



Drive Partnership Submission to the Nationality and Borders Public Bill Committee

November 2021

About the Drive Partnership

The Drive Partnership - Respect, SafeLives and Social Finance - believes that domestic abuse is not acceptable or inevitable. We advocate for changes to national systems so that perpetrators posing all levels of risk are held to account and can access the help they need to stop. The Partnership also co-ordinates delivery of the Drive Project, which works with high-harm, high-risk and serial perpetrators of domestic abuse to prevent their abusive behaviour and protect victims. Drive challenges these perpetrators to change and works with partner agencies – like the police and social services – to disrupt any ongoing abuse.

The Drive Project was developed in 2015 – to address a gap in work with high-harm perpetrators of domestic abuse. Drive works across sites in England and Wales with local service providers delivering the intervention. In every site, we partner with local specialist domestic abuse organisations to design and deliver a programme tailored for the locality. This work is done in partnership with statutory agencies such as the police, public health, and children's social care.

Introduction

Drive Partnership makes this submission to highlight the harm that many of the proposals within the Nationality and Borders Bill would cause to women subject to gender-based violence. As a specialist domestic abuse partnership, we reject claims made that its proposals would assist vulnerable women and girls. Instead, we submit that the Bill in its current form would cause harm and would greatly undermine the Government's commitment to addressing violence against women and girls.

At a time when there are important national conversations happening about how to prevent and address gender-based violence in our society, we are clear that the Nationality and Borders Bill in its current form will harm survivors and lead to greater exploitation and victimisation of women. We support 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 Violence Against Women and Girls (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 specialist women's organisations like ours 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 domestic abuse perpetrator specialist partnership we state however, that **these commitments are gravely undermined by proposals 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 strongly recommend that the sector's concerns are heard in full and responded to.

Drive Partnership is keen for the UK Government to meet international standards in responding to VAWG by ratifying the Istanbul Convention, which it signed up to nine years ago. This is largely due to its treatment of migrant survivors in the UK, as highlighted by the Step Up Migrant Women campaign.² We are concerned that this legislation will create further difficulties for women and girls subject to abuse, and the specialist organisations supporting them in the UK.

Increased barriers for survivors of gender-based violence:

The introduction, in 30(2), of a restricted definition of 'particular social group' will harm survivors of gender-based violence as this provision in Article 1(A)(2) Refugee Convention is relied upon by survivors to obtain refugee status. The proposed definition will increase the threshold from one criterion to two in order for an applicant to demonstrate their membership of a 'particular social group'. This will increase barriers for those seeking to obtain refugee status. We note the UNHCR's view that "this could exclude some refugees the protection to which they are entitled." In its current form, requiring only one criterion to be met, "the particular social group ground has proved critical in the protection of those with claims based on gender, sexual orientation, gender identity, status as former victims of trafficking, disability or mental-ill health, family and age."³ Domestic jurisprudence has stated that the proposed change could "give rise to protection gaps which is contrary to the obligations of signatories to the Refugee Convention."⁴ We echo Women for Refugee Women's statement 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 UNHCR (2021), UNHCR Observations on the Nationality and Borders Bill 141, 2021-22, p50 Available at: <https://www.unhcr.org/uk/615ff04d4.pdf>

⁴ DH (Particular Social Group: Mental Health) Afghanistan [2020] UKUT 223 (IAC).

The creation of a two-tier system:

We have strong concerns regarding plans in Clause 10 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.⁵

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.”⁶

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. 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 gender-based violence must not be punished in these contexts.

There are clear parallels here with important progress the Government has made in recognition of abuses perpetrated against UK-born citizens. Recent examples, including many from the Independent Inquiry into Child Sexual Abuse, indicate how critical it is for survivors of abuse, violence and exploitation to be provided with appropriate safety and reassurance in order for them to disclose what has happened to them, including in non-recent cases. The Government should be proud of making advances in the way we think about abuse, and should apply this thinking to domestic abuse and other GBV as it relates to women who are more recently arrived in the UK.

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.”⁷

Therefore, women must not be penalised for such delays and **we recommend the Committee remove or amend Clause 10 to take this into account.**

⁵ 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.⁵

⁶ 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%20those%20seeking%20asylum%20the%20mselves>

⁷ 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))

We also therefore have concerns regarding Clauses 16 and 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', which remain undefined in the Bill and therefore left entirely to the discretion of the Home Secretary.

The Government's explanatory notes on the Bill state that temporary protection status 'may only allow access to public funds in cases of destitution'. **Institutionalising women's precarity and destitution through 'temporary protection status' creates conditions that are ripe for abuse and exploitation.** 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 situations⁸ and puts them at risk of escalating violence.

The Home Office draft statutory guidance framework for domestic abuse reports that survivors' lack of access to public services and funds⁹ 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.¹⁰ The creation of such a temporary protection status will create conditions that coerce women into withstanding abusive relationships and environments to avoid destitution, homelessness and the fear of return to countries where they have fled danger.¹¹

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. These victims are at heightened risk of abuse and figures from Women's Aid for England and Wales shows that in 2019/20, almost 4 in 5 migrant women subject to NRPF were turned away from a refuge¹². 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.¹³

⁸ Southall Black Sisters (2021) The Domestic Abuse Bill and Migrant Women: Briefing Paper 2: <https://southallblacksisters.org.uk/wp-content/uploads/2021/01/DA-Bill-Briefing-Paper-2.pdf>

⁹ 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

¹⁰ 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>

¹¹ Southall Black Sisters (2021) The Domestic Abuse Bill and Migrant Women: Briefing Paper 2: <https://southallblacksisters.org.uk/wp-content/uploads/2021/01/DA-Bill-Briefing-Paper-2.pdf>

¹² 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>

¹³ Southall Black Sisters (2021) Briefing Paper on the Government's Pilot Project to support Abused Women with No Recourse to Public Funds (NRPF): <https://southallblacksisters.org.uk/wp-content/uploads/2021/02/SBS-briefing-Pilot-Project-1.pdf>

Restrictions to family reunion rules for those with temporary protection status will also disadvantage women seeking to join a spouse, putting more women at risk of being compelled to make dangerous journeys.

The expansion of accommodation centres which are re-traumatising for women and girls

We strongly believe 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 are concerned about the expansion, in 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 gender-based violence of having been imprisoned and controlled.

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'.

Offshore processing and detention of women seeking asylum

We are deeply concerned about 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 2007-15, 10 members of staff were dismissed for incidents involving 'sexual impropriety' towards women held there.¹⁴ The UK government will have even less control over the treatment of detainees in offshore detention centres and the risk to women of sexual violence and abuse in such centres will be increased. The sexual harassment and violence of women detained offshore by the Australian government has been well documented¹⁵ and we strongly urge that the UK government does not put women and girls at increased risk when it is creating so much positive change in other policy areas.

Drive Partnership strongly recommends members of the Bill Committee object to these proposals, which we believe will harm women subject to gender-based violence and increase the risk of re-victimisation and re-traumatisation in the UK.

For further information please contact Safia Sangster, Policy and Communications Officer
safia.sangster@safelives.org.uk

¹⁴ 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-Yarls-Wood-immigration-removal-centre-Serco-plc-Kate-Lampard-Ed-Marsden-January-2016-1.pdf>

¹⁵ See, for instance, Refugee Council of Australia (2020) *Australia's Man-made Crisis on Nauru*; <https://www.refugeecouncil.org.au/nauru-report/>