	0%
401-500	0	0%
501+	0	0%
<b>Total</b>	<b>188<sup>60</sup></b>	<b>100%</b>

**Table 5.8: ‘Q8: Approximately, in the last year how many victims has your organisation worked with who succeeded in accessing legal aid for advice or representation in these cases, if any?’**

*Domestic Violence Support Organisation Survey Respondents*

Estimated number of advice seekers per year	Number of responses	Percentage of responses
0-10	15	31%
11-25	2	4%

<sup>60</sup> Please note that the number of respondents to this question was much lower than the numbers in the above tables.

26-50	11	23%
51-75	5	10%
76-100	1	2%
101-200	9	19%
201-300	1	2%
301-400	1	2%
401-500	1	2%
501+	2	4%
<b>Total</b>	<b>48</b>	<b>100%</b>

Tables 5.9 & 5.10: Again, responding organisations varied in their estimates of the number of victims who were either unsuccessful or unable to access legal aid for advice or representation in private family cases. On average, legal aid providers estimated that 56 victims were unsuccessful or unable to access legal aid in these cases, compared to 74 victims estimated by domestic violence support organisations. These figures suggest that legal aid providers estimated more victims to be unsuccessful or unable, than successful, in accessing legal aid for these cases. In contrast, domestic violence support organisations estimated more victims to be successful than unsuccessful or unable in accessing legal aid for these cases. This may be because domestic violence support organisations, who may have a lack of understanding of the legal aid process, come into contact with many victims, sometimes as the first point of contact, that appear to have meritorious cases. Legal aid providers may have more contact with victims at the stage of gathering evidence and assessing them against the time limit and means test.

**Table 5.9: ‘Q9: Approximately, in the last year how many victims has your organisation worked with that were either unsuccessful or unable to access legal aid for advice or representation in these cases, if any?’**

***Legal Aid Provider Survey Respondents***

<b>Estimated number of advice seekers per year</b>	<b>Number of organisations</b>	<b>Percentage of organisations</b>
0-10	48	29%
11-25	38	23%
26-50	46	27%

51-75	14	8%
76-100	14	8%
101-200	4	2%
201-300	0	0%
301-400	1	1%
401-500	1	1%
501+	2	1%
<b>Total</b>	<b>168</b>	<b>100%</b>

**Table 5.10: 'Q9: Approximately, in the last year how many victims has your organisation worked with that were either unsuccessful or unable to access legal aid for advice or representation in these cases, if any?'**

*Domestic Violence Support Organisation Survey Respondents*

<b>Estimated number of advice seekers per year</b>	<b>Number of organisations</b>	<b>Percentage of organisations</b>
0-10	15	32%
11-25	10	21%
26-50	9	19%
51-75	2	4%
76-100	4	9%
101-200	4	9%
201-300	0	0%
301-400	2	4%
401-500	0	0%
501+	1	2%
<b>Total</b>	<b>47</b>	<b>100%</b>

## **Ability of victims to access legal aid**

Victims that attended the five focus groups held across England and Wales stated a number of factors that influenced their ability to access legal aid<sup>61</sup>. These included:

- Help in accessing evidence from a domestic violence support organisation. Of those who commented, 15 out of the total 40 participants stated that without the help of a domestic violence support organisation / their solicitor<sup>62</sup>, they would not have been able to get the evidence needed to access legal aid. These organisations informed the victims of what was needed, set up a meeting with a solicitor for the victim and called relevant organisations to get the evidence. 14 of these 15 victims, who came from Black and Minority Ethnic (BME) backgrounds, stated that language barriers prevented them from being able to fully understand what was needed, and so they relied on the domestic violence support organisation for help:

*“Obviously, as the lady said, the language barrier because we cannot explain our situation, if we can’t explain our situation how can we provide evidence, so obviously [domestic violence support organisation name removed] works, ring there and explain the situation and then provide us with help.” (Participant 11, Rotherham Focus Group).*

- Victims across all of the groups expressed very different experiences with their solicitor’s experience and expertise when applying for legal aid. In some cases, the victim had a very positive experience with their solicitor, whilst others did not. This appeared to be a result of the solicitor’s knowledge of the legal aid process and their ability to process information in a timely manner:

*“My solicitor was fantastic. I’m still dealing with my solicitor because I’m now going through a prohibited steps order and a residence order for my little girl, so my solicitor’s fantastic. I can’t fault anything at all, especially even with legal aid, it’s been fantastic, yes.” (Participant 3, Nottingham Focus Group).*

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<sup>61</sup> Some victims who took part in the focus groups were able to access legal aid, whereas others were not. However, this would be difficult to quantify as not all participants of the focus groups mentioned whether or not they were able to access legal aid, and others had multiple experiences of applying with varying outcomes.

<sup>62</sup> In the case of 1 of the 15 victims.

*“It was quite easy for me because I received a lot of help from my solicitor especially... I’m very pleased with my solicitor, he shows me everything.”*  
(Participant 6, London Focus Group).

*“My difficulties were more with the solicitor side of things rather than me getting the evidence.”* (Participant 5, Nottingham Focus Group).

*“Some of them [solicitors] will go and really do your best for you, there are others that will give you advice, the wrong advice, I’ve had that experience as well by three different ones, and I’ve had disgusting advice and totally went against everything I wanted... I’ve had to change solicitors because the solicitor I had was absolutely useless, I was doing their work for them, I kept presenting with case law, I said, “Look, it says here that this has happened in this particular...” “Oh yes, where did you find that?” and I’m thinking, “Hang on a second, who’s getting paid the big bucks to sit behind a desk?””*  
(Participant 7, Bristol Focus Group).

A number of victims also mentioned that they weren’t informed of the full list of evidential requirements and were asked by their solicitors to provide just one or two things; however:

*“If I’d been given a choice, then it would have been so much easier... I wasn’t presented with anything, “Oh, you can have either this or that””* (Participant 7, Bristol Focus Group).

- The means test for legal aid. Respondents to the survey and the legal aid provider focus group participants mentioned problems with the means test for legal aid. If victims have earnings or assets over the means test threshold, this makes them ineligible for legal aid. Respondents stated that many of these victims cannot afford to take their cases forward as their earnings cover their living expenses with limited disposable income, or their capital is inaccessible, especially if they are being financially abused. Of the victims who mentioned this in the focus groups, nearly a quarter (9) victims were not able to access legal aid due to failing the means test on either capital or having earnings over the threshold:

*“...but because they said I own the property I can’t apply legal aid. But the problem is like my mum bought it only because she can’t come here to sign,*

*so I sign it, so it's on my name... I'm on spousal visa, I can't apply [for] any benefit...so, now I...live from the support from my family... but that's not very stable, not very balanced every time. Even two months ago I got two weeks I have only two pounds, that's it, and my friend need to come to my home to cook for me and children every day...and I can't go to work because I need to take care of two children, and because of this situation, if I can't even apply legal aid to help me to make sure children with me, I don't know what to do. Even...the solicitor said, "Sorry, we're stuck," and I'm really stuck in the beginning of the situation now". (Participant 5, Wales Focus Group).*

*"...I had money in my bank, I earn an okay-ish wage but I don't think it took into enough consideration that my partner had just left, I'm literally left paying all my bills, everything, he wasn't contributing financially so that's all my bills, all my childcare, but because it had looked like I had got this money, that's what they went on... too much of it was looking on the money side of it rather than... "Can we get this to protect this person and the children?" (Participant 5, Nottingham Focus Group).*

*"...we were locked out of our home, my ex took control of it and we didn't have anywhere to be but on the bank statements it showed that you've got that few hundred pounds more because you're not paying rent whereas actually I'm homeless and I kind of really need this help right now and, you know, I have to pay for hotels and, you know, they didn't take any of that into account, it was actually, "No, you've got that much more money that, you know, you're not paying rent or, you know, you haven't got a contract, you're not paying a mortgage so you've got extra income and we won't support you,"... I was refused funding based on, you know, the numbers rather than the actual situation itself." (Participant 2, Nottingham Focus Group).*

*"... it was like another door slammed in my face." (Participant 4, London Focus Group).*

All of these victims stated that due to their ineligibility, they were unable to afford representation, with a number of them having to represent themselves in court as a result. This was described as a difficult experience:

*“It was really difficult, to be honest, he had a lawyer, so I felt really bullied actually in court... and I felt like, obviously, his solicitor was using jargon...I just felt like he made like a real personal attack on me... We was in there for two hours and I don’t think I could have done anymore, like I left in tears, so it was a pretty horrific experience to be honest. I was pregnant at the time.” (Participant 2, Bristol Focus Group).*

*“He [ex-partner] paid privately and they just totally bullied me, even though I had one of those court reps in with me. There was no point in her being there because she couldn’t answer for me, she couldn’t represent me so, to be honest, I don’t think they’re of any use...even the barrister bullied me, the magistrate, he did, she did, because I was on my own.” (Participant 7, Bristol Focus Group).*

*“Facing an ex-abuser in court as a litigant in person is further victimisation.”(Survey Respondent).*

One participant even reported suffering mental health problems as a direct result of her experience.

*“I actually had a nervous breakdown at some stage... because of the process of [me] having to represent [myself, it] was diagnosed by health that [I] had a mental health breakdown.” (Participant 2, Nottingham Focus Group).*

Legal aid provider survey respondents estimated that when victims cannot access legal aid in private family cases, 200 (55%) respondents stated that some victims do not bring their case any further; 66 (18%) stated that some victims pay to bring their case forward; 36 (10%) stated that some victims opt to use a McKenzie friend in court.

Factors relating to victims being unable to evidence their violence, and suggested improvements to the evidential requirements, as well as the legal aid process as a whole, will be discussed in more detail in the following sections.

## **5.2 Is there anything that hinders individuals from evidencing their abuse?**

Respondents of the survey and both focus groups highlighted issues that prevent victims from evidencing their abuse. This included victims being unable to obtain evidence on the

currently accepted list of evidential requirements, as well as the feeling that the evidence on the list is too restrictive; victims not meeting the criteria of the means test; non-disclosure of the violence to the various organisations that can supply evidence; and the unwillingness of certain organisations / services to provide evidence.

**Concerns over the evidence requirements**

**Awareness of the evidential requirements**

A major hindrance concerned the fact that many victims are unaware of the evidential requirements at all until they attempt to access legal aid. This can be problematic as it may mean the victim is unlikely to have the required evidence because they weren't prepared for the possibility of needing to provide it: Indeed, 96% of legal aid provider survey respondents reported that victims are unaware of the evidence requirements when they first approach the respondents' organisations.

*“No, not a clue. They all think they are going to be protected and then they all think we are mad and insane, because we...keep asking them for ludicrous pieces of paper.” (Participant 3, LAP<sup>63</sup> Focus Group).*

This was echoed by the majority of victims who participated in the victim focus groups, who stated they were unaware of the evidential requirements until they approached either a solicitor or a domestic violence support organisation.

**Difficulties in obtaining evidence**

Survey respondents and participants of both focus groups reported multiple difficulties in accessing evidence. The tables below highlight the difficulty experienced by legal aid provider survey respondents, and the victims they have worked with, in accessing certain pieces of evidence:

**Table 5.11: ‘Q13&14: In your experience, have victims had any difficulties in acquiring any particular form(s) of evidence on the current list which are known to exist in the particular case, or ought to be possible to secure? What are these difficulties and to which forms of evidence do they pertain?’**

***Legal Aid Provider Survey Respondents***

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<sup>63</sup> Legal Aid Provider (LAP) focus group participant.



Form of Evidence	Have you or the victims you assist had problems obtaining any of the following forms of evidence?	
	Yes	No
A letter from a health professional	72%	28%
Evidence of relevant police bail	59%	41%
A relevant unspent conviction for a domestic violence offence	58%	42%
A relevant police caution for a domestic violence offence	58%	42%
A social services letter	58%	42%
Ongoing relevant criminal proceedings	52%	48%
Evidence, or an explanation, that the person has been a victim of, or is at risk of, financial abuse	49%	51%
A relevant conviction for a domestic violence offence	43%	57%
Evidence of referral to domestic violence support services from a health professional	40%	60%
A letter from a member of a MARAC	39%	61%
A relevant court bind over	33%	67%
A copy of a finding of fact, made in proceedings	31%	69%
Certain undertakings	27%	73%
A Domestic Violence Protection Order/Domestic Violence Protection Notice	25%	75%
A relevant protective injunction	23%	77%
Evidence of not being able to access refuge accommodation/a refuge admission letter	23%	77%

**Table 5.12: ‘Q18: The regulations state that those *at risk* of becoming a victim of domestic violence, as well as those who are victims, are entitled to legal aid. Do you think the current evidence requirements adequately cater for those who are *at risk* of becoming a victim of domestic violence?’**

***Legal Aid Provider Survey Respondents***

Form of Evidence	No	Yes
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A relevant unspent conviction for a domestic violence offence	62%	38%
Certain undertakings	61%	39%
Evidence, or an explanation, that the person has been a victim of, or is at risk of, financial abuse	61%	39%
A relevant court bind over	58%	42%
Evidence of relevant police bail	57%	43%
A relevant police caution for a domestic violence offence	57%	43%
A letter from a health professional	57%	43%
Ongoing relevant criminal proceedings	56%	44%
A copy of a finding of fact, made in proceedings	55%	45%
A relevant conviction for a domestic violence offence	54%	46%
A Domestic Violence Protection Order/Domestic Violence Protection Notice	52%	48%
Evidence of referral to domestic violence support services from a health professional	51%	49%
Evidence of not being able to access refuge accommodation/a refuge admission letter	51%	49%
A relevant protective injunction	49%	51%
A letter from a member of a MARAC	44%	56%
A social services letter	43%	57%

Overall, 291 (90%) legal aid provider survey respondents claimed that victims experience difficulties in acquiring the evidence. The most problematic pieces of evidence to obtain were as follows:

- A letter from a health professional<sup>64</sup>; a social services letter<sup>65</sup>.

Multiple difficulties were expressed in obtaining evidence from health professionals, and in particular, General Practitioners (GP's), which was expressed as the most difficult piece of evidence on the list to obtain [173 (72%) legal aid provider survey respondents]. Reasons

<sup>64</sup> A letter from a health professional, dated from within the sixty month period immediately preceding the application, confirming that the victim has been examined and confirming injuries or a condition consistent with those of a victim of domestic violence.

<sup>65</sup> A social services letter stating that the person was assessed as being a victim of, or at risk of being a victim of, domestic violence, dated within the sixty month period immediately preceding the application.

included the cost of a GP letter to the victim (with the most expensive letter cited costing a victim £120) especially if the victim is on a low income or is suffering financial abuse; the unwillingness of GP's to write these letters and the strict wording that these letters must follow that GP's do not always stick to. As one victim stated:

*"The first time they charged me £50, and I said, "I'm not working, I can't afford it. This is why I'm going on Legal Aid, I'm off sick." £50, I had to cough up before they would even write two lines, two sentences, my ten year old could have done it, £50, and then the second time, when we were reapplying for it just to take the case further, the GP wanted £120." (Participant 7, Bristol Focus Group).*

This was strongly emphasised by legal aid provider focus group participants:

*"[GP's] have said that they would not do the letter and we have had a number of letters, from GPs, where they digress from the script and you say to them, "No, that's not what we want you to say," they still digress from the script, and my brother-in-law [a GP] said to me, "How do I know that injury was as a result of domestic violence?"(Participant 5).*

*"...And they want the actual name of the husband, but if the letter refers to "the husband" that doesn't go far enough apparently. Well, how many husbands do you think she's got?!" (Participant 18).*

*"...they [GP's] just refuse point blank to use the wording, in the letters, and they get rejected..." (Participant 16).*

*"...the idea that GPs provide letters... I had a case where a woman had to sell her cooker, in order to pay for the GPs letter. Well, I wrote to the GP and said, "Could you possibly not charge in this case because this woman had..." I won't go into why she had next to no money, the GP wrote back and said, "We are a business, the fee is £85... If we had legal help to cover it and we could pay for it, we would get the letters like that. The GPs want between £50 and £100 and, if you're on benefits of £60 a week, then you can't pay that." (Participant 17).*

*"For a woman who's on Income Support getting £35 a week, I think you could say that's a bit of a barrier." (Participant 3).*

*“Some of the women who have worked [in domestic violence organisations] have worked there for over 30 years, doing frontline domestic violence work. They’re experts, they’re absolutely experts in domestic violence, but they clearly cannot be trusted by the MoJ not to tell lies, in order to get tiny scraps of money, to protect people when they don’t really need protection and it’s so offensive, it really is. So you’ve still got to go back to the white elderly male doctor, to send someone to this person who’s got 30 years of experience, whether the doctor can actually make an assessment whether somebody’s... You know, they have three minutes a patient or less now? And... I mean doctors just do not identify domestic violence because they don’t have the time and they’re not focused on it.” (Participant 2).*

- Evidence from the police: a relevant unspent conviction for a domestic violence offence; evidence of relevant police bail; a relevant police caution for a domestic violence offence; a relevant conviction for a domestic violence offence.
- Evidence from the courts: ongoing relevant criminal proceedings.

Reasons for difficulty in obtaining the above forms of evidence included the unwillingness of certain organisations to provide the victim with evidence. This included obtaining evidence from the police, with many survey respondents stating that a lack of resources, *“data protection claims [and] red tape...”*<sup>66</sup> prevented individuals from getting evidence from the police, and at times the expectation that another organisation will do it, especially in cases where a Multi-Agency Risk Assessment Conference (MARAC) was conducted.

- Evidence of financial violence: evidence, or an explanation, that the personal has been a victim of, or is at risk of, financial violence.

206 (65%) of legal aid provider survey respondents and 80 (55%) of domestic violence support organisation survey respondents felt that the evidence requirements do not adequately cater for all forms of violence; only physical violence was felt to be adequately catered for. Victims of financial violence in the victim focus groups expressed the difficulties they had faced when trying to evidence their violence.

*“I couldn’t prove that I couldn’t access my bank account... I wasn’t allowed out of the house, I wasn’t allowed to learn to drive or to get a job, so that was*

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<sup>66</sup> Quote from a Survey Respondent.

*financially... so how could I prove that that wasn't by my choice?" (Participant 7, Wales Focus Group).*

This was echoed by legal aid provider focus group participants who have experience working with victims of financial violence:

*"There's a category of violence which is financial violence. How unbelievably stupid is it that somebody can't receive public funding because they haven't been able to provide bank statements in relation to their means when the bank account is controlled by the person who's financially abusing them, who won't give access to the woman, to his bank statement, and so she's not able to get public funding until she can show something about which the protective order relates to? It's, just, it's, you know, Kafka couldn't have dreamt that one up." (Participant 4, LAP Focus Group).*

*"And I think the other thing is if someone's had financial control, by their partner, and then you're asking... They have no financial documents, the only place there are financial documents is back in the property, where they're being abused, and that's, they have nothing really and it's really, really difficult to get that." (Participant 17, LAP Focus Group).*

Evidencing other forms of violence, such as sexual violence, may also be a challenge for some victims. As participants stated:

*"... if I got bruised I didn't go to a doctor, when I got raped I didn't go and... you know, at the time it was something that I had to keep to myself." (Participant 7, Wales Focus Group).*

*"It's not easy to get evidence actually for everyone here because if you live with a super controlling partner you couldn't talk to other people... you're so scared you can't go out alone because he will go with you everywhere... he is abusing you, he is raping you. But I don't have medical evidence to show that he raped me because I need to stay with baby every day.... [name removed] advised me that I should go to GP immediate, but GP always busy, even you phone early in the morning that they were telling you that probably they will have appointment today, "Oh, they were not available today." So, if it's after shower, it's done, isn't it? And I can't left two babies at home and then just*

*went to hospital or GP to check my body..." (Participant 5, Wales Focus Group).*

Additional difficulties in acquiring the evidence include the following:

- The vulnerabilities of certain victims, such as language barriers, mental/physical health issues, and having to flee their homes without being able to take anything with them that may be used as evidence:

*"The clients are in an emotional state and find it hard to focus on having to get documents. They might have fled [from] the home without ID and bank details. If they are in a refuge they have problems in getting access to the internet and printing documents". (LAP Survey Respondent)*

*"...it used to be that it was non-means, non-merits and you didn't have to provide because most people, in those circumstances, are not in a state where they can go round their house searching for all the proof..." (Participant 3).*

- The amount of time it can take to access evidence. Only 37% of respondents stated that victims took under 14 days to secure the necessary evidence. In other cases, however, it can take victims months to gather all of the information they need: *"He's [ex-partner] had my daughter since January, so it's been seven months in court and still gathering the evidence..." (Participant 5, Bristol Focus Group).*
- Many victims do not report their violence to the relevant authorities at all, or until sometime after the violence occurred, making acquiring evidence extremely difficult:

*"Many victims of domestic violence do not report it to anyone so the requirement that they produce the prescribed forms of evidence is a significant barrier to victims obtaining legal advice and representation". (Survey respondent).*

*"...because for a lot of them they said they didn't involve police, they didn't disclose to the GP... They never shared it with anyone...because of cultural factors, shame and honour issues, so how do they actually prove what they've suffered?" (Support Worker, Rotherham Focus Group).*

*"There's a lot of woman who won't divulge to preserve family honour, to ensure that there's no shame brought to the family. They're concerned that they're going to be deported, so they don't say anything." (Participant 5, LAP Focus Group).*

## **Concerns over the time limit**

### **Two year time limit**

- 197 out of 227 (87%) legal aid provider survey respondents felt that the two year time limit<sup>67</sup> hindered victims from evidencing their violence. Reasons included victims not disclosing the violence for prolonged periods after the incident(s) if at all; violence, and the risk of, occurring over long periods of time; the perpetrator being in prison or away for a long period of time; and evidence taking a long time to secure:

*“Many individuals have to continue to interact with a violent ex-partner up until the stage that their children are adults. This can be 10 years after a domestic incident but does not mean the victim is any better capable of dealing with the perpetrator.” (Survey Respondent).*

*“Sometimes [the] violence has been systemic over many years but no specific evidence can be provided to evidence the previous 2 years.” (Survey Respondent).*

### **Five year time limit**

- 162 out of 223 (73%) legal aid provider survey respondents anticipated an increase in the number of victims able to access legal aid under the current five year time limit. Recent statistics from the LAA show a big increase in the number of legal aid applications in the most recent quarter following the Court of Appeal judgment (April - June 2016). 2,568 applications were made – 37% (697) higher than the 1,871 in the previous quarter and 71% (1,069) higher than the 1,499 in the same quarter of the previous year. The number of grants have also increased, particularly over the last few quarters. Almost 2,000 grants were made in April - June 2016, 32% (478) higher than the 1,496 in the previous quarter and 77% higher (857) than the 1,117 in the same quarter of the previous year.
- 178 out of 227 (78%) legal aid provider survey respondents believed that there are victims with evidence over five years old, such as court documentation (e.g. non-molestation orders, injunctions, restraining orders and court proceedings); police documentation (such as those previously listed) and official/medical records (such as GP records and letters from solicitors).

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<sup>67</sup> The time limit refers to the amount of time a victim has to evidence their violence from the application of legal aid, rather than the amount of time since the abusive incident. Respondents were asked about both the two year and five year time limit.

## Concept of a time limit

- 182 out of 223 (82%) legal aid provider survey respondents and 101 out of 127 (80%) domestic violence support organisation survey respondents felt that there should not be a time limit at all. Reasons included:

- The time limit is artificial/arbitrary- all cases and individuals differ and each should be assessed individually: *“It is arbitrary. 5 years o.k., 5 years and 1 day no.” (Survey Respondent).*
- Victims suffer long term negative effects as a result of the violence they have suffered and some never fully recover. Participants felt that abuse cannot be time limited:

*“...the effect of DV is life changing and has an ongoing psychological effect on victims. It is akin to setting a time limit on the victims of child sexual violence and / or rape and saying that they will not have any ongoing effects after 5 years have passed.” (Survey Respondent).*

*“The subtext is your fear and your scars will subside with time.”  
(Participant 5, LAP Focus Group).*

- As aforementioned, victims do not always take immediate action or report their violence to relevant authorities when it happens, and the time limit prevents access to justice for these individuals. As one respondent said, *“The time limit is the obstacle.” (Participant 17, LAP Focus Group).*
- Violence is often long standing and can endure for years. The risk does not necessary dissipate over time:

*“...it’s irrational and unreasonable to have any time limit, because [domestic violence] can crop up at any time that the victim/survivor challenges the perpetrator, and that could be any time and, if you’ve got minor children, there could be an 18 year stretch within which that comes up.” (Participant 7, LAP Focus Group).*

- Violence does not stop being violence after a certain length of time; adopting this principle, evidence should not become invalid after the passage of time:



*“Seems completely [random] and without any logical basis. Does a victim of domestic violence suddenly stop being a victim after 2 years and if so why?” (Survey Respondent).*

*“...on what basis does someone stop becoming a domestic violence victim after two years or five?” (Participant 15, LAP Focus Group).*

- Child proceedings can be used to perpetrate further violence and financial hardship, for example perpetrators prolonging proceedings and refusing to co-operate:

*“The risk a victim faces does not reduce because the violence is now historic. Studies have shown that court proceedings are used to continue to perpetrate emotional violence...” (Survey Respondent).*
- The time limit excludes vulnerable victims who may have difficulties in either reporting their violence or providing evidence, such as those fleeing their homes, women from the travelling community, BME victims<sup>68</sup> or those with learning difficulties/mental health problems, from evidencing their violence within a set time limit.
- Many victims, as discussed previously, do not know about the evidence requirements and so will not be able to provide any evidence.
- Of the 82% of legal aid provider survey respondents who stated there should not be a time limit, the vast majority could not foresee any issues surrounding the abolishment of the time limit, but acknowledged that there would likely be a small increase in the number of legal aid applications made. When prompted to provide a time limit, even though they preferred there not to be, the majority stated that a time limit of between 6 and 10 years would be most appropriate. Of the 18% who said there should be a time limit, 23 out of 38 respondents (61%) reported that five years is adequate. Reasons included five years being long enough for circumstances to change, evidence to be gathered, and that evidence after this time may no longer be relevant and would put pressure on the legal aid system.
- Of the 80% of domestic violence support organisation survey respondents who stated there should not be a time limit, the vast majority could not foresee any issues surrounding the abolishment of the time limit, but acknowledged that there would

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<sup>68</sup> Respondents felt that language barriers and cultural shaming often prevent these victims reporting their abusers.

likely be an increase in the number of legal aid applications made. When prompted, 27 out of 86 respondents (31%) believed the most appropriate time limit, if there had to be one, was 10 years. Of the 20% who stated there should be a time limit, 9 out of 25 (36%) reported that two years is adequate, with one respondent citing that two years allows “...parties to move on without the threat of historical allegations of violence being raised in the future...”

- All of the legal aid provider focus group participants felt very strongly that there should not be a time limit at all. If there had to be one, the majority agreed that it should be, where applicable, until children of the relationship reach 18<sup>69</sup>. Nevertheless, concerns over the time limit were strongly expressed, especially in cases where the perpetrator has been away for some time and then comes back into the victim’s life, by which point the evidence will be dated:

*“I’ve had clients recently...who’s [partners] have been in prison for two years because he’s beaten her up and then he comes out having said, “When you come out, I’ll have you,” well, that’s not enough. He’s got to actually come out and beat the crap out of her...” (Participant 3, LAP Focus Group).*

### **Concerns over the current system for applying for legal aid**

Victim focus group participants highlighted a number of concerns they had with the current system used to apply for legal aid, as currently, victims feel like the system empowers the perpetrator. A number of suggestions were made that would make it easier for victims applying in future. These included the following:

- Victims should automatically receive legal aid when applying:

*“I think it should be automatic, as soon as you’ve...reported domestic violence...because whilst the case is going on, once they’ve done your application and processed it all, if they find then that you’ve got enough money in the pot then, at that stage, they can say, “Well, actually we’ve discovered this, this and this, so you’ll have to pay back X amount,” which is what they would do in any other case, if you get some sort of financial remedy from whatever...and I think that it should be an automatic thing until evidence is produced, things like your bank statements or your savings, because those things can take a while.” (Participant 7, Bristol Focus Group).*

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<sup>69</sup> Or even longer if the child(ren) have any disabilities.

- Amend the means test, as participants felt that many victims who genuinely need help are being excluded from accessing legal aid.
- Domestic violence support organisations should be able to apply for legal aid on behalf of the victim, *“...because usually they’re the first people that you see anyway, and they will actually know your history and they will know how to fill out your form.”* (Participant 7, Bristol Focus Group).
- LAA to provide a list of experienced legal aid solicitors to victims applying for legal aid when they first seek support from domestic violence support organisations.
- Greater clarity as to what evidence would definitely be accepted. Even when victims present evidence, some of them are being rejected:

*“[I had] the crime reference number, I think there was stuff from my doctors and I had like [domestic violence organisation name removed] and like other support people, who were supporting my application, but it wasn’t enough.”* (Participant 2, Bristol Focus Group).

- Co-ordination between government departments in verifying things like identity, income, employment status and other factors relevant to a legal aid application:

*“it just would take a phone call from them [LAA] to whatever department, “Can you just say, yes or no, is this person getting Child Tax Credits? I had to provide it myself and I think, “Well, it just takes a phone call, you’re an official body, it takes a phone call. You can have my consent faxed over to them or emailed over to them.” It just takes one piece of technical communication to get it all sorted just like that. All of that shouldn’t be left to the victim to have to keep chasing organisations, for certain types of evidence, it should be there at the end of the phone. Everything is computerised these days, they should be able to access it. They can find you if you haven’t paid your tax, they should be able to find other bits of information just for a sheet of paper.”* (Participant 7, Bristol Focus Group).

- Participants of the legal aid provider focus groups called for domestic violence solicitors to be able to certify that an individual is a victim of violence and be granted legal aid on that basis:

*“A first class customer service by an organisation that wants to be respected trusts the customer. We work in partnership with the Ministry of Justice, with the Legal Aid Agency, do you think that we are going to be putting things*

*forward to try and diddle you out of a few quid? The cost benefit analysis of the way in which you conduct yourself is so damaging to you, damaging to the victims and their families and places the person who's allegedly perpetrating the harm in a higher position of trust almost, than the person who's calling for help." (Participant 4).*

*"They [say] that a frontline domestic violence service...an IDVA [Independent Domestic Violence Advisors], for example, could...provide a letter to say that somebody was a victim of violence, provided they had been referred to that service by a GP or a health visitor. Now, how offensive is that?" (Participant 2).*

*"If you accept the client's told the police that they're a victim of DV or the GP, why won't you accept the word of a qualified solicitor, who's a DV accredited specialist? Aren't we sufficiently qualified to do that assessment? You've got people that you'll accept the proof from those that are less qualified than those specialists. We've got six years to train and qualify as solicitors, and then we've got two to five plus years' experience post-qualification in DV, you should accept our word for it." (Participant 18).*

### **5.3 What is the most straightforward way for victims to evidence their domestic abuse that can be easily verified by family legal aid providers/Legal Aid Agency?**

#### **Legal Aid Providers**

In response to the issues highlighted above with the current evidence requirements, respondents suggested alternative forms of evidence that might be added to the list to make it easier for victims to evidence their violence or risk of violence. These include, in order of the most commonly suggested, the following:

- A letter from a domestic violence accredited solicitor, charity or domestic violence support service.
- A victim's sworn statement; self-referral to a domestic violence support service; evidence of seeking support from a domestic violence support service.
- Evidence of police involvement, such as callouts; reports; PIN notices; warnings issued; crime reference numbers; referrals to domestic violence support services.

- Anecdotal third party evidence, such as a sworn statement/witness statement/a letter from relatives, friends, neighbours, school teachers or other people in the victim's social circle.
- Legal documents, such as legal reports; DASH<sup>70</sup> forms; Indefinite Leave to Remain (ILTR) under the domestic violence concession; Harassment Act Warnings; MARAC executive assessments.
- Documents relating to children, such as CAFCASS<sup>71</sup> reports; evidence of being in contact with social care services; care proceedings documents.
- Social media, such as text messages; emails; photos; diary entries of harassment, threats or acts committed. This was also suggested by victim focus group participants.
- Other documents, such as counselling documentation; mediation documentation; letters from religious or community services.
- Change the strict wording/template of current letters accepted from GP's and other health professionals
- Documents to evidence financial violence, such as bank statements and mortgage statements showing arrears.

*“There needs to be the ability to accept alternative types of credible evidence on a common sense basis, the types required are, and always have been unrecognisable to domestic violence experts as being achievable. [The] Police[s] own assessment is that they cannot identify and that victims of domestic violence are failed by them, same for GPs. Way too much emphasis on conviction and police when the Govt's own research says that most victims do not report to the Police, but will seek help from a help service/NGO in preference”. (Survey Respondent).*

The majority of respondents felt that the current evidence requirements do not adequately cater for those who are **at risk** of becoming a victim.

Suggested forms of evidence included:

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<sup>70</sup> The Domestic Violence, Stalking and Honour Based Violence (DASH) Risk Identification, Assessment and Management Model means that all police services and a large number of partner agencies across the UK will be using a common checklist for identifying and assessing risk. The Association of Chief Police Officers (ACPO) Council accredited the DASH (2009) Model to be implemented across all police services in the UK from March 2009.

<sup>71</sup> Children and Family Court Advisory and Support Service.

- A sworn statement from the individual.<sup>72</sup>
- Anecdotal third party evidence (such as a sworn statement from a family member or friend).
- Evidence from the police similar to the above.
- Individual seeking support/advice from a relevant organisation, such as a domestic violence support service or the police. Although victim focus group participants struggled to come up with forms of evidence to evidence risk of violence, evidence of seeking counselling for emotional violence was suggested.
- An assessment/letter from a domestic violence solicitor or support service, stating that the individual is at risk of experiencing domestic violence.
- The perpetrator's history of conduct, such as violence in a previous intimate relationship, and violent behaviour, for example previous arrests and convictions for GBH offences.
- Change the strict wording/template of current letters accepted from GP's and other health professionals to allow statements of risk to be included.
- Evidence of liaisons between various organisations that could show a risk of domestic violence occurring, such as between the police and the courts.
- Documents relating to children, such as CAFCASS reports; child protection plans; letters from children's centres.
- Social media, such as text messages and emails that evidence harassment or threats.
- Evidence of the individual's financial position, e.g. any debt owed.

Legal Aid Provider Focus Group Participants suggested a number of alternative forms of evidence similar to those listed above. The strongest alternative form of evidence suggested in both focus groups was allowing solicitors or domestic violence support organisations to certify that an individual has suffered domestic violence. Participants also suggested other forms of evidence not already mentioned, such as income support as proof of an individual's financial position, and evidence from a dentist:

*“And why aren't dentists included in the list of health professionals? He might have smashed her teeth in.” (Participant 5, LAP Focus Group).*

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<sup>72</sup> This evidence type was the most common and strongly expressed by respondents.

## Domestic Violence Support Organisations

Survey respondents from domestic violence support organisations suggested alternative forms of evidence similar to those suggested by legal aid providers. Other forms of evidence suggested not already mentioned included:

- Medical/mental health documentation.
- A letter from a Non-Governmental Organisation (NGO); charity; Citizens Advice Bureau (CAB) or housing organisation, confirming that the individual has been rehoused/received support as a result of experiencing violence.

The majority of respondents felt that the current evidence requirements **do** adequately cater for those who are **at risk** of becoming a victim. However, when prompted respondents still suggested alternative pieces of evidence, again similar to those stated by legal aid providers. Other forms of evidence suggested not already mentioned included:

- A letter from a professional service such as a Non-Governmental Organisation (NGO) or charity, confirming that the individual is at risk of experiencing domestic violence.
- An individual's past involvement in an abusive relationship.
- An individual's mental health record suggesting that they may be at risk of experiencing domestic violence, e.g. Stockholm syndrome.

## 6. Conclusion

This research has identified a number of key issues surrounding the ability of victims of domestic violence to access legal aid in private family cases. Issues relate to the current system of applying for legal aid, the organisations involved in providing evidence and also victims reporting their abuse. The evidential requirements, time limit and means test have been identified by respondents as hurdles in the current system placed in the way of victims attempting to access legal aid. Certain organisations, such as the police and the courts, and individuals within organisations, such as GP's, have been identified as preventing victims from accessing / obtaining evidence of the violence they have suffered due to procedural constraints and an unwillingness to provide evidence out of fear of making an incorrect judgment. Victims themselves can also make it difficult to obtain evidence if they do not report their abuse; however, shame, honour, language barriers and cultural issues have been cited by respondents and victims themselves as reasons behind this.

Suggested remedies to these issues include changing / expanding the current list of evidential requirements to reflect the concerns raised by respondents; removing the time limit and amending the means test to encompass working victims who may be unable to cover legal costs or who may be unable to access or utilise capital.



## Appendices

### Appendix A: Aggregated survey results from Rights of Women – Monitoring access to legal aid in private family proceedings for victims of domestic violence

"Which of the following forms of evidence did you have in order to apply for legal aid?"	2013		2014		2015		Combined
I did not have any of the above evidence and could not apply	49	49%	21	43%	27	37%	44%
I would have had one or more of the above evidence if the two year time limit did not apply					17	23%	23%
Evidence to confirm that you were referred to a domestic violence support organisation by a health professional (doctor, nurse, midwife or licenced psychologist) within the past two years					13	18%	18%
Evidence from Social Services that they have assessed me as being at risk of or experiencing domestic violence within the past 2 years	18	18%	7	14%	10	14%	16%
Evidence from a doctor, nurse, midwife or licenced psychologist that they examined me within the past 2 years about an injury or condition I had as a result of domestic violence	14	14%	9	18%	12	16%	16%
Evidence of my referral to a MARAC (Multi Agency Risk Assessment Conference) as a high risk victim of domestic violence within the past 2 years and where there is a plan in place	19	19%	7	14%	5	7%	14%
A current protective injunction against my abuser (this could be a non-molestation order, occupation order, forced marriage protection order, restraining order, domestic violence protection notice or domestic violence protection notice)	14	14%	5	10%	10	14%	13%
Evidence from a women's refuge that I stayed there within the past 2 years	13	13%	4	8%	5	7%	10%
A caution against my abuser for a domestic violence related offence in the past 2 years	12	12%	4	8%	1	1%	8%
Evidence your abuser is on police bail for a domestic violence related offence					5	7%	7%
A protective injunction (non-molestation order, occupation order, forced marriage protection order, restraining order, domestic violence protection notice or domestic violence protection order) against my abuser which had expired but was made in the past 2 years	6	6%	3	6%	6	8%	7%
Evidence of ongoing criminal proceedings in relation to my abuser and his violence against me	8	8%	3	6%	3	4%	6%
A finding of fact made in family proceedings within the past 2 years that my abuser was violent to me	6	6%	2	4%	3	4%	5%
Evidence from a domestic violence support organisation that you had been refused admission to a refuge because there was insufficient accommodation					3	4%	4%
An unspent criminal conviction against my abuser for a domestic violence related criminal offence	6	6%	0	0%	1	1%	3%
An undertaking given by my abuser within the past 2 years where I did not give a cross undertaking	2	2%	1	2%	1	1%	2%
A bind over order made against your abuser for a domestic violence related offence within the past two years					1	1%	1%
Total respondents	99		49		73		221

**Note:** The above table contains the aggregation of three surveys conducted by Rights of Women. The combined percentage was calculated using the entire dataset when possible. In some cases, where the question was not included in the 2012 and 2014 surveys, only the 2015 survey was used. Some of the questions wording changed slightly between surveys, but not substantially.

<b>"Please tell us about the type of case you needed legal advice and representation for"</b>	<b>2013</b>		<b>2014</b>		<b>2015</b>		<b>Combined</b>
Child Contact	101	72%	61	70%	108	61%	67%
Divorce	69	49%	38	44%	76	43%	45%
Residence orders	69	49%	34	39%	70	40%	43%
Child maintenance and financial support for children	49	35%	34	39%	78	44%	40%
Other issues relating to children	55	39%	25	29%	68	39%	37%
Financial arrangements after divorce	45	32%	28	32%	63	36%	34%
Total respondents	140		87		176		403

## Appendix B: Demographic information

This information provides demographic details of the survey respondents that were not directly relevant to the research questions.

**B.1** Q1: In terms of availability, 87% of all respondents have organisations that operate in England and 13% have organisations that operate in Wales. The data shows that the survey had a good spread of responses across all geographical regions in England and Wales.

**‘Q1: Which geographical regions does your organisation operate in? (select all that apply)’.**

***Legal Aid Provider Survey Respondents***

Region	Number of organisations	Percentage of total survey respondents
London	89	17%
South East	87	17%
South West	47	9%
North East	45	9%
Yorkshire & the Humber	39	8%
North West	35	7%
West Midlands	30	6%
East Midlands	23	4%
East of England	18	4%
South East Wales	16	3%
South West Wales	10	2%
North West Wales	5	1%
North East Wales	4	1%
Mid Wales	4	1%

**‘Q1: Which geographical regions does your organisation operate in? (select all that apply)’.**

***Domestic Violence Support Organisation Survey Respondents***

<b>Region</b>	<b>Number of organisations</b>	<b>Percentage of total survey respondents</b>
London	37	7%
North West	36	7%
South East	33	6%
West Midlands	25	5%
East of England	21	4%
North East	19	4%
Yorkshire & the Humber	17	3%
South East Wales	17	3%
East Midlands	16	3%
South West	14	3%
South West Wales	14	3%
North West Wales	8	2%
North East Wales	8	2%
Mid Wales	6	1%

**B.2** Q3: According to the survey, most legal aid providers appear to provide legal advice and/or representation to victims, provide general information and/or advice or signpost or refer victims to other support services. Similarly, domestic violence support organisations appear to most commonly signpost or refer victims to other support services, provide general information and/or advice and provide practical and emotional support.

**‘Q3: In what capacity does your organisation assist victims of domestic violence? (select all that apply)’.**

***Legal Aid Provider Survey Respondents***

<b>Type of assistance</b>	<b>Number of responses</b>	<b>Percentage of total survey respondents</b>
Provide legal advice and/or representation	335	65%
Provide general information and/or advice	187	36%
Signpost or refer victims to other support services	173	34%

Practical and emotional support	38	7%
Helpline	19	4%
Outreach and (non-legal) advocacy	13	3%
Refuge service	12	2%
Other - please specify	7	1%

**‘Q3: In what capacity does your organisation assist victims of domestic violence? (select all that apply)’.**

***Domestic Violence Support Organisation Survey Respondents***

<b>Type of assistance</b>	<b>Number of responses</b>	<b>Percentage of total survey respondents</b>
Signpost or refer victims to other support services	130	25%
Provide general information and/or advice	129	25%
Practical and emotional support	120	23%
Outreach and (non-legal) advocacy	95	19%
Refuge services	80	16%
Helpline	74	14%
Provide legal advice and/or representation	46	9%
Other - please specify	29	6%

**B.3** Q4: The results suggest that both legal aid provider and domestic violence support organisation survey respondents have experience working with victims from diverse backgrounds.

**‘Q4: Does your organisation work with any of the following specific victim groups? (select all that apply)’.**

<b>Type of victim</b>	<b>Number of responses</b>	<b>Percentage of total survey respondents</b>
Female victims	448	87%
Male victims	376	73%
BME victims (Black and Minority Ethnic victims)	317	62%

LGBT victims (Lesbian, Gay, Bisexual, Transgender victims)	308	60%
Victims with a disability	307	60%
Children and young people	298	58%
Victims with a particular religious belief	254	50%
Other - please specify	23	4%

**B.4** Q5: Both legal aid provider and domestic violence support organisation survey respondents worked with victims experiencing all types of violence. The most common form of violence that victims they see have experienced is emotional/psychological, followed by physical, financial/economic and sexual, though respondents were clear that in the majority of cases specific types of violence are not experienced in isolation. They noted that, often, victims will experience two or more forms of violence. This reflects the violence literature discussed in Section 1 of this report.

**‘Q5: Victims can experience one or more forms of domestic violence. Which forms of domestic violence do the victims you work with tend to have experienced? (select all that apply)’.**

Type of violence	Number of responses	Percentage of total survey respondents
Emotional/Psychological	439	86%
Physical	433	84%
Financial/Economic	390	76%
Sexual	374	73%

## Appendix C: Domestic Violence & Legal Aid Survey

### LEGAL AID FOR DOMESTIC VIOLENCE VICTIMS IN PRIVATE FAMILY LAW CASES: SURVEY

#### Introduction

The Ministry of Justice is currently reviewing the domestic violence evidence requirements for accessing legal aid in private family cases. We want to be confident that victims, or those at risk of domestic violence, are able to access legal aid and that the process for doing so is as straightforward as possible.

Legal aid is available for victims, or potential victims, of domestic violence in private family cases, such as those concerning child or financial arrangements following a relationship breakdown. To qualify for legal aid, applicants must prove they have been, or are at risk of being, a victim of domestic violence by submitting at least one form of evidence from a prescribed list set out in legislation. The evidence must come from some point during the period five years before the application for legal aid (increased from two years in April 2016). A few examples of the types of evidence accepted are as follows:

- a relevant unspent conviction for a domestic violence offence;
- a letter from a health professional who has examined the person and is satisfied that they had injuries or a condition consistent with being a victim of domestic violence;
- a Domestic Violence Protection Order.

Please note that, for the purpose of this survey, “domestic violence” means any incident, or pattern of incidents, of controlling, coercive or threatening behaviour, violence or abuse (whether psychological, physical, sexual, financial or emotional) between individuals who are associated with each other.

A **victim of domestic violence** is someone who is currently being abused, or someone who has been abused in the past, **whether or not they are currently being abused**. A person **at risk of experiencing domestic violence** is someone who has never experienced domestic violence but is at risk of being abused at some point in the future.

**This survey intends to capture the views of key stakeholders who come into contact with victims of domestic violence, and particularly those with experience of the process by which victims can access legal aid in private family cases.**

This survey will take approximately 20 minutes to complete and covers the following:

- Your organisation's experience of working with victims of domestic violence and any experience you have of the legal aid evidence requirements.
- Your sense of the potential number of victims of domestic violence requiring legal representation to resolve private family matters.
- Your view on the most straightforward way for victims to evidence their violence.
- Your thoughts on the current arrangements for obtaining legal aid in cases of domestic violence and whether there are obstacles that prevent individuals from fulfilling the evidence requirements.

Participation in this survey is voluntary and all responses will be anonymised. Your responses will also be treated as confidential, and no organisation will be identifiable from the results. We would greatly appreciate a response to this survey by **Friday 01<sup>st</sup> July 2016**.

## Survey Questions

### SECTION A

#### Your Organisation

*We would first like to ask you some questions about how **your organisation** works with victims of domestic violence.*

1. Which geographical regions does your organisation operate in? (**select all that apply**)

*London*

*South East*

*South West*

*East of England*

*East Midlands*

*West Midlands*

*North East*

*North West*

*Yorkshire and the Humber*



*North West Wales*  
*North East Wales*  
*Mid Wales*  
*South West Wales*  
*South East Wales*

2. By what routes do victims of domestic violence come into contact with your organisation? **(select all that apply)**

*Direct contact*  
*Referral from the police*  
*Referral from another lawyer*  
*Referral by the CLA helpline*  
*Referral from a support organisation*  
*Outreach clinic by the organisation itself*  
*Specialist domestic violence organisations*  
*Local refuges*  
*Local specialist advocacy services*  
*Citizens Advice*  
*Children's centres*  
*Local authorities*  
*Other NGOs/local organisations (not domestic violence specific)*  
*Found via internet search*  
*Word of mouth*  
*Other – please specify*

3. In what capacity does your organisation assist victims of domestic violence? **(select all that apply)**

*Provide legal advice and/or representation*  
*Provide general information and/or advice*  
*Signpost or refer victims to other support services*  
*Helpline*  
*Refuge services*  
*Practical and emotional support*  
*Outreach and (non-legal) advocacy*  
*Other – please specify*

4. Does your organisation work with any of the following specific victim groups? **(select all that apply)**

*Female victims*

*Male victims*

*LGBT victims (Lesbian, Gay, Bisexual, Transgender victims)*

*BME victims (Black and Minority Ethnic victims)*

*Children and young people*

*Victims with a disability*

*Victims with a particular religious belief*

*Other – please specify*

5. Victims can experience one or more forms of domestic violence. Which forms of domestic violence do the victims you work with tend to have experienced? **(select all that apply)**

**Physical** – the use of force that may result in bodily injury or physical pain.

**Sexual** – non-consensual sexual contact of any kind.

**Financial / Economic** – the use of a person’s property, assets, income, funds or any resources without their consent, or depriving them of these.

**Emotional / Psychological** – a range of non-physical controlling behaviours that cause emotional and psychological damage and undermine a person’s sense of well-being.

6. What is your best estimate of the number of people each year who seek advice from your organisation who have experienced domestic violence?

*0-10*

*11-25*

*26-50*

*51-75*

*76-100*

*100+*

*Don't Know*

7. Of those that present themselves to your organisation, how many do you estimate require legal advice or representation for a private family problem per year? (For example, child contact arrangements or financial arrangements following a relationship breakdown). **If none, please enter ‘0’ and go straight to [The routing question].**

*Free Text - Digits*

8. **If Question 7 has been answered:** Approximately, **in the last year** how many victims has your organisation worked with who **succeeded** in accessing legal aid for advice or representation in these cases, if any?

*Free Text – Digits*

*Don't Know*

9. Approximately, **in the last year** how many victims has your organisation worked with that were either **unsuccessful or unable** to access legal aid for advice or representation in these cases, if any?

*Free Text – Digits*

*Don't Know*

10. In your experience, why are certain victims either **unsuccessful or unable** to access legal aid for advice or representation in these cases?

*Free Text*

**[The routing question]:**

**If your organisation is a Legal Aid Provider / Practitioner or a representative body of the legal profession: Please go to SECTION B**

**If your organisation is a domestic violence support service, an organisation that provides advice and support to victims of domestic violence, or a statutory service or charity: Please go to SECTION C**

**SECTION B – for completion by Legal Aid Providers / Practitioners, or a representative body of the legal profession**

**Evidence Requirements**

*We would now like to ask you some questions about the evidence that victims of domestic violence must provide to access legal aid.*

The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO), removed most private family matters from the scope of legal aid. One exception concerns victims of, or people at risk of, domestic violence. In these cases the party in question can apply for legal aid but they are required to provide evidence of domestic violence, or risk of domestic violence, against a list of acceptable evidence set out in regulations. Accepted evidence is as follows:

- A relevant unspent conviction for a domestic violence offence
- A relevant police caution for a domestic violence offence given within the sixty month period immediately preceding the application.
- Ongoing relevant criminal proceedings
- A relevant protective injunction which is in force or which was granted within the sixty month period immediately preceding the date of the application (an **injunction** is a court order requiring a person to do or cease doing a specific action)
- Certain undertakings (an **undertaking** of bail is security for the appearance of the defendant) from within the sixty month period immediately preceding the application
- Evidence that the alleged abuser is on police bail for a domestic violence offence
- A relevant conviction for a domestic violence offence from within the sixty month period immediately preceding the application
- A letter from a member of a Multi-Agency Risk Assessment Conference confirming that the victim was referred to the conference as a victim of domestic violence and a plan has been put in place within the sixty month period immediately preceding the application
- A copy of a finding of fact that there has been domestic violence, giving rise to risk of harm, within the sixty month period immediately preceding the application
- A letter from a health professional, dated from within the sixty month period immediately preceding the application, confirming that the victim has been examined and confirming injuries or a condition consistent with those of a victim of domestic violence
- A social services letter stating that the person was assessed as being a victim of, or at risk of being a victim of, domestic violence, dated within the sixty month period immediately preceding the application

- A letter or report from a domestic violence support organisation, dated within the sixty month period immediately preceding the application, confirming either admission to a refuge, or refusal of admission to a refuge due to accommodation being unavailable
- A letter or report from a health professional, dated within the sixty month period immediately preceding the application, confirming referral to a specialist who provides support or assistance to victims, and those at risk, of domestic violence
- A Domestic Violence Protection Order/Domestic Violence Protection Notice from within the sixty month period immediately preceding the application
- A relevant court bind over (the term “**bind over**” refers to holding a person for trial on bond (bail) or in jail) dated within the sixty month period immediately preceding the application
- Evidence, or an explanation, dated within the sixty month period immediately preceding the application, that satisfies the Legal Aid Agency that the person has been, or is at risk of, financial violence

11. When victims first approach your organisation, do they appear to be aware of the evidence requirements?

Yes

No

12. Do you think the current list of evidence adequately caters for all forms of domestic violence? *PLEASE COMPLETE THE TABLE BELOW SELECTING EITHER ‘YES’, ‘NO’ OR ‘DON’T KNOW’ FOR EACH FORM OF VIOLENCE.*

<b>Form of violence</b>	<b>Yes</b>	<b>No</b>	<b>Don't know</b>
<b>PHYSICAL</b> <i>The use of force that may result in bodily injury or physical pain.</i>			
<b>SEXUAL</b> <i>Non-consensual sexual contact of any kind.</i>			
<b>FINANCIAL/ECONOMIC</b> <i>The use of a person's property, assets, income, funds or any resources without their consent, or depriving them of these.</i>			

<b>EMOTIONAL / PSYCHOLOGICAL</b> <i>A range of non-physical controlling behaviours that cause emotional and psychological damage and undermine a person's sense of well-being.</i>			
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13. In your experience, have victims had any difficulties in acquiring any particular form(s) of evidence on the current list which are known to exist in the particular case, or ought to be possible to secure?

*Yes (Go to Q14)*

*No (Go to Q15)*

14. **If yes to Q13:** What are these difficulties and to which forms of evidence do they pertain? PLEASE COMPLETE THE TABLE BELOW:

<b><i>Form of Evidence</i></b>	<b><i>Do you have experience working with the forms of evidence listed? (Please type either Yes or No in each box)</i></b>	<b><i>Have you or the victims you assist had problems obtaining any of the following forms of evidence? (Please tick all that apply)</i></b>	<b><i>If you or the victims you assist have found it difficult to obtain a particular form of evidence, why was this? (Free text)</i></b>
A relevant unspent conviction for a domestic violence offence			
Evidence of relevant police bail			
A relevant police caution for a domestic violence offence			
Ongoing relevant criminal proceedings			
A relevant protective injunction			
A relevant court bind over			
Certain undertakings			

A copy of a finding of fact, made in proceedings, that there has been domestic violence giving rise to a risk of harm			
A letter from a member of a Multi-Agency Risk Assessment Conference confirming that the victim was referred to the conference as a victim of domestic violence and a plan has been put in place			
A social services letter stating that the person was assessed as being a victim of, or at risk of being a victim of, domestic violence			
A letter from a health professional confirming that the person has been examined and had injuries or a condition consistent with being a victim of domestic violence			
A Domestic Violence Protection Order/Domestic Violence Protection Notice			
Evidence of referral to domestic violence support services from a health professional			
Evidence of not being able to access refuge accommodation/a refuge admission letter			
Evidence, or an explanation, that the person has been a victim of, or is at risk of, financial violence			

A relevant conviction for a domestic violence offence			
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15. Are there any other problems victims experience in securing the necessary evidence?

*Free Text*

16. Are there any forms of evidence that are not included on the prescribed list that **would enable** victims of domestic violence to evidence their violence?

*Free Text*

17. In your experience, on average how long does it take for victims to secure the necessary evidence needed to access legal aid?

*Free Text - Digits*

18. The regulations state that those **at risk** of becoming a victim of domestic violence, as well as those who are victims, are entitled to legal aid. Do you think the current evidence requirements adequately cater for those who are **at risk** of becoming a victim of domestic violence? PLEASE COMPLETE THE TABLE BELOW:

<b>Form of Evidence</b>	<b>Do you think the evidence listed adequately caters for people at risk of becoming a victim of domestic violence? (Please type either Yes or No in each box)</b>
A relevant unspent conviction for a domestic violence offence	
Evidence of relevant police bail	
A relevant police caution for a domestic violence offence	
Ongoing relevant criminal proceedings	



A relevant protective injunction	
A relevant court bind over	
Certain undertakings	
A copy of a finding of fact, made in proceedings, that there has been domestic violence giving rise to a risk of harm	
A letter from a member of a Multi-Agency Risk Assessment Conference confirming that the victim was referred to the conference as a victim of domestic violence and a plan has been put in place	
A social services letter stating that the person was assessed as being a victim of, or at risk of being a victim of, domestic violence	
A letter from a health professional confirming that the person has been examined and had injuries or a condition consistent with being a victim of domestic violence	
A Domestic Violence Protection Order/Domestic Violence Protection Notice	
Evidence of referral to domestic violence support	

services from a health professional	
Evidence of not being able to access refuge accommodation/a refuge admission letter	
A relevant conviction for a domestic violence offence	
Evidence, or an explanation, that the person has been a victim of, or is at risk of, financial violence	

19. In your opinion, how might people **at risk of becoming victims of domestic violence** more easily evidence their violence to access legal aid?

*Free Text*

20. In your experience, when victims cannot access legal aid funding in domestic violence cases, what do they do? **[If you have any case studies you would be willing to share regarding the effects on victims of not acquiring legal aid funding in domestic violence cases, please email them directly to Farai.Syposz@justice.gsi.gov.uk]**

*They halt in bringing their case any further*

*They use a McKenzie friend in court*

*They pay to bring the case*

*Other*

*Don't Know*

### **Time Limit**

*We would now like to ask you some questions surrounding the time limit that victims of domestic violence must adhere to when providing evidence of domestic violence.*

21. In your experience, did the two year time limit hinder victims from being able to evidence their violence to access legal aid?

*Yes – please give reasons*

*No – please give reasons*

22. In your experience, are there victims of domestic violence that have evidence from more than five years ago?

*Yes*

*No*

23. **If yes to Q22:** What form does this evidence take?

*Free Text*

24. Do you anticipate there to be an increase in the number of victims being able to access legal aid under the new five year time limit?

*Yes*

*No*

*Don't Know*

25. Do you think there should be a time-limit on submitting evidence of domestic violence that can be accepted?

*Yes (Go to Q26)*

*No (Go to Q28)*

26. **If yes to Q25:** Given the existing time limit on receiving evidence of domestic violence that can be accepted, what time limit do you think would be most appropriate?

*Free Text – Digits*

27. Why do you think this time limit would be most appropriate?

*Free Text – Now go to Q31*

28. **If no to Q25:** Why do you think the time limit placed on evidence that can be accepted should be abolished?

*Free Text*

29. Do you foresee any issues surrounding the abolishment of a time limit?

*Free Text*

30. If there had to be a time limit on providing evidence of violence, even if you would prefer there not to be, what do you think would be the most appropriate time limit?

*Free Text - Digits*

31. In your opinion, what would be the impact on the volume of applications for legal aid if the time limit were to be abolished?

*Free Text*

32. Do you have any further comments?

*Free Text*

**Thank you for taking the time to complete this survey. If you have any case studies you would be willing to share regarding the effects on victims of not acquiring legal aid funding in domestic violence cases, please email them directly to [Farai.Syposz@justice.gsi.gov.uk](mailto:Farai.Syposz@justice.gsi.gov.uk)**

**SECTION C – for completion by Domestic Violence Support Services, organisations that provide advice and support to victims of domestic violence, or a statutory services or charities**

### **Evidence Requirements**

*We would now like to ask you some questions about the evidence that victims of domestic violence must provide to access legal aid.*

The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO), removed most private family matters from the scope of legal aid. One exception concerns victims of, or people at risk of, domestic violence. In these cases the party in question can apply for legal aid but they are required to provide evidence of domestic violence, or risk of domestic violence, against a list of acceptable evidence set out in regulations. Accepted evidence is as follows:

- A relevant unspent conviction for a domestic violence offence
- A relevant police caution for a domestic violence offence given within the sixty month period immediately preceding the application.
- Ongoing relevant criminal proceedings
- A relevant protective injunction which is in force or which was granted within the sixty month period immediately preceding the date of the application (an **injunction** is a court order requiring a person to do or cease doing a specific action)
- Certain undertakings (an **undertaking** of bail is security for the appearance of the defendant) from within the sixty month period immediately preceding the application
- Evidence that the alleged abuser is on police bail for a domestic violence offence
- A relevant conviction for a domestic violence offence from within the sixty month period immediately preceding the application
- A letter from a member of a Multi-Agency Risk Assessment Conference confirming that the victim was referred to the conference as a victim of domestic violence and a plan has been put in place within the sixty month period immediately preceding the application
- A copy of a finding of fact that there has been domestic violence, giving rise to risk of harm, within the sixty month period immediately preceding the application
- A letter from a health professional, dated from within the sixty month period immediately preceding the application, confirming that the victim has been examined and confirming injuries or a condition consistent with those of a victim of domestic violence
- A social services letter stating that the person was assessed as being a victim of, or at risk of being a victim of, domestic violence, dated within the sixty month period immediately preceding the application
- A letter or report from a domestic violence support organisation, dated within the sixty month period immediately preceding the application, confirming either admission to a refuge, or refusal of admission to a refuge due to accommodation being unavailable
- A letter or report from a health professional, dated within the sixty month period immediately preceding the application, confirming referral to a specialist who provides support or assistance to victims, and those at risk, of domestic violence
- A Domestic Violence Protection Order/Domestic Violence Protection Notice from within the sixty month period immediately preceding the application

- A relevant court bind over (the term “**bind over**” refers to holding a person for trial on bond (bail) or in jail) dated within the sixty month period immediately preceding the application
- Evidence, or an explanation, dated within the sixty month period immediately preceding the application, that satisfies the Legal Aid Agency that the person has been, or is at risk of, financial violence

33. Do you think the current list of evidence adequately caters for all forms of domestic violence? *PLEASE COMPLETE THE TABLE BELOW SELECTING EITHER ‘YES’, ‘NO’ OR ‘DON’T KNOW’ FOR EACH FORM OF VIOLENCE.*

<b>Form of violence</b>	<b>Yes</b>	<b>No</b>	<b>Don't know</b>
<b>PHYSICAL</b> <i>The use of force that may result in bodily injury or physical pain.</i>			
<b>SEXUAL</b> <i>Non-consensual sexual contact of any kind.</i>			
<b>FINANCIAL/ECONOMIC</b> <i>The use of a person's property, assets, income, funds or any resources without their consent, or depriving them of these.</i>			
<b>EMOTIONAL / PSYCHOLOGICAL</b> <i>A range of non-physical controlling behaviours that cause emotional and psychological damage and undermine a person's sense of well-being.</i>			

34. Are there any forms of evidence that are not included on the prescribed list that **would enable** victims of domestic violence to evidence their violence?

*Free Text*

35. The regulations state that those **at risk** of becoming a victim of domestic violence, as well as those who are victims, are entitled to legal aid. Do you think the current

evidence requirements adequately cater for those who are **at risk** of becoming a victim of domestic violence? PLEASE COMPLETE THE TABLE BELOW:

<b><i>Form of Evidence</i></b>	<b><i>Do you think the evidence listed adequately caters for people at risk of becoming a victim of domestic violence? (Please type either Yes or No in each box)</i></b>
A relevant unspent conviction for a domestic violence offence	
Evidence of relevant police bail	
A relevant police caution for a domestic violence offence	
Ongoing relevant criminal proceedings	
A relevant protective injunction	
A relevant court bind over	
Certain undertakings	
A copy of a finding of fact, made in proceedings, that there has been domestic violence giving rise to a risk of harm	
A letter from a member of a Multi-Agency Risk Assessment Conference confirming that the victim was referred to the conference as a victim of domestic violence and a plan has been put in place	
A social services letter stating that the person was	

assessed as being a victim of, or at risk of being a victim of, domestic violence	
A letter from a health professional confirming that the person has been examined and had injuries or a condition consistent with being a victim of domestic violence	
A Domestic Violence Protection Order/Domestic Violence Protection Notice	
Evidence of referral to domestic violence support services from a health professional	
Evidence of not being able to access refuge accommodation/a refuge admission letter	
A relevant conviction for a domestic violence offence	
Evidence, or an explanation, that the person has been a victim of, or is at risk of, financial violence	

36. In your opinion, how might people **at risk of becoming victims of domestic violence** more easily evidence their violence to access legal aid?

*Free Text*

### **Time Limit**

*We would now like to ask you some questions surrounding the time limit that victims of domestic violence must adhere to when providing evidence of domestic violence.*



37. Do you think there should be a time-limit on submitting evidence of domestic violence that can be accepted?

*Yes (Go to Q38)*

*No (Go to Q40)*

38. **If yes to Q37:** Given the existing time limit on receiving evidence of domestic violence that can be accepted, what time limit do you think would be most appropriate?

*Free Text – Digits*

39. Why do you think this time limit would be most appropriate?

*Free Text – Now go to Q43*

40. **If no to Q37:** Why do you think the time limit placed on evidence that can be accepted should be abolished?

*Free Text*

41. Do you foresee any issues surrounding the abolishment of a time limit?

*Free Text*

42. If there had to be a time limit on providing evidence of violence, even if you would prefer there not to be, what do you think would be the most appropriate time limit?

*Free Text - Digits*

43. In your opinion, what would be the impact on the volume of applications for legal aid if the time limit were to be abolished?

*Free Text*

44. Do you have any further comments?

*Free Text*

## Appendix D: Legal Aid Provider Focus Group Topic Guide

### LEGAL AID FOR DOMESTIC VIOLENCE VICTIMS IN PRIVATE FAMILY LAW CASES: FOCUS GROUP TOPIC GUIDE

Hello,

My name is Natalie and this is Farai. We both work as social researchers within Analytical Services at the Ministry of Justice.

Thank you for attending this focus group today. You have been invited as the MoJ is currently reviewing the domestic violence evidence requirements for accessing legal aid in private family cases. We want to be confident that the regulations allow victims of domestic violence, or those at risk of such, to access legal aid in these cases. Additionally, we want the process to be straightforward and easy to understand while also being sufficiently robust. As part of this, your feedback is very important to us.

To clarify the current position, legal aid is available for victims, or potential victims, of domestic violence in private family cases, such as those concerning child or financial arrangements following a relationship breakdown. To qualify for legal aid, applicants must prove they have been, or are at risk of being, a victim of domestic violence by submitting at least one form of evidence from a prescribed list set out in legislation. The evidence must come from some point during the period five years before the application for legal aid (increased from two years in April 2016). A few examples of the types of evidence accepted include:

- a relevant unspent conviction for a domestic violence offence;
- a letter from a health professional confirming that the person has been examined and that they had injuries or a condition consistent with being a victim of domestic violence; or,
- a Domestic Violence Protection Order.

For the purpose of this focus group, a **victim of domestic violence** is someone who is currently being violence, as well as someone who has been violence in the past, **whether or not they are currently being violence**. A person **at risk of experiencing domestic violence** is someone who has never experienced domestic violence but is likely to experience domestic violence at some point in the future.

**You have been invited to this focus group as we are hoping to capture the views of legal aid providers who come into contact with victims of domestic violence, and particularly those with experience of the process by which victims can access legal aid in private family cases.**

This focus group will last up to 2 hours, with a short break in the middle, and will cover the following:

- Your organisation’s experience of working with victims of domestic violence and any experience you have of the legal aid evidence requirements.
- Your sense of the potential number of victims of domestic violence requiring legal aid to resolve private family matters.
- Your view on the most straightforward way for victims to evidence their violence.
- Your thoughts on whether there are obstacles that currently prevent individuals from evidencing their violence, and if so, how these might be overcome.

Participation in this focus group is voluntary and all responses will be anonymised. Your responses will also be treated as confidential, and no organisation will be identifiable from the results of this focus group. Any cases we discuss, or details of the parties that may have been involved with those cases, will also be anonymised. Whilst we understand that you may want to discuss this focus group with colleagues afterwards, please do not attribute what was said to any particular individual.

With your permission, I am audio recording this focus group to help with the analysis. Therefore, please try not to talk over one another or the recorder will struggle to capture the data. We may also make notes as we go, but these will mainly just be things we would like to follow up with you. Using the audio recorder means that we do not have to attempt to write down everything you say. Please let me know if you don’t feel comfortable with answering any questions and we’ll move on.

Do you have any questions before we start?

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## Focus Group Topic Guide

**1. Firstly, can we please go round the table and introduce ourselves. Please can you include your name, organisation, and what regions your organisation operates in?**

**2. Regarding your organisation, can you tell me the capacity in which you assist victims of domestic violence?**

*If not mentioned, prompt in the following areas:*

- *How do victims of domestic violence come into contact with your organisation?*
- *Does your organisation work with any particular victim groups?*
- *What forms of domestic violence do the victims you work with tend to have experienced?*

### **Evidence Requirements**

As you may know, the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO), removed most private family matters from the scope of legal aid. One exception concerns victims of, or people at risk of, domestic violence. In these cases the party in question can apply for legal aid but they are required to provide evidence of the domestic violence against a list of acceptable evidence set out in regulations. Does anyone want me to go through the list?

*If yes:*

- A relevant unspent conviction for a domestic violence offence
- A relevant police caution for a domestic violence offence given within the sixty month period immediately preceding the application.
- Ongoing relevant criminal proceedings

- A relevant protective injunction which is in force or which was granted within the sixty month period immediately preceding the date of the application (an **injunction** is a court order requiring a person to do or cease doing a specific action)
- Certain undertakings (an **undertaking** of bail is security for the appearance of the defendant) from within the sixty month period immediately preceding the application
- Evidence that the alleged abuser is on police bail for a domestic violence offence
- A relevant conviction for a domestic violence offence from within the sixty month period immediately preceding the application
- A letter from a member of a Multi-Agency Risk Assessment Conference confirming that the victim was referred to the conference as a victim of domestic violence and a plan has been put in place within the sixty month period immediately preceding the application
- A copy of a finding of fact that there has been domestic violence, giving rise to risk of harm, within the sixty month period immediately preceding the application
- A letter from a health professional, dated from within the sixty month period immediately preceding the application, confirming that the victim has been examined and confirming injuries or a condition consistent with those of a victim of domestic violence
- A social services letter stating that the person was assessed as being a victim of, or at risk of being a victim of, domestic violence, dated within the sixty month period immediately preceding the application
- A letter or report from a domestic violence support organisation, dated within the sixty month period immediately preceding the application, confirming either admission to a refuge, or refusal of admission to a refuge due to accommodation being unavailable
- A letter or report from a health professional, dated within the sixty month period immediately preceding the application, confirming referral to a specialist who provides support or assistance to victims, and those at risk, of domestic violence
- A Domestic Violence Protection Order/Domestic Violence Protection Notice from within the sixty month period immediately preceding the application
- A relevant court bind over (the term “**bind over**” refers to holding a person for trial on bond (bail) or in jail) dated within the sixty month period immediately preceding the application

- Evidence, or an explanation, dated within the sixty month period immediately preceding the application, that satisfies the Legal Aid Agency that the person has been, or is at risk of, financial violence

**3. When victims first approach your organisation, are they aware of the evidence requirements?**

*If not mentioned, prompt in the following areas:*

- *If victims were not aware, how do they react when they become aware?*
- *If victims were not aware, does this have an impact on their legal aid application going forward, and if so, how?*

**4. Do you think the current list of evidence adequately encompasses all forms of domestic violence? (Forms of violence include physical, sexual, financial/economic and emotional/psychological violence.)**

*If not mentioned, prompt in the following areas:*

- *Are there any forms of evidence that are not included on the prescribed list that would enable victims to evidence their violence?*

**5. In your experience, have victims had any difficulties in acquiring any particular forms of evidence on the current list? And if so, please expand.**

**6. In your experience, on average how long does it take for victims to secure the necessary evidence needed to access legal aid, if they do access it?**

*If not mentioned, prompt in the following areas:*

- *Are there any impacts of this?*

**7. The regulations state that those *at risk* of becoming a victim, as well as those who are victims, are entitled to legal aid. Do you think the current evidence requirements adequately cover those who are at risk of becoming a victim?**

*If not mentioned, prompt in the following areas:*

- *In your opinion, how might people at risk of becoming victims of domestic violence more easily evidence their violence, if at all?*

**8. In your experience, why may victims, or potential victims, be unsuccessful or unable to access legal aid for advice or representation in private family law cases?**

*If not mentioned, prompt in the following areas:*

- *What happens when these individuals cannot access legal aid?*

**9. Do you have any suggestions to improve the process?**

### **Time Limit**

**10. In your experience, did the previously legislated two year time limit have any impact on victims being able to evidence their violence to access legal aid? If yes, what impact?**

**11. Do you think there should be a time-limit on the evidence of domestic violence? Why/why not?**

*If not mentioned, prompt in the following areas:*

- *If yes, what time limit do you think would be most appropriate, and why?*
- *If no, why do you think the time limit should be removed? And can you see any obstacles or challenges with removing the time limit?*
- *If no, if there had to be a time limit, what time limit do you think would be most appropriate, and why?*
- *For everyone, in your opinion, what would be the impact on the volume of applications for legal aid if the time limit was removed?*
- *Are there victims of domestic violence that have evidence from more than five years ago? If yes, what form does this evidence take?*

**12. Is there anything further you wish to add, that I haven't thought to ask you?**

**Thank you for taking the time to participate in this focus group. If you have any questions about this focus group I'm happy to answer them before you leave.**



## Appendix E: Domestic Violence Victim Focus Group Topic Guide

### Reviewing the evidence requirements for domestic violence victim- survivors seeking legal aid in private family law: FOCUS GROUP TOPIC GUIDE

Hello,

My name is XXX and I work as a XXX within the National Training Centre. This is Farai Syposz, a Social Researcher at the Ministry of Justice and / or this is Hannah Cook who works in legal aid policy at the Ministry of Justice. She / they will be observing our focus group today if you are all comfortable with that. **(As appropriate)**

Thank you for attending this focus group. As explained in the information form, the Ministry of Justice is currently reviewing the evidence requirements for victim-survivors of domestic violence accessing legal aid in private family cases. These include, for example, cases concerning child contact or financial matters following a divorce or separation. We want to make sure that these requirements allow victim-survivors of domestic violence, or those at risk of it, to access legal aid in these cases. We want the process to be straightforward and easy to understand. As people who have had direct experience of these requirements, we're interested in your experiences and views.

To clarify the current position, legal aid is available for victim-survivors, or potential victim-survivors, of domestic violence in private family cases, such as those concerning child or financial arrangements following a relationship breakdown. To qualify for legal aid, applicants must prove they have been, or are at risk of being, a victim of domestic violence by submitting one or more form of evidence from a list set out in law. The evidence must come from some point during the period five years before the application for legal aid (increased from two years in April 2016). Some examples of this might be:

- If your abuser has a been convicted for a domestic violence offence;
- A letter from a health professional confirming that you have injuries or a condition consistent with being a victim-survivor of domestic violence; or,
- If you have taken a Domestic Violence Protection Order against your abuser.

Domestic violence includes any incident, or pattern of incidents, of controlling, coercive or threatening behaviour, violence or violence, whether psychological, physical, sexual, financial or emotional.

For the purpose of this focus group, a **victim-survivor of domestic violence** is someone who is currently being violence, as well as someone who has been violence in the past, **whether or not they are currently being violence**. A person **at risk of experiencing domestic violence** is someone who has never experienced domestic violence but is likely to experience domestic violence at some point in the future.

**You have been invited to this focus group as we are hoping to capture the views of victim-survivors of domestic violence with experience of the process of accessing legal aid in private family cases.**

This focus group will last up to 2 hours, with a short break in the middle, and will cover your experience of the legal aid evidence requirements and the time limit for submitting this evidence.

Participation in this focus group is voluntary and anything we discuss will be anonymised. Your responses will also be treated as confidential and will not be identifiable from the results of this focus group. Please do not discuss the content of the focus group outside of the group.

I will be audio recording this workshop to help with the analysis, therefore, please try not to talk over one another or the recorder will struggle to what you are saying. We may also make notes as we go, but these will mainly just be things we would like to follow up later. Using the audio recorder means that we do not have to attempt to write down everything you say. Please let me know if you don't feel comfortable with answering any questions and we'll move on.

Do you have any questions before we start?

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**Focus Group Topic Guide**

**General introductions as appropriate.**

## 1. Why did you get into contact with a lawyer?

*If not mentioned, prompt in the following areas:*

*-Did you get into contact to create/revise childcare arrangements, for example?*

## 2. How did you get into contact with a lawyer?

*If not mentioned, prompt in the following areas:*

*-Did you experience any difficulties in accessing a lawyer?*

*-What was your experience of engaging with a lawyer regarding the legal aid process?*

### **Evidence Requirements**

As you may or may not know, legal aid reforms in 2012-13 (the Legal Aid, Sentencing and Punishment of Offenders Act 2012, "LASPO"), removed most private family matters from the scope of legal aid. One exception is victim-survivors of, or people at risk of, domestic violence. In these cases the party in question can apply for legal aid but they are required to provide evidence of the domestic violence against a list of acceptable evidence set out in regulations. All this evidence must be dated within the five year period before an application for legal aid is made. **[Give some examples – participants will be provided with a copy]**

*If yes:*

- A relevant unspent conviction for a domestic violence offence, where insufficient time has passed since an offence without the person reoffending
- A relevant police caution for a domestic violence offence
- Ongoing relevant criminal proceedings
- A relevant protective injunction (such as a non-molestation order) (an **injunction** is a court order requiring a person to do or cease doing a specific action)
- Evidence that the alleged abuser is on police bail for a domestic violence offence, for example, a written notice that a defendant is on bail and will appear in court (an **undertaking**)

- A relevant conviction for a domestic violence offence A letter from a member of a Multi-Agency Risk Assessment Conference confirming that the victim-survivor was referred to the conference as a victim-survivor of domestic violence
- A decision from a judge or jury that that there has been domestic violence, giving rise to risk of harm
- A letter from a health professional confirming that the victim-survivor has been examined and confirming injuries or a condition consistent with those of a victim-survivor of domestic violence
- A social services letter stating that the person was assessed as being a victim-survivor of, or at risk of being a victim of, domestic violence
- A letter or report from a domestic violence support organisation confirming either that the applicant had/has been admitted to a refuge, or refused admission to a refuge due to accommodation being unavailable
- A letter or report from a health professional confirming referral to a specialist who provides support or assistance to victim-survivors, and those at risk, of domestic violence
- A Domestic Violence Protection Order/Domestic Violence Protection Notice
- A relevant court bind over (meaning a person is being held for trial either on bail or in jail). Evidence, or an explanation, that satisfies the Legal Aid Agency that the person has been, or is at risk of, financial violence

**3. Were you aware that there are evidence requirements for accessing legal aid?  
How did you become aware that there are evidence requirements?**

**4. Did you understand what you needed in terms of the evidence?**

**5. Did you have the necessary evidence?**

**6. Were you able to get the necessary evidence? If not, why not?**

*Prompt: What were your experiences with the time limit placed on evidence?*

**7. Was it hard to get the necessary evidence?**

**8. If you were able to get the necessary evidence, how long did it take you?**

**9. How did you find the process of trying to get legal aid? Do you have any suggestions to improve it?**

*Prompt: are there any ways it would be easier to provide evidence of domestic violence?*

**10. Were you able to get legal aid when you applied for it? What was the impact of not getting legal aid?**

### **General**

**11. What other difficulties, if any, have you experienced in accessing legal aid services?**

*If not mentioned, prompt in the following areas:*

- *Any problems in reporting domestic violence?*
  
- *Geographical location: do they have difficulty finding a legal aid solicitor in their area? (Scarcity?) Or difficulty travelling to a legal aid solicitor?*
  
- *Have they faced any language barriers? Or any other barriers that have made it difficult to access/engage with legal aid services?*

**12. Is there anything further you wish to add?**

**Thank you for taking the time to participate in this focus group - sharing your views and experiences is very much appreciated. If you have any questions about this focus group I'm happy to answer them before you leave. If you would like to access any**

**emotional support as a result of participating in this group, representatives from Women's Aid will be more than happy to assist you.**

## Appendix F: Victim Focus Group Informed Consent Form

women's aid

national training centre

until women & children are safe

### **Reviewing the evidence requirements for domestic violence victim-survivors seeking legal aid in disputes in private family law matters**

Dear XXX,

You are being invited to take part in a focus group. A focus group is a research method that brings together a small group of people (usually six to ten people) that share a common set of characteristics, to participate in a discussion led by a trained researcher. Before you decide whether or not you want to take part, it is important for you to understand why the focus group is taking place and what it will involve.

The Ministry of Justice are working with Women's Aid to review the arrangements for providing legal aid to victim-survivors of domestic violence in private family disputes such as those concerning child contact or financial arrangements following a divorce or separation. This review seeks to understand the ability of victim-survivors to access legal aid when in these circumstances. In particular it is concerned with the types of evidence that need to be submitted to access legal aid and the time limit placed on that evidence. You have been invited to participate because as part of the review, we are very interested in collecting the opinions of victim-survivors of domestic violence who have had some experience of these legal aid rules.

If you chose to participate you will be part of a focus group that will address your experiences of the legal aid process. The focus group that you attend will be facilitated by XXX from Women's Aid and one person from the Ministry of Justice will also be present. We may take notes throughout the focus group.

#### **The date and time of the focus group is XXX**

We are anticipating that the focus group will last no more than 2 hours. Any reasonable standard class travel expenses will be reimbursed if receipts are given.

Taking part in the focus group is entirely voluntary. It is up to you to decide whether or not to take part and you can decide to stop participating at any time without giving a reason. You

can also refuse to answer any individual question if you wish. After the data has been collected, you have a right to withdraw your contribution. Please note, however, that once the data has been analysed and all responses anonymised, you may not withdraw your contributions as each individual respondent will no longer be identifiable. Therefore, if you wish to withdraw your contribution please do so within a month of your participation in the group. If you do decide to participate then you will be given a copy of this information form to keep and you will be asked to sign a consent form. Whatever you say will not be held against you in any ongoing court proceedings or affect your cases. The data gathered will be stored securely in password protected documents held by the Social Researcher at the Ministry of Justice analysing the data. **Please do not discuss the content of the focus group outside of the group.** This is to ensure that the anonymity and confidentiality of every participant, and any comment they make, is maintained and respected.

The discussions in the focus group will be audio recorded to accurately capture what was said. A typed copy of the recording will be made and then analysed as part of the review. Anything you say will be treated as strictly confidential and your identity will not be disclosed as part of the research. The data collected will form part of a report written and owned by the Ministry of Justice but any contribution you make will not identify you. Thank you for taking the time to read this sheet and consider the information. If you would like to access any emotional support as a result of participating in this group, representatives from Women's Aid will be more than happy to assist you.

### **Participant consent form**

I consent to take part in a focus group about my experiences of the legal aid evidence requirements in private family cases.

I consent to be audio recorded during this focus group discussion.

I understand that my responses will be anonymised and used in a report that will be written and owned by the Ministry of Justice.

My participation is voluntary. I understand that I am free to leave the group at any time.



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Please print your name above

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Please sign your name above

Date: \_\_\_\_\_

**Please note that the differences between this informed consent form and the informed consent form for Welsh Women's Aid was the removal of the logo and specific reference to Welsh Women's Aid as the supporting organisation.**