

**Women's Aid Federation of England's submission to the Nationality and
Borders Public Bill Committee
October 2021**

Introduction

Women's Aid Federation of England (Women's Aid) is the national charity working to end domestic abuse against women and children. We are a federation of nearly 170 organisations which provide just under 300 local lifesaving services to women and children across the country. Over the past 47 years, Women's Aid has been at the forefront of shaping and coordinating responses to domestic abuse through practice, research and policy. We empower survivors by keeping their voices at the heart of our work, working with and for women and children by listening to them and responding to their needs.

Our support services, which include our Live Chat Helpline, the Survivors' Forum, the No Woman Turned Away Project, the Survivor's Handbook, Love Respect (our dedicated website for young people in their first relationships), the national Domestic Abuse Directory and our advocacy projects, help thousands of women and children every year.

Women's Aid welcomes the opportunity to respond to the Public Bill Committee's call for evidence on the Nationality and Borders Bill. As a national domestic abuse charity, our submission highlights our concerns about the potential harm the current proposals in the Bill would cause to women subjected to gender-based violence. We also share concerns held across the violence against women and girls (VAWG) sector that the Bill's proposals risk undermining the Government's commitment to addressing violence against women and girls (VAWG).

At a time when there are important national conversations happening about how to prevent and address gender-based violence in our society, it is crucial that the clauses we set out below are removed to prevent the Nationality and Borders Bill leading to further harm, exploitation and victimisation of women. Women's Aid also supports the written and oral evidence already provided by Women for Refugee Women, and we ask Bill Committee members to reconsider the proposals outlined below.

The Government's promises to address violence against women and girls

The Government's VAWG strategy, published in July 2021, committed to 'bring[ing] about real and lasting change', recognising that VAWG is 'still far too prevalent and there are too many instances of victims and survivors being let down.' At the same time, there are important national conversations happening about the need to address the scale of abuse towards women and girls in our society, illuminated by the tragic murders of Sarah Everard, Sabina Nessa and far too many others. The Government has sought to reassure women and girls – and the VAWG sector that support them – that this issue is being taken seriously. The Home Secretary has stated: "Women and girls have said enough is enough and the Conservative Party agrees." As a federation of nearly 170

organisations working to end domestic abuse against women and children, Women's Aid states however, that **these commitments risk being undermined by draft provisions in the Nationality and Borders Bill**. If the Government is to fulfil its promises made in the VAWG strategy to continue 'to work with violence against women and girls sector specialists' and 'continually improve and learn from [our] experiences, data and insight,'¹ we ask that it take heed of Women's Aid's concerns about this Bill.

Women's Aid shares concerns that the Government has still not ratified the Istanbul Convention, nine years after signing, and therefore continuing to fail to meet international standards. This was exemplified through the Government's failure to give migrant survivors access to full and equal support in the Domestic Abuse Act, as highlighted by the Step Up Migrant Women campaign.² Our concern is that the Nationality and Borders Bill, in its current form will create further difficulties for women and girls subject to abuse, and for the organisations supporting them in the UK.

Whilst the Equality Impact Assessment accompanying the Bill alleged that proposals could 'advance the equality of opportunity for 'a cohort of females,'³ we set out some key ways in which they would cause harm to women and girls and increase the risk of gender-based violence:

Four ways the Nationality and Borders Bill could harm women and girls:

1. The Bill risks creating further barriers for survivors to proving a well-founded fear of gender-based violence

Clause 30 has been highlighted by Women for Refugee Women as one of the most damaging, yet under-scrutinised aspects of the Bill in relation to women fleeing gender-based violence. The introduction of a restricted definition of 'particular social group' could harm women subject to gender-based violence because this ground in the Refugee Convention is frequently relied upon by survivors in order to obtain refugee status. The proposed definition will mean that two criteria must be met in order for an applicant to show that they are a member of 'particular social group', rather than one (as is currently the case). This would represent an additional hurdle for those seeking to obtain refugee status, survivors of domestic abuse who are at most risk once they have fled and would disproportionately impact women. Women for Refugee women have stated that:

"This change was not heralded in the consultation and is an unexplained regressive step that, coupled with the change in the well-founded fear test, will result in more women being wrongly refused asylum."

¹ See page 83 of HM Government (2021) Tackling Violence against Women and Girls: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1005630/Tackling_Violence_Against_Women_and_Girls_Strategy-July_2021-FINAL.pdf

² The Council of Europe's convention on preventing and combating violence against women and girls is internationally regarded as a the "gold standard" for responding to violence against women and girls (VAWG), and the biggest hurdle to ratification, is the absence of any provisions for migrant survivors that would comply with Articles 4(3) and 59 of the Convention (these articles outline obligations to ensure that survivors have access to protection and support without discrimination regardless of immigration or refugee status)

³ New Plan for Immigration Overarching Equality Impact Assessment of polices being delivered through the Nationality and Borders Bill: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1018188/Nationality_and_Borders_Bill_-_EIA.pdf

2. The Bill's proposed 'two-tier system' could disproportionately impact survivors of gender-based violence

We are concerned by the proposals to differentiate between refugees based on their mode of arrival or when they apply for asylum:

- We object to Clause 10 of the Bill. As a national domestic abuse charity, we are concerned by plans to exclude women from a path to settlement and public funds because of how they arrived in the UK and how quickly they were able to make their claim.⁴
- As outlined by the 'by and for' specialist VAWG organisation Southall Black Sisters in their response to the New Plan for Immigration, **Clause 10 takes no account of the "desperate circumstances in which many women...are forced to flee from their countries of origin, or of how the experience of gender-based violence shapes their journey to the UK and determines the extent to which they can adhere to complex and changing immigration rules on arrival."**⁵ We know that prior to and after arriving in the UK as a result of gender-based violence, many survivors do not know their rights and/or are deliberately deceived about asylum and immigration law by their perpetrator. In many cases, survivors who arrive in the UK struggle to access the appropriate information or support in order to make an immediate claim. Women escaping domestic abuse must not be punished in these contexts.
- **The proposals contradict long-standing evidence about the difficulties that women face in disclosing gender-based violence, abuse and trauma.** It is widely understood by specialist women's organisations that the process of disclosing a history of violence and abuse is often difficult for survivors and can take an extended period of time. As explained by Women for Refugee Women in their oral evidence to the Bill committee: *"Women who have been traumatised, because they have been violated, raped and all that, cannot provide that evidence straight away. They need time to heal, to be protected, to access mental health support. They need time to understand the system."*⁶ Women should not be penalised for a delay in this context. It is for this reason that we also object to Clause 16 and Clause 17 which specify that if a person fails to provide evidence within a specified period their credibility could be damaged, and to Clause 23 which encourages decision-makers to give 'minimal weight' to later evidence 'unless there are good reasons'. This again fails to recognise the situation that survivors of abuse find themselves in post-escaping their abuser, and also relies

⁴ A woman who arrives in the UK via a 'safe third country' or who is unable to make herself known to authorities 'without delay' (and is subsequently recognised in the UK as a refugee) would fall under 'Group 2'. As a 'Group 2' refugee, she would have no automatic path to settlement, even where it is proven that she has a well-founded fear of persecution. She would have restricted family reunion rights and limited access to public funds. Clause 10(5) also allows the Home Secretary to set the length of any limited period of leave for 'Group 2' refugees, such that they may be indefinitely liable for removal. Temporary protection status could afford a person no more than 30 months of leave - according to the New Plan for Immigration - after which they will be reassessed for return or removal.⁴

⁵ Southall Black Sisters (May 2021) Lessons not Learned: The Home Office's New Plan for Immigration represents an escalation of the 'hostile' environment policy, not a break from it: <https://southallblacksisters.org.uk/news/lessons-not-learned/#:~:text=Lessons%20Not%20Learned%3A%20The%20Home,not%20a%20break%20from%20it&text=The%20Plan%20is%20primarily%20focused,and%20hose%20seeking%20asylum%20themselves>

⁶ HC Deb (23 September 2021) col 107 [https://hansard.parliament.uk/commons/2021-09-23/debates/122e6daf-470b-49c5-a05e-4daba0170c73/NationalityAndBordersBill\(FourthSitting\)](https://hansard.parliament.uk/commons/2021-09-23/debates/122e6daf-470b-49c5-a05e-4daba0170c73/NationalityAndBordersBill(FourthSitting))

on survivors to voluntarily to come forward which they may not be in a position to do.

- The Government's explanatory notes on the Bill state that temporary protection status 'may only allow access to public funds in cases of destitution'. We already know that living in a state of limbo in the UK without routes to settlement and being excluded from the welfare safety net traps women in harmful and abusive situations⁷ and puts them at risk of escalating violence. The Government's own draft statutory guidance framework for domestic abuse reports that survivors' lack of access to public services and funds⁸ can create dependency on others, which is often exploited by abusers to exert control over them. This was affirmed by research by Women for Refugee Women in 2020 with women seeking asylum, which found that 35% said that destitution forced them to stay in a relationship they would not have otherwise stayed in: 38% of those who stayed in an unwanted relationship were raped by their partner, 41% experienced another form of sexual violence, and 35% were physically abused.⁹ The adoption of a temporary protection status will not prevent abusers using a woman's insecure immigration status as a tool to coerce and control her, and may not be sufficient time to gain access to the financial support that would enable her to leave. Therefore survivors are likely to remain with the perpetrator to avoid destitution, homelessness and the fear of return to countries where they have fled danger.¹⁰
- Furthermore, **restricting access to public funds would lead to further pressure on specialist VAWG services** who are already struggling to meet the demand for support from migrant survivors with insecure immigration status and/or subject to the No Recourse to Public Funds (NRPF) condition, who are at heightened risk of abuse. As it stands, Women's Aid figures highlight that in 2019/20, almost 4 in 5 migrant women subject to NRPF were turned away from a refuge¹¹ and this group comprises a large cohort of service-users of specialist 'by and for' services for black and minoritised women who are often non-commissioned and disproportionately impacted by the chronic underfunding of services. During the passage of the Domestic Abuse Act in Parliament, the Government acknowledged that there is a gap in protection for women with insecure immigration status and subject to NRPF, and established a temporary Support for Migrant Victims scheme. However, it has capacity to support a maximum of 500 women over a 12-month period and many women remain without protection. This clause would only worsen an already urgent problem created by immigration policies.¹²

⁷ Southall Black Sisters (2021) The Domestic Abuse Bill and Migrant Women: Briefing Paper 2: <https://southallblack SISTERS.org.uk/wp-content/uploads/2021/01/DA-Bill-Briefing-Paper-2.pdf>

⁸ See Paragraph 77 page 21 of Home Office (July 2020) Domestic Abuse Draft Statutory Guidance Framework: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/896640/Draft_statutory_guidance_July_2020.pdf

⁹ Women for Refugee Women (2020) Will I Ever Be Safe? Asylum-seeking women made destitute in the UK: <https://www.refugeewomen.co.uk/wp-content/uploads/2020/02/WRW-Will-I-ever-be-safe-web.pdf>

¹⁰ Southall Black Sisters (2021) The Domestic Abuse Bill and Migrant Women: Briefing Paper 2: <https://southallblack SISTERS.org.uk/wp-content/uploads/2021/01/DA-Bill-Briefing-Paper-2.pdf>

¹¹ Women's Aid (2020) Nowhere to turn 2020: Findings from the Fourth Year of the No Woman Turned Away Project: <https://www.womensaid.org.uk/wp-content/uploads/2020/06/Nowhere-to-Turn-2020.pdf>

¹² Southall Black Sisters (2021) Briefing Paper on the Government's Pilot Project to support Abused Women with No Recourse to Public Funds (NRPF): <https://southallblack SISTERS.org.uk/wp-content/uploads/2021/02/SBS-briefing-Pilot-Project-1.pdf>

3. The Bill's proposed expansion of accommodation centres could be re-traumatising for women and girls

The expansion of accommodation centres will negatively impact women seeking asylum, many of whom are survivors of rape and other forms of gender-based violence.

- **We object to Clause 11 which would expand asylum accommodation centres for people waiting for their asylum claims to be processed, without any time limit** (under subsection 8). Many women already wait for claims to be processed for years, and these environments are inappropriate and often re-traumatising for survivors. Being confined to living in closed environments that feel unsafe, with restricted liberty or autonomy to make decisions about their daily routines and company shares many parallels with survivors' previous experiences of domestic abuse and gender-based violence of having been imprisoned, isolated and controlled. Women's Aid member services run specialist refuges which are places of safety where women's needs are met, continue to be chronically underfunded. Therefore we cannot support investment in accommodation centres which undermine and contradicts the vital support that these women need.
- **The lack of privacy that characterises such sites is also harmful for women who have experienced gender-based violence as it hinders survivors' ability to disclose their history.** The APPG on Immigration Detention notes that in Napier Barracks and Penally Camp, 'the lack of private space was forcing residents to hold sensitive discussions, for example with lawyers, within earshot of other residents and/or staff'. Accommodation centres are the antithesis of environments conducive to the disclosure of gender-based violence including domestic abuse, rape and sexual exploitation, let alone recovery. The use of accommodation centres will harm women's ability to get their claims for protection recognised.

4. The Bill's proposal of offshore processing and detention centres poses particular risk of gender-based violence

We object to Clause 26, the detention and off-shore processing of people seeking asylum, particularly due to the serious risk of gender-based violence occurring in these centres.

- Previous investigations of detention centres in the UK, such as the Lampard Report (2015) on Yarl's Wood highlighted that between 2007 and 2015, 10 members of staff were dismissed for incidents involving 'sexual impropriety' towards women held there.¹³ Evidence suggests that the UK Government is likely to have even less control over the treatment of detainees in offshore detention centres. For example, the sexual harassment and violence of women detained

¹³ Lampard, K. (2016) *Independent Investigation into Concerns about Yarl's Wood Immigration Removal Centre*; <https://www.verita.net/wp-content/uploads/2016/04/Independent-investigation-into-concerns-about-Yarl's-Wood-immigration-removal-centre-Serco-plc-Kate-Lampard-Ed-Marsden-January-2016-1.pdf>

offshore by the Australian Government has been well documented¹⁴. Thus, the risk to women of sexual violence and abuse in offshore centres will be increased.

Women's Aid urges members of the Bill Committee, in light of this Government's explicit prioritisation of tackling and preventing VAWG, to recommend the above proposals are removed from the legislation. This will be critical in order to prevent further harm to women subject to gender-based violence and prevent the risk of re-victimisation and re-traumatisation. The UK Government has promised victims, survivors and VAWG sector organisations that it is committed to preventing and addressing VAWG in all its forms. However, our expertise and experience tells us that the proposals outlined above in the Nationality and Borders Bill, seriously undermine these commitments.

For further information please contact Sophie Francis-Cansfield, Campaigns and Policy Manager, at s.francis-cansfield@womensaid.org.uk

¹⁴ See, for instance, Refugee Council of Australia (2020) *Australia's Man-made Crisis on Nauru*; <https://www.refugeecouncil.org.au/nauru-report/>