



Briefing for MPs

Domestic Abuse Bill, Consideration of Lords Amendments

Make non-means tested legal aid available for all domestic abuse cases

About us

The Bar Council represents approximately 17,000 barristers in England and Wales. It is also the Approved Regulator for the Bar of England and Wales. A strong and independent Bar exists to serve the public and is crucial to the administration of justice and upholding the rule of law.

Issue

Covid-19 has created what Women's Aid have called "a perfect storm", that can "threaten to escalate abuse and close down routes to safety for women to escape".¹ The Government has already committed to making victims of domestic abuse automatically eligible for special measures in the family and civil courts.² The Bar Council welcomes the recognition of the specific legal needs of victims of domestic abuse, and of children involved in these cases. However, the implementation of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO), has cut legal aid and taken legal aid for victims of domestic abuse out of the scope, unless they are qualified under the general means testing criteria.

Timing

The number of domestic abuse offences are at an all-time high and continue to rise during the pandemic. Given the Government's commitment to implement the recommendations of the Ministry of Justice's expert panel, immediate action must be taken to ensure that all domestic abuse cases can access the appropriate legal help.

Recommendation

The Bar Council urges the Government to **make non-means tested legal aid available for all domestic abuse cases.**

¹ Women's Aid (18 August 2020) "A Perfect Storm – The impact of the Covid-19 pandemic on domestic abuse survivors and the services supporting them."

² Ministry of Justice (June 2020) "Assessing Risk of Harm to Children and Parents in Private Law Children Cases Implementation Plan" https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/895174/implementation-plan-assessing-risk-children.pdf

Background

Since the implementation of LASPO, legal aid expenditure on civil domestic violence cases has been cut by 41% in real terms (£22,049,000 in 2012/13 to £31,603,000 in 2019/20) according to Ministry of Justice data compiled by the House of Commons Library.³ Furthermore, legal aid expenditure on civil domestic violence cases has been declining ever since 2008/09 from its peak of £65,229,000, resulting in a 51% reduction to 2019/20.⁴ This decline in funding cannot be attributed to a reduction in need; the Family Court received a 49% increase in domestic violence cases started since 2012 (17, 563 starts in 2012/13 to 26, 093 starts in 2019/20).⁵ Data received since the start of the pandemic indicates that cases and reporting are likely to continue to increase, meaning we can expect a continued increase in the number of cases in court, with the UN calling domestic violence a “shadow pandemic”.⁶

The Bar Council April 2021

³ House of Commons Library (2021) “Data provided to Bar Council. Unpublished”.

⁴ Ministry of Justice (December 2020) “Legal aid statistics: July to September 2020”
<https://www.gov.uk/government/statistics/legal-aid-statistics-july-to-september-2020>

⁵ Ministry of Justice (December 2020) “Family Court Statistics Quarterly: July to September 2020”
<https://www.gov.uk/government/statistics/family-court-statistics-quarterly-july-to-september-2020>

⁶ <https://www.unwomen.org/en/news/in-focus/in-focus-gender-equality-in-covid-19-response/violence-against-women-during-covid-19>