

The Domestic Abuse Act 2021

The Domestic Abuse (DA) Act received royal assent on 29th April 2021. This Act will provide further protections to the millions of people who experience domestic abuse and strengthen measures to tackle perpetrators.

What does the Act do?

For the first time in history there will be a wide-ranging legal definition of domestic abuse which incorporates a range of abuses beyond physical violence, including emotional, coercive or controlling behaviour, and economic abuse.

The Legal Definition of Domestic Abuse

Behaviour of a person (“A”) towards another person (“B”) is “domestic abuse” if—

- (a) A and B are each aged 16 or over and are personally connected to each other, and
- (b) the behaviour is abusive.

Behaviour is “abusive” if it consists of any of the following—

- (a) physical or sexual abuse;
- (b) violent or threatening behaviour;
- (c) controlling or coercive behaviour;
- (d) economic abuse (see subsection (4));
- (e) psychological, emotional or other abuse;

and it does not matter whether the behaviour consists of a single incident or a course of conduct.

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The measures include important new protections and support for victims ensuring that abusers will no longer be allowed to directly cross-examine their victims in the family and civil courts, and giving victims better access to special measures in the courtroom to help prevent intimidation – such as protective screens and giving evidence via video link.

Police will also be given new powers including Domestic Abuse Protection Notices providing victims with immediate protection from abusers, while courts will be able to hand out new Domestic Abuse Protection Orders to help prevent offending by forcing perpetrators to take steps to change their behaviour, including seeking mental health support or drug and alcohol rehabilitation.

In recent weeks, the government has added new measures to the bill to further strengthen the law, including creating a new offence of non-fatal strangulation, extending an offence to cover the threat to disclose intimate

images, and clarifying the law to further clamp down on claims of “rough sex gone wrong” in cases involving death or serious injury.

The full text of the DA Act can be accessed [here](#). The main elements of the Act are:

1. Create a statutory definition of domestic abuse, emphasising that domestic abuse is not just physical violence, but can also be emotional, coercive or controlling, and economic abuse
2. Establish in law the office of Domestic Abuse Commissioner and set out the Commissioner’s functions and powers
3. Provide for a new Domestic Abuse Protection Notice and Domestic Abuse Protection Order
4. Place a duty on local authorities in England to provide support to victims of domestic abuse and their children in refuges and other safe accommodation
5. Prohibit perpetrators of abuse from cross-examining their victims in person in the civil and family courts in England and Wales
6. Create a statutory presumption that victims of domestic abuse are eligible for special measures in the criminal, civil and family courts
7. Clarify by restating in statute law the general proposition that a person may not consent to the infliction of serious harm and, by extension, is unable to consent to their own death
8. Make the threat of sharing intimate images without consent a criminal offence
9. Extend the offence of controlling or coercive behaviour to post-separation abuse
10. Extend the extraterritorial jurisdiction of the criminal courts in England and Wales, Scotland and Northern Ireland to further violent and sexual offences.
11. Enable domestic abuse offenders to be subject to polygraph testing as a condition of their licence following their release from custody.
12. Place the guidance supporting the Domestic Violence Disclosure Scheme (“Clare’s Law”) on a statutory footing.
13. Provide that all eligible homeless victims of domestic abuse automatically have ‘priority need’ for homelessness assistance.
14. Ensure that where a local authority, for reasons connected with domestic abuse, grants a new secure tenancy to a social tenant who had or has a secure lifetime or assured tenancy (other than an assured shorthold tenancy) this must be a secure lifetime tenancy.”
15. A new criminal offence of ‘non-fatal strangulation’ was added to the Act as an amendment to the Serious Crime Act 2015. This covers intentional strangulation, or any action that affects a person’s ability to breathe and causes serious harm.

The Government has published [fact sheets](#), which explain each of these measures in further detail.

Who does the Act cover?

The Act covers domestic abuse of men and women. It also specifically highlights the fact that children can be victims of domestic abuse in their own right, if they see, hear or experience the effects of domestic abuse. The (draft) Statutory Guidance that accompanies the Act makes it clear that domestic abuse is a gendered issue that is a cause and consequence of gender inequality.

When Will the Act Come into Force?

Some parts of the Act are already in force, for example the definition of domestic abuse and banning the 'rough sex defence'. The other provisions will be implemented on a rolling basis over the coming months. There will be consultations launched on the Act overall, on the legal duty for domestic abuse safe accommodation, and Domestic Abuse Protection Orders. The updated homelessness code of practice may also go out for consultation too. The new criminal offences of threats to share intimate images, non-fatal strangulation, and post-separation abuse will be implemented over the coming months.

The implementation timetable for the act is given [here](#).

Frequently Asked Questions

1. Where can I find up to date information about the Act?

The Government has published a [commencement schedule](#), which gives information about when different elements of the Act come in.

2. What support is available for male victims?

In Warwickshire the commissioned domestic abuse service supports women and men. Please call Refuge's Domestic Violence Service Warwickshire Helpline on 0800 408 1552 (Monday-Friday 8:30am-8:30pm; Saturday 10am-4pm) to speak to one of our support workers.

If the line is busy or for out of hours calls, a voicemail operates on this number. If you leave a message, please do let us know your name, number and a safe time to call and we will get back to you.

Email DVS@refuge.org.uk – with any queries or questions.

3. What support is available for parents who experience abuse from children?

Specialist support for parents who experience abuse from children / young people is available from the following organisations:

<https://beaconhouse.org.uk/wp-content/uploads/2019/09/What-Survival-Looks-Like-At-Home.pdf>

<https://whosincharge.co.uk/>

<https://www.respect.uk.net/pages/44-work-with-young-people-s-violence-and-abuse>

<https://www.familylives.org.uk/advice/teenagers/behaviour/teen-violence-at-home/>

<https://www.dvip.org/for-young-people/>

4. What about victims with no recourse to public funds?

The House of Lords had proposed an amendment to the effect that any person who is subject to immigration control who is a victim of domestic abuse in the United Kingdom should have a route to apply for leave to remain. Currently this route is only available to victims on a spousal visa. The Government did not accept this amendment, highlighting that the pilot Support for Migrant Victims Scheme will provide access to safe accommodation and specialist support for those victims have previously not been eligible for support. You can read more information about the Government's position [here](#).

5. What evidence of DA will be required when making a housing/homeless application?

See the [Homelessness Code of Guidance S.21.21](#)

6. What powers do the police have to arrest abusers who breach injunctions?

Breach of a Non Molestation Order was made a criminal offence by the Domestic Violence, Crime and Victims Act 2004. Breach of a DAPO will also be a criminal offence, carrying a maximum penalty of up to five years' imprisonment, or a fine, or both. Breaches can also be dealt with as a civil contempt of court and the victim's view and public interest will be considered in deciding how a breach should be dealt with.

7. What is the timescale for trialling and rolling out DAPOs?

We don't yet know when the DAPOs will be rolled out. The Government is currently in the process of designing the process for trialling DAPOs in some policing areas.

8. Why is polygraph testing being suggested?

Following the successful use of polygraph testing with convicted sex offenders, to ensure that they are keeping to the conditions imposed on them, the Government wishes to trial the use of polygraph testing with domestic abuse offenders for similar purposes e.g. to find out if a perpetrator has a new partner.

9. How will mandatory polygraph testing be carried out? Will it apply to all perpetrators?

We don't yet know the answer to this. There will be a pilot of the polygraph testing programme and the results of this will be evaluated, before this facility is more widely rolled out.

10. How can we make sure that everyone, not just agencies, are aware of the DA Bill?

WCC recognise the importance of promoting the new Domestic Abuse Act 2021. A Communications Plan has been developed that seeks to raise awareness of the Act across the county. Elements of this include updates to members of the public, Elected Members and professionals through a range of media.

11. Practically speaking, how will the Bill be implemented in Warwickshire?

Warwickshire's Violence against Women and Girls Board will be overseeing the implementation of the Act. To address requirements in relation to Safe Accommodation, a partnership Safe Accommodation Working Group has been established with responsibility for completing the Safe Accommodation Needs Assessment, developing a Safe Accommodation Strategy, developing commissioning / service options for the use of the Safe Accommodation funding and establishing new Safe Accommodation provision in Warwickshire.

In terms of the broader duties, Warwickshire's Violence against Women and Girls Board will be maintaining oversight of partners progress to implement the new duties that relate to their remit.

12. Will there be overarching guidance for staff?

The DA Act is wide-ranging and will impact Warwickshire's agencies in different ways. All statutory agencies in Warwickshire will be expected to review and update their policies and procedures to reflect the way in which the Act impacts their work. For example, District and Borough Housing teams will be updating their policies in relation to changes around priority housing need. The Police will be updating their guidance for staff in relation to new offences introduced.

Warwickshire partners will update their guidance / procedures based on the Statutory Guidance which is being finalised by government.

13. Will WCC be allocating funding to support the implementation?

Warwickshire County Council has received funding from the Ministry of Housing, Communities and Local Government (MHCLG) to deliver the Safe Accommodation duty. As part of this they have allocated funding towards awareness raising of the overall Domestic Abuse Act in addition to the Safe Accommodation duty. The remainder of the funding will be allocated to the provision of support to victim-survivors of domestic abuse in the county. District and Borough Councils have also received funding to support the new safe accommodation duties.

14. How will WCC, the districts and boroughs meet the housing need for survivors?

This will be addressed in the partnership-wide Safe Accommodation Strategy which Warwickshire is in the process of developing. It is likely to be through a range of ways of working, ensuring existing services are being promoted and utilised and developing new service provision.

15. How will the needs of vulnerable individuals e.g. those with disabilities, who experience DA be met?

This will be outlined in the Warwickshire Safe Accommodation Strategy. The intention is that there is accessible and inclusive Safe Accommodation provision in Warwickshire for any victim-survivor of Domestic Abuse, that requires it.

16. How will the new duties be funded?

Both county and district local authorities have received additional uplift funding via the Ministry of Housing and Local Government (MHCLG) to assist them with the Safe Accommodation duty. This is reflected in the new burdens funding received for 2021/22. There is a MHCLG commitment for an additional three years, although the level at which this funding will be provided is unclear. It is not clear what additional funding has been allocated to other partner agencies to enable them to fulfil any additional duties at this stage.

17. Will this training be mandatory e.g. for social workers, teachers and housing officers?

The training on the DA Act is being made available to all multi-agency staff across Warwickshire. It is not mandatory, but attendance is being strongly encouraged for those staff that are likely to work or come into contact with victim-survivors of Domestic Abuse, their children and perpetrators.

18. Will WCC be commissioning counselling services for DA victims?

It is clear from the guidance that all support for victim-survivors needs to be considered. A Needs Assessment is being developed that will highlight where areas of need are greatest. This will guide decisions about what services WCC commissions in the future.

19. How can those who don't deal directly with DA victims embrace this into working life?

The sad reality is that many of us are likely to encounter victims of Domestic Abuse, both in our personal and work lives even if our roles do not deal with victims directly. We would encourage staff and managers to reflect upon the learning to consider how best your team responds. This will vary according to team but may include understanding your own organisations approach to responding to disclosures of Domestic Abuse and ensuring you and your colleagues are familiar with the broad range of support that is available.

Any professional, family member, friend or colleague that is concerned that someone they know is or might be a victim of Domestic Abuse can get advice about what to do by calling the Warwickshire Domestic Violence Service on: 0800 408 1552

The broad range of support available is accessible here:
www.talk2someone.org.uk

20. Will WCC be commissioning perpetrator services outside of those delivered in Children's Services?

It is clear from the guidance that all support for victim-survivors needs to be considered – this extends to interventions for perpetrators. A Needs Assessment is being developed that will highlight where areas of need are greatest. In addition to this, an independent review into domestic abuse perpetrators has been commissioned. Learning from this, along with the Needs Assessment will guide decisions about what services WCC commissions. This will also be considered in the context of services already provided or planned by partner agencies, such as the Office of the Police and Crime Commissioner.

Other questions and answers will be posted here as responses are finalised.