

## DOMESTIC ABUSE BILL

### SUPPLEMENTARY DELEGATED POWERS MEMORANDUM

The Government has tabled further amendments to the Domestic Abuse Bill for Lords Report stage. These amendments include new delegated powers. This supplementary memorandum explains why the new powers have been taken and the justification for the procedure selected.

**New clause “*Prohibition on charging for the provision of medical evidence of domestic abuse*” (3)(b): Power to extend the prohibition on charging for evidence of domestic abuse for the purpose of obtaining legal aid to any other specified evidence.**

*Power conferred on:* Secretary of State

*Power exercisable by:* Regulations made by statutory instrument

*Parliamentary procedure:* Negative resolution

#### Context and purpose

1. New clause “*Prohibition of charging for the provision of medical evidence of domestic abuse*” prohibits charging for a letter or report to provide evidence of an individual being a victim of domestic abuse for the purpose of obtaining legal aid. This prohibition applies where this letter is provided by an appropriate health professional listed in subsection (4) who either (i) wholly or mainly provides services under a qualifying medical services contract listed in subsection (5), or (ii) has assessed the patient in the course of providing services under such a contract. Such documentation is an acceptable form of evidence for the purposes of the Civil Legal Aid (Procedure) Regulations 2012.
2. Subsection (3)(b) of the new clause enables the Secretary of State to make regulations to extend the prohibition to any other evidence letters or reports provided by appropriate health professionals to demonstrate domestic abuse for purposes other than to obtain legal aid.

#### Justification for taking the power

3. The Government has introduced this new clause to prohibit these appropriate health professionals from charging domestic abuse victims for evidence of their abuse for legal aid purposes. It is important that, should the use of this evidence be extended in the future, it should not be permissible for those prohibited from charging in the legal aid context to charge victims for the same letters in other circumstances. This regulation-making power has been included to future-proof this prohibition, and ensure that health professionals covered by it can readily be prohibited from charging for the same evidence in a different context.

#### Justification for the procedure

4. The new clause will be subject to the negative procedure by virtue of clause 76(5) of the Bill. This level of scrutiny is considered appropriate given the purpose of the regulation making power is to ensure that the underlying policy intention, of preventing appropriate health professionals providing services under qualifying medical contracts charging for domestic abuse evidence letters or reports, can be readily carried forward to any further circumstances in which it might apply in the future.

#### **New clause “*Prohibition on charging for the provision of medical evidence of domestic abuse*” (6): Power to amend the definition of “relevant health professional” and “qualifying medical services contracts”**

*Power conferred on:* Secretary of State and the Welsh Ministers

*Power exercisable by:* Regulations made by statutory instrument

*Parliamentary procedure:* Draft affirmative resolution

#### Context and purpose

5. In relation to new clause “*Prohibition of charging for the provision of medical evidence of domestic abuse*” (paragraph 1 above), subsection (4) defines “relevant health professionals” and subsection (5) defines the “qualifying medical services contracts” in relation to which the prohibition on charging applies. Subsection (6) of the new clause enables the Secretary of State in relation to England and the Welsh Ministers in relation to Wales to make regulations to amend these definitions.

#### Justification for taking the power

6. It is important that the list of relevant health professionals and qualifying medical services contracts in relation to which the charging prohibition (paragraph 1 above) applies can be readily amended. This is ensure that the prohibition can be extended to health professionals other than those currently listed in subsection (3) or qualifying medical contracts other than those listed in subsection (4) should evidence of inappropriate charging come to light and necessitate this. It will also ensure that the lists of health professionals and contracts in relation to which the prohibition applies can be altered to reflect changes in the structure of health services, including their statutory basis. This regulation-making power has been included to future-proof the health professionals and contracts in relation to which the prohibition applies.

#### Justification for the procedure

7. The regulation-making power in subsection (6) of the new clause will be subject to the draft affirmative procedure by virtue of the amendment made to clause 76(6) of the Bill. This level of scrutiny is considered appropriate given that this is a Henry

VIII power which could, in principle, narrow as well as expand the prohibition of charging provided for in the new clause.

**Ministry of Justice / Department for Health and Social Care**  
**10 March 2021**