



RIGHTS OF WOMEN



Political will and clear leadership from the Government is vital.



There needs to be a seismic shift in society for violence against women to end.



There are still too many women experiencing violence.

Measuring up?

UK compliance with international commitments on violence against women in England and Wales

A report by Rights of Women

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Disclaimer: This report provides a basic overview of complex terminology, rights, laws, processes and procedures in England and Wales. This guide is for information purposes only and does not constitute legal advice. The information contained in this report is correct to May 2010. The law may have changed since then and you should seek legal advice on the current law. Rights of Women cannot accept responsibility for any reliance placed on the legal information presented in this report.

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Executive Summary

Measuring up? UK compliance with international commitments on violence against women in England and Wales

The elimination of all forms of violence against women is essential to secure women's equality. Yet we know that 3 million women in the UK continue to experience domestic violence, sexual violence, forced marriage, trafficking and other forms of violence each year.

There has been a concerted effort and real commitment to addressing violence against women by Government and statutory agencies as well as by women's, community and voluntary sector organisations over the past decade. But more needs to be done to ensure that law and policy effectively prevents violence and ensures an appropriate and gender sensitive response to all women affected by violence.

This report provides an assessment of how current law and policy related to violence against women in England and Wales measures up to UK commitments under international law. It uses as a framework for analysis the Beijing Platform for Action (BPfA), a global policy document which identifies violence against women as one of twelve critical areas of concern, which must be addressed to ensure women's equality and empowerment. It was researched and drafted between February 2009 and May 2010 and addresses law and policy developed and implemented under the previous Government administration. This report therefore presents a review of achievements made by the former Government – and gaps remaining to be filled. It is a call to action to the current Government.

When the UK signed the Beijing Declaration and committed to implementing the BPfA in 1995, it confirmed that women's rights are human rights and that the elimination of violence against women is critical in order to secure women's empowerment and advancement in society. Section 1 of this report provides an overview of the concrete actions on violence against women which the UK committed to undertake when it signed the Beijing Declaration.

Although the BPfA is not legally binding on the UK, it is a powerful and persuasive tool against which to benchmark UK progress in addressing violence against women. Using the document as a campaigning and lobbying tool in interactions with the Government is essential to ensure that the Government adheres to commitments made at the international level and places women's rights at the top of the agenda.

Whilst the actions required of States under the BPfA to eliminate and effectively respond to violence against women are very broad and cover a wide range of activities, this report focuses upon developments in law and legal policy because these are Rights of Women's areas of expertise.

Section 2 of this report explores the previous Government's overarching policies to address violence against women and the framework for policy delivery in England and Wales. Section 3 analyses the efficacy of law and legal policy in relation to specific forms of violence against women and the impact of law and policy on women with an insecure immigration status, these being areas in which Rights of Women has expertise and recent experience in the development of law and policy. It explores the response of central and local government as well as the statutory agencies responsible for implementing law and legal policy, including the police, Crown Prosecution Service and UK Border Agency.

In our analysis we have drawn upon Rights of Women's 35 years of expertise in, and experience of, the development and implementation of the law and legal policy on violence against women. We have also consulted widely with a range of professionals from the women's, community and voluntary sectors as well as the statutory sector to gather their views on recent policy development and initiatives to address violence against women.

In this report, UK progress in preventing and responding to violence against women in England

and Wales is measured against the three strategic objectives contained in the BPfA on violence against women:

Strategic Objective D1: take integrated measures to prevent and eliminate violence against women;

Strategic Objective D2: study the causes and consequences of violence against women; and,

Strategic Objective D3: eliminate trafficking in women and assist victims of violence due to prostitution and trafficking.

The BPfA sets out a large number of specific actions that States must undertake in order to meet the three strategic objectives related to violence against women. For the purposes of analysis in this report, we identify 11 thematic areas which require Government action to fulfil commitments made under the three strategic objectives.

Strategic Objective D.1: “Take integrated measures to prevent and eliminate violence against women”.

Strategic Objective D.1 of the BPfA contains 34 specific actions that must be undertaken by States to prevent and eliminate violence against women. Those 34 specific actions have been divided into 9 thematic areas for analysis in this report and are outlined below.

1. Define and respond to violence against women as set out in international law – addressing it through the framework of equality and non-discrimination and as a human rights issue

There has been significant progress made in recent years to place policy responses on violence against women within a human rights framework. In 2009 and early 2010, both the previous Government and Welsh Assembly Government published strategies which recognise that violence against women is a form of gender based violence that requires gender sensitive law and policy. Both make reference to the human rights treaties to which the UK is State party. There has also been a clear recognition that addressing violence against women requires an integrated, cross-government strategy and that a broader approach to

addressing the causes and consequences of violence against women is required, including by addressing social attitudes. We welcome these developments.

We call on the current Government to build upon the progress made by the previous Government in committing to take an integrated and human rights based approach to all forms of violence against women.

There needs to be a seismic shift in society for violence against women to end.

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2. Ratify international human rights instruments and engage with international human rights mechanisms

The UK is a State party to all major human rights treaties relevant to violence against women and the previous Government firmly placed its strategy within the context of its commitment under the BPfA. In this report, however, we express concern about the UK’s reservation to the UN Convention on the Elimination of all forms of Discrimination Against Women (CEDAW). This reservation purports to restrict the rights of women with an insecure immigration status, thereby serving to perpetuate the discrimination and disadvantage that many women in this situation experience. In this report, we call for this reservation to CEDAW to be withdrawn with immediate effect.

We also believe that action is required in order to improve access to international human rights mechanisms and to enable women to hold the Government to account where it fails to respect, protect and fulfil women’s human rights. We call on the current Government to ratify Protocol 12 of the European Convention on Human Rights and the First Optional Protocol to the International Convention on Civil and Political Rights.

3. Develop strategic policies and action plans that address all forms of violence against women and mainstream a gender perspective in all policies and action plans

We have welcomed both the previous Government and Welsh Assembly Government's strategies on violence against women and consider that these mark a significant and progressive development in policy thinking on violence against women because they take an integrated approach to violence against women and recognise that it as a cause and consequence of gender inequality. However, in Section 2 of this report we express our concern that the implementation of policy and service provision in respect of violence against women is patchy and does not meet the needs of all women. There needs to be much greater direction from the Government to ensure that national strategies and policies manifest as concrete action at the local level.

We are concerned about the lack of mandatory targets related to violence against women against which the performance of local authorities can be monitored. We argue that this is at odds with the statutory Gender Equality Duty and guidance from the Equality and Human Rights Commission that local authorities must prioritise tackling the causes and consequences of violence against women under the Duty.

We call on the current Government to introduce wide ranging and comprehensive indicators on violence against women against which to monitor efforts to prevent and respond to violence against women by local authorities and other local partnerships.

4. Address the needs of the most disadvantaged women and respond to multiple discrimination

We do not believe that the needs of the most disadvantaged women and those experiencing multiple forms of discrimination are adequately addressed in current law and policy. We believe that more needs to be done to ensure that law and policy meets the needs of different groups of women to ensure that they receive a specialist response when they are at risk of, or have experienced violence.

We highlight in particular the treatment of women with an insecure immigration status. We express concern that immigration and asylum law processes fail to provide women with an insecure immigration status access to equivalent rights and standard of treatment as women who are British or settled here.

We also express our very grave concern that the lack of focus in policy on the specific needs of particular groups of women has had devastating effects on voluntary and community organisations providing specialist services.

We call on the current Government to bring into force with no delay the Public Sector Equality Duty contained in the Equality Act 2010 and to require all public authorities to ensure that due regard is paid to the need to advance equality of opportunity for women who share a protected characteristic including race, disability, age, gender reassignment, pregnancy and maternity, religion or belief and sexual orientation.

5. Adopt and implement gender-sensitive policies to prevent and respond to violence against women at all levels

This report highlights and welcomes the unprecedented development of strategies, policies and action plans to address violence against women in England and Wales by Government and statutory agencies over recent years. There is evidence of a very real commitment to improving the responses of agencies such as the police and Crown Prosecution Service and we highlight significant advancements made. We are, however, concerned that the patchy implementation of these policies at the frontline mean that women continue to be let down and discouraged from accessing remedies through the criminal justice system. Work clearly still needs to be done to ensure that the responses of statutory agencies are consistent at all levels, particularly amongst those agencies which have direct contact with women.

We call on the current Government to prioritise the continuing improvement of victim experiences in the criminal justice system. In particular, we call for attention to be paid to training for frontline professionals and for the adoption of special mechanisms to improve the support provided to

women throughout the criminal and civil law processes and increase women's confidence in those processes.

We outline significant concerns about the responses of the UK Border Agency (UKBA) and the Legal Services Commission (LSC), agencies which we single out for their failure to take a consistent or gender sensitive approach to women experiencing violence.

The UKBA's focus on immigration control and lack of consideration for the specific needs of women with an insecure immigration status are placing women at increased risk of violence. We call on the current Government to urgently address the discrimination and disadvantage experienced by all women with an insecure immigration status. In order to meet obligations under the BPfA and protect all women from violence, women with an insecure immigration status who are at risk of, or experiencing violence must be exempted from the 'no recourse to public funds' rules. For the same reason, the habitual residence test must be changed to ensure protection for women from the European Economic Area. The Government and UKBA must review and amend policies to ensure that asylum-seeking women are guaranteed a comparable standard of treatment to women in similar situations who are British or settled here.

We also consider that LSC rules on the availability of legal aid to enable women to access legal remedies in relation to violence are inconsistent and discriminatory. Our experience shows that when women are unable to obtain the legal advice and representation that they need and are presented with the stark option of representing themselves in proceedings without the necessary understanding of the law, they are too often unable or unwilling to access the legal remedies available to protect them from violence. We are very concerned that changes to the legal aid system continue to diminish the availability of legal aid providers.

We call on the current Government to urgently review the way in which the legal aid scheme impacts on women affected by violence and apply a consistent approach to the availability of legal aid to apply for all remedies to address violence.

6. Adopt and implement legislation providing adequate redress for women victims of violence through criminal and civil law remedies

There have been very significant developments in the law and legal remedies available to protect women from violence and bring perpetrators to justice over the past ten years.

Existing civil law remedies to address domestic violence have been strengthened and a new remedy to directly address forced marriage has been introduced. Yet women continue to experience barriers which prevent them from effectively accessing civil law remedies. In addition to problems outlined in relation to the current legal aid scheme and availability of legal aid providers, we underscore concern at the lack of sensitivity to the specific needs of women affected by violence in the civil courts. In this report, we call for the adoption of special measures, similar to those available in the criminal courts, to protect women from direct, and often very close, contact with perpetrators in court.

There has been a thorough overhaul of the law on rape and other sexual offences. The law on female genital mutilation (FGM) has been strengthened and a new criminal remedy to tackle the demand for prostitution has been introduced. Whilst we welcome these developments it is, again, the implementation of the law that causes us concern. In this report, we question the effectiveness of new criminal offences for FGM and breaches of non-molestation orders because prosecutions are not being brought often enough, or not at all. We assert that the implementation of the criminal remedies available to prevent and respond to all forms of violence against women needs to improve so that we see an increase in prosecutions and convictions for all offences.

We also express concern that Government policy continues to pay disproportionate attention to criminal justice responses to violence against women. This, combined with a general lack of availability of information on the civil and criminal law remedies available in respect of violence against women, undermines the ability of women to choose the remedy which they identify as the most appropriate in their own situation.

7. Ensure access to and availability of services for all women including by giving vigorous support to the efforts of women’s organisations and other non-governmental and community organisations

The provision of specialist voluntary and community services for violence against women is essential to facilitate women’s access to legal remedies and increase their confidence in the criminal justice system.

However, legal remedies form only one part of the pathway to rehabilitation for survivors. We identify an urgent need for expansion in the provision of specialist support services which are not directly linked to law enforcement.

We highlight clear evidence that the women’s community and voluntary sector is facing an unprecedented crisis owing to a lack of sustainable funding. The previous Government acknowledged the vital role that specialist services must play in any strategy to prevent and respond to violence against women. We call on the current Government to consider the impact of commissioning in local areas and the mainstreaming of local services on the sustainability and future of specialist services for women.

8. Allocate adequate resources within the government budget including resources for the implementation of plans of action at all appropriate levels

We are concerned that the absence of a strategic funding strategy to support and ensure the delivery of policy commitments on violence against women in England and Wales is a key causal factor leading to the decline in, and patchy provision of, specialist services. Whilst we have welcomed the expansion of services such as Sexual Assault Referral Centres (SARCs) and Multi Agency Risk Assessment Conferences (MARACs), progress in the expansion of statutory services must not be made at the expense of the voluntary and community sector organisations. It is these voluntary and community sector organisations which provide specialist services and are strategically positioned to ensure that Government policy and responses to violence

against women are effective and reach all women. We argue in this report that the devolution of funding decisions to local areas has rendered the survival and sustainability of essential specialist services extremely vulnerable.

In this report we also set out our concerns about the allocation of Government resources for civil legal aid. We argue that women are likely to be disproportionately impacted by cuts to the legal aid budget and changes in the provision of legal aid. Yet access to civil legal aid is vital to ensure women’s unimpeded access to the law and legal remedies.

We call on the current Government to undertake an urgent review of the legal aid system to enable the Government to address the inequalities experienced by women.

9. Raise awareness of violence against women and challenge discriminatory attitudes and stereotypes including harmful traditional or social practices through education and the media

Improvements in law and policy which provide protection and redress for women affected by violence must be accompanied by awareness-raising work to challenge the discriminatory attitudes and stereotypes which perpetuate violence against women. Throughout the consultations that we conducted in the research phases of this report, professionals told us that improvements in the law are not sufficient in isolation to effectively eliminate violence against women. The women we talk to continue to report facing negative attitudes, stereotypes and a general lack of awareness from the very professionals they seek support from.

In order to begin to address the discrimination that women experience in society, we call on the Government to prioritise awareness-raising campaigns and initiatives and address the root causes of violence against women.

Strategic Objective D.2: “Study the causes and consequences of violence against women”.

Strategic Objective D.2 of the BPfA contains 4 specific actions that must be undertaken by States

to study the causes and consequences of violence against women. The actions can be summarised as an obligation to:

10 Study the causes and consequences of violence against women; collect disaggregated data and statistics concerning all forms of violence against women; and monitor the effectiveness of law and policy related to violence against women

The previous Government demonstrated a commitment to study the causes and consequences of violence against women, commissioning a number of independent reviews which have provided valuable insight on a range of issues including domestic violence, rape and the sexualisation of children and young people. However, much more research is needed to truly understand the extent and prevalence of all forms of violence against women. There needs to be an improvement in the collection and analysis of statistics across all agencies. Improved and disaggregated data is essential to underpin effective strategies to prevent and respond to violence against women and monitor the effective implementation of law and policy.

We call on all relevant authorities to develop and implement systems to enable the tracking and identification of all cases of violence against women to enable us to have a better understanding of the prevalence of different forms of violence against women and how different groups of women are affected.

Strategic Objective D.3: “Eliminate trafficking in women and assist victims of violence due to prostitution and trafficking”.

Strategic Objective D.3 of the BPfA contains five actions that must be undertaken by States to eliminate trafficking in women and assist victims of violence due to prostitution and trafficking.

11. Eliminate trafficking in women and assist victims of violence due to prostitution and trafficking

The UK’s response to trafficking has progressed significantly over the past few years with the

introduction of new criminal offences to tackle trafficking into and around England and Wales and with the ratification of the Trafficking Convention. However we remain concerned, again, that it is the implementation of law and policy to address trafficking that lets women down. We are concerned about the role of the UK Border Agency in the National Referral Mechanism and that this may compromise the equal treatment of trafficked women. We believe that women should be able to appeal against negative decisions taken under the National Referral Mechanism. We call for improvements in the provision of specialist support services for victims of violence due to trafficking and prostitution. We also call on the Government to ensure that advancements made are built upon, and to ensure that a consistent and rights-based approach to women who have been trafficked is adopted.

Progress has been made – but we have a long road to travel

Rights of Women supported and welcomed the publication by the previous Government of a national, integrated strategy to tackle violence against women and girls. Whilst we acknowledge the clear progress that has been made, in this report we identify key areas in which improvements in law and policy still need to be made to secure safety and equality for all women in England and Wales.

With the election of a new Government and a change in the political landscape the future of previous strategies, action plans and policies is uncertain. We look forward to working with the new Government to ensure that the progress which has been made is built upon and that gaps we have identified are filled.

We hope that this report will provide a useful campaigning and lobbying tool to enable us to continue to push for change in the Government’s response to violence against women in England and Wales. We hope that it will increase the capacity and confidence of the women’s, community and voluntary sector organisations, whose work provides such vital support for women experiencing violence, to use the BPfA and the international human rights framework and continue to lobby and campaign for change.

Introduction

3 million women in the UK experience domestic violence, sexual violence, forced marriage, trafficking and other forms of violence each year.¹ Despite real progress and concerted efforts to combat this extreme form of gender inequality over the past decade, violence against women remains a key determinant that restricts the ability of women to participate as equals in UK society. It is inextricably linked to gender discrimination and cuts across barriers of race and ethnicity, religion, class and wealth.

The UK has signed up to all major international human rights treaties relevant to violence against women. In addition to being State party to human rights treaties of a general character which are relevant to all forms of violence against women, the UK has signed up to a number of international policy documents which specify concrete obligations of States to prevent and respond to violence against women.²

In 1995 the UK signed up to the **Beijing Declaration and Platform for Action**. The Beijing Declaration commits States to implement the Beijing Platform for Action – a global policy document on women’s rights which lists violence against women amongst twelve critical areas of concern for State action to accelerate progress toward gender equality and women’s empowerment.

The Beijing Platform for Action (BPfA) sets out the specific obligations of States in relation to violence against women. It provides a useful tool with which to benchmark UK progress in meeting its obligations to prevent and respond effectively to all forms of violence against women under international law. Whilst not in itself legally binding, the BPfA draws on the binding

obligations of States under international human rights law to exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women. By signing the Beijing Declaration and subsequently affirming its obligations under the same, the UK has acknowledged that it must take the specific actions that the BPfA outlines in order to meet its international obligations in relation to violence against women.³

For more information about the Beijing Declaration and Platform for Action see Section 1 of this report.

1. About this report

This report forms part of a two year project, funded by the Sigrid Rausing Trust, which aims to:

1. Encourage the participation of women’s organisations in examining the implementation in England and Wales of the BPfA actions on violence against women.
2. Build capacity in women’s organisations and increase their confidence to use rights-based approaches in their work, including the BPfA and other relevant instruments, such as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).
3. Engage with a variety of governmental and non-governmental organisations and agencies in assessing the implementation of the BPfA violence against women recommendations.
4. Share experience and good practice between relevant grass roots, policy, research, regional, national and international practitioners and organisations.

¹ *End Violence Against Women and Equality and Human Rights Commission, Map of Gaps 2, 2009.*

² *See for example the UN Declaration on the Elimination of Violence against Women, and other UN resolutions.*

³ *The UK Government recently confirmed its commitments under the Beijing Platform for Action in HM Government, Together We Can End Violence Against Women and Girls: A Strategy, November 2009, page 12.*

This report provides an assessment of the UK Government's implementation of the specific actions that it committed to undertake in order to prevent and respond to all forms of violence against women when it signed the Beijing Declaration. It focuses on the law in England and Wales which is the legal jurisdiction in which our services operate and in which we have expertise (see below).

Implementation of the BPfA is the primary responsibility of the UK Government and as such this report focuses on central government strategy and initiatives, such as those of the Home Office and Department of Health. Effective implementation is dependent on the involvement of a wide range of actors from the statutory, voluntary and community and private sectors. For this reason, the report also focuses on the role of specific statutory sector organisations and highlights the critical role that voluntary and community organisations must play to effectively respond to violence against women.

We focus in particular on those statutory organisations which play a role in respect of the law and legal policy including the police, the Crown Prosecution Service and the UK Border Agency. We also highlight those whose work aims to increase women's access to their legal rights and remedies, such as the Forced Marriage Unit, and those whose work includes raising awareness and early intervention such as health and education services.

2. The framework for analysis in this report

This report looks at law and policy in England and Wales and its implementation in relation to violence against women. It applies the framework of the BPfA to assess UK progress in addressing all forms of violence against women.

Section 1 provides an overview of the BPfA actions on violence against women and the way that violence against women is addressed under international human rights law. Section 1 Chapter 1 outlines UK commitments under the Beijing Declaration and BPfA and the way that UK compliance with the BPfA is monitored. Section 1 Chapter 2 provides an overview of international human rights law and the duty of States to

respect, protect and fulfil the rights of all women and exercise due diligence to prevent, punish, investigate and redress harm caused by all acts of violence against women. Section 1 Chapter 3 provides an overview of 11 key actions that the Government must undertake in order to fulfil its obligations related to violence against women under the BPfA. This list of 11 actions forms the framework for analysis in this report and the basis for our assessment of whether the UK measures up to its commitments under the BPfA and international law.

Section 2 looks at central government policy in England and Wales related to violence against women and the way that this policy is implemented in local areas. Section 2 Chapter 1 provides an overview of our analysis of the violence against women strategy for England and the strategy for Wales. Section 2 Chapter 2 reviews the delivery framework for national policies on violence against women. It addresses tensions between national policies and local delivery and presents our concerns about the current National Indicator Set against which local authorities are performance managed.

Section 3 contains seven chapters which address the efficacy of law and legal policy related to specific forms of violence against women. Section 3 Chapter 1 presents an analysis of the current legal aid system and our concerns arising from it. The following five chapters address law and policy as it relates to specific forms of violence against women, including domestic violence (Section 3 Chapter 2), forced marriage (Section 3 Chapter 3), sexual violence (Section 3 Chapter 4), sexual exploitation (Section 3 Chapter 5) and female genital mutilation (Section 3 Chapter 6).

Section 3 Chapter 7 deals specifically with the way that law and policy addresses the rights of women with an insecure immigration status. We have included this chapter because this is an area in which we have particular expertise and are currently campaigning.

Each chapter presents an overview and analysis of the prevalence of each form of violence against women; the relevant law and policy; the accessibility and availability of specialised services to effectively respond to specific forms of violence; and an overview of efforts to raise

awareness and change discriminatory attitudes which perpetuate gender-based discrimination and violence.

Section 4, the conclusion to this report, presents an overview of our main findings. It outlines our assessment of the extent to which the UK is measuring up to international commitments on violence against women and complying with commitments made under the BPfA.

3. About Rights of Women

Established in 1975 to promote the legal rights of women throughout England and Wales, Rights of Women celebrates its 35th anniversary in 2010. We aim to increase women's understanding of their legal rights and improve their access to justice so that they can live free from violence, oppression and discrimination and are able to make their own safe choices about the lives they and their families lead. Working from a rights-based approach to increase women's legal literacy, we offer a range of services including legal advice telephone helplines, legal guides and handbooks and training courses and other events, equipping individuals and organisations with the knowledge and skills to assert women's legal and human rights.

Since 1975 Rights of Women has been providing a critical analysis of the law and its impact on women, identifying gaps and omissions in the protection available to women and highlighting areas of discrimination in legislation and the application of the law. Rights of Women has lobbied and campaigned to improve women's equality in the law and their ability to attain safety and justice.

As a grassroots organisation providing a range of legal advice and information services to women throughout England and Wales,⁴ we hear women's experience of the law and legal systems on a daily basis. Through our training courses, conferences and other events we have regular contact with other professionals from the statutory, community and voluntary sectors providing services to women. This also gives us a

broad picture of women's access to justice and equality. It is this experience, alongside our experience as lawyers which we use in our policy work.

For many years we have lobbied and campaigned for developments in law and legal policy to improve women's legal position and their access to justice and equality. In the 1970s and 1980s Rights of Women ran campaigns to end the economic disadvantages experienced by married women within the legal and social security systems and for a change to the law on rape within marriage. Since the early 1980s we have lobbied for the rights of lesbian parents, highlighting discrimination experienced within the legal system by lesbian mothers and supporting new legislation including the Human Fertilisation and Embryology Act 1990 and Civil Partnership Act 2004.

Rights of Women has been particularly committed to exposing and addressing the multiple discrimination and disadvantage that women experience because of other factors such as race and ethnicity, or immigration status. In the late 1980s, for example, we joined the Committee for Non-Racist Benefits, work which continues today with our active participation in the campaign to end the no recourse to public funds rule affecting women with insecure immigration status who have experienced violence.

More recently Rights of Women was closely involved in lobbying for a civil law remedy for women affected by forced marriage, working closely with Lord Lester on his bill which became the Forced Marriage (Civil Protection) Act 2007. We were instrumental in the drafting of new legislation creating a new criminal offence of paying for sex with someone who is being forced into prostitution, an offence which for the first time recognises the violent and exploitative nature of prostitution.⁵

Our academic and practical expertise in the law is recognised by local and national government as well as the statutory, community and voluntary sectors. We sit on a number of Government

⁴ For more information about Rights of Women's services visit: www.rightsofwomen.org.uk.

⁵ Policing and Crime Act 2009, Section 14. For more information see: Rights of Women, Section 14 of the Policing and Crime Act 2009: A Crucial Step Towards Ending Commercial Sexual Exploitation, 2010.

advisory groups including the Home Office's Sexual Violence Stakeholders Group and the Forced Marriage Unit's Roundtable Group. We are also members of the Crown Prosecution Service's Violence Against Women External Consultation Group as well as their Community Accountability Forum.

This research report has been written by the following members of staff at Rights of Women:

Katherine Perks, Policy Officer: Katherine holds an LLM in international human rights law. She has experience conducting research and developing policy and campaigning positions on human rights, equality and non-discrimination issues in a number of countries. She previously worked with The Equal Rights Trust and Amnesty International.

Catherine Briddick, Senior Legal Officer: Catherine is a qualified barrister with experience of representing clients in the magistrates' and Crown Courts. She has contributed to our publications, writing our latest handbook *Seeking Refuge: a handbook for asylum-seeking women* and contributing to *Pathways to Justice: BMER women, violence and the law*. Catherine also teaches International Protection of Human Rights at the London School of Economics.

Hannah Camplin, Legal Officer: Hannah is a qualified solicitor and practised in criminal law prior to joining Rights of Women. She advises women on all aspects of family and criminal law and has delivered training to legal and non-legal professionals on trafficking and sexual violence. Hannah sits on the Crown Prosecution Service's Community Accountability Forum.

Ruth Tweedale, Legal Officer: Ruth is a qualified solicitor with experience of representing clients in all aspects of family law. At Rights of Women she advises women in relation to relationship breakdown, domestic violence and children issues. Ruth attends the Forced Marriage Unit Roundtable Group and regularly trains professionals on the law affecting women experiencing violence. Previously, Ruth worked at the Equality Commission, Northern Ireland.

Emma Scott, Director: Emma is a qualified solicitor who previously practised in all aspects of family law. She has contributed to our publications including the *Domestic Violence DIY Injunction Handbook* and *From A to Z: a woman's guide to the law* and regularly speaks at seminars and conferences on the law on violence against women. Emma attends the Home Office Sexual Violence Stakeholders Group and has recently actively participated in the consultation on the Government's violence against women strategy.

4. Methodology

Online Survey: In the early stages of drafting this report, we carried out a survey to obtain the views of other professionals working on violence against women issues in the voluntary, community and statutory sectors. Survey questions sought to obtain opinions on Government strategy, and implementation of policy related to violence against women. We conducted this survey in order to inform the drafting of this report, and our recommendations.

The survey was sent electronically to over 500 potential respondents and 100 responses were received. Potential respondents were selected from Rights of Women's extensive contacts database on the basis that they were representatives of voluntary and community or statutory sector organisations working on violence against women issues. Survey results were not collected from individual women who were not representatives of voluntary and community or statutory sector organisations.

Of the 100 respondents, 64 worked in the voluntary and community sector, and 31 worked in the statutory sector.⁶

The survey was conducted in July 2009, prior to the publication of the Home Office's strategy, *Together we can end violence against women and girls*⁷ and Welsh Assembly Government's strategy, *A Right to be Safe*.⁸

All answers fed into our analysis of law and policy related to violence against women in this report.

⁶ 5 survey respondents did not answer this question.

⁷ HM Government, *Together We Can End Violence Against Women and Girls: A Strategy*, November 2009.

⁸ Welsh Assembly Government, *The Right to be Safe*, March 2010.

Some answers to open questions in the survey have been inserted into the main text of this report.

Seminars and Roundtable events: Also in the early stages of research for this report, between January and September 2009, we held three seminars and three roundtable events in Cardiff, London and Manchester on Government strategy and performance related to sexual violence and domestic violence.⁹ At the events, entitled “Eliminating violence against women – rhetoric or reality?”, participants were asked a series of structured questions about sexual violence and domestic violence, including the effectiveness and functioning of statutory services and policies related to preventing and responding to those forms of violence.

In February and March 2009, we held four roundtable events in Birmingham, Cardiff, London and Manchester on legislation and policy related to forced marriage. At the roundtables, entitled **“Forced Marriage: is legislation the answer?”** participants were asked a series of structured questions related to the functioning of law and policy on forced marriage.¹⁰

Participants at all seminars and roundtables held in 2009 were selected on the basis that they represented voluntary and community or statutory sector organisations working on violence against women issues. A full list of the organisations which sent representatives to these events is provided in Annex A of this report.

The views expressed at these events informed the analysis and recommendations contained in this report.

BMER Women’s Access to Justice research: Between April and November 2007, we conducted a survey of BMER women service users calling our telephone legal advice lines for advice on civil law matters. During that period, we surveyed the views and experiences of 327 BMER women.

We wanted to document BMER women’s experiences accessing justice. For the purposes of the survey that we conducted with our BMER service users, we used the term “access to justice” to refer to:

- Legal literacy: individual women and services providers being informed and educated about women’s legal rights and the remedies available to enforce these rights.
- Accessibility and effectiveness of the justice system, including the courts, legal advisors and representatives.
- The right of women who require legal advice and representation to access these legal services, particularly when they cannot afford to pay for these services. In this regard legal aid is a vital issue.

The survey in particular focussed on our BMER service user’s access to civil legal aid. This research was conducted in order to inform our campaigning and policy work and to help us understand how we can better tailor our services to help BMER women access justice. The full research report was not published but a summary of the key findings of the research is presented in Section 3 Chapter 1 of this report.

5. A word about the law and the focus of this report

This report focuses on the law in England and Wales which is the legal jurisdiction in which our services operate and in which we have expertise.

Where there are different arrangements in Wales we will directly refer to these. We use the term Government to refer to the UK Government which applies to both England and Wales (as well as Northern Ireland and Scotland). This is complicated by the devolution of power to the Welsh Assembly Government who, although they do not have full law making powers and cannot pass new legislation, do have the power to make

⁹ Seminars were held on 21 April (London), 23 April (Manchester) and 5 May (Cardiff) 2009. A presentation on the BPfA and international human rights law related to violence against women was delivered prior to a consultative session with structured questions on participants’ assessment of Government strategies on all forms of violence against women. Consultative roundtables were held on 2 October (Manchester), 6 October (London) and 8 October (Cardiff) 2009. Roundtables consisted entirely of discussion related to participants’ experiences of engaging with statutory sector organisations and mechanisms related to the prevention and responses to violence against women.

¹⁰ Seminars were held on 11 February (London), 4 March (Manchester), 11 March (Birmingham), 25 March (Cardiff) 2009.

decisions on issues such as education, health, social care and local government.¹¹ When we refer to international human rights law and frameworks we refer to the UK as a whole as it is the UK that is the State for this purpose.¹²

This report is not a guide to the law in England and Wales. It is not intended to provide a detailed explanation of the law on violence against women.¹³ Rather it aims to provide an analysis of the legislation and legal policy developed to address violence against women.

We focus in this report on the areas of law and legal policy in which Rights of Women has expertise and experience and the areas in which we have most recently been involved in the development of legislation and policy. For this reason we do not include areas of violence against women such as sexual harassment.

Rights of Women believes firmly that a multi-agency approach is essential to addressing violence against women. However, this report does not look in any detail at other areas which are vital to effective prevention and responses to violence against women including education and health as these are not within our scope and expertise.

Historically the work of Rights of Women has focused on adult women. For this reason the report does not provide detailed analysis of the law affecting young women and girls specifically. However, we acknowledge that many of the forms of violence discussed in this report impact disproportionately on young women and girls and that it is vital that any strategy or initiative to tackle violence addresses the specific needs of young women and girls.

6. A word about terminology

The terminology used in this report is the terminology used in the law and legal proceedings. Therefore in the sections which discuss the criminal law we use the term “victim” as this is the legal language used. However, we do

acknowledge that there are many women who would prefer to use the word “survivor”. In the sections where we discuss forms of violence which disproportionately affect young women and girls, such as female genital mutilation, we use the term “girl” as this is the legal language used. We also refer to the perpetrators of violence, such as domestic violence or sexual violence, as “he” although we acknowledge that this may not always be the case.

This report uses the term “BMER women” as shorthand for Black and/or Minority Ethnic and/or Refugee (including asylum seeking) women. BMER women are a diverse group of women and we do not use the term to mean that those women falling within this category are identical or uniform. Nor do we believe that all Black and Minority Ethnic women are refugees or seeking asylum. Rather, we use the term because we acknowledge that BMER women have shared experiences of the barriers they face when trying to access justice. In this report we have used the Equality and Human Rights Commission’s definition of ethnic minority, which means that a person is considered to belong to an ethnic minority if they identify as having an ethnic identity other than White British. This means that we include women from white ethnic minorities, such as White Irish women and women from other parts of Europe.

This report uses this term “honour crime”. There is no legal definition of honour crimes or specific criminal offence arising from it. Honour crimes are not a separate or specific form of violence but the reason or motive given or assumed for some acts of violence. The concept of honour (linked to culture, religion or identity) is sometimes used to justify male violence against women. Whilst we acknowledge that some violence against women is perpetrated in the name of honour, it is our position that all forms of violence against women are violent crimes and we therefore do not address this concept as a separate and specific form of violence in this report.

¹¹ For more information about devolution in Wales see the Welsh Assembly Government website: www.wales.gov.uk.

¹² For more information about human rights law see: *Rights of Women, Pathways to Justice: BMER Women, Violence & the Law, 2007, Chapter 2.*

¹³ For more information about Rights of Women’s other publications including a number of guides to the law visit: www.rightsofwomen.org.uk.

7. Acknowledgements

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Section 1

International law and violence against women



1.1 Beijing Declaration and Beijing Platform for Action

The **Beijing Declaration** and **Beijing Platform for Action** are the outcome documents of the Fourth World Conference on Women which was held in Beijing, China on 4 to 15 September 1995. The text of the two documents was agreed and adopted by representatives from 189 States participating in the conference, including the United Kingdom (UK).

The **Beijing Declaration** firmly states that women's rights are human rights and that women's empowerment is fundamental to achieve equality, development and peace. It contains broad statements declaring the commitment of the signatories to the equal rights and inherent human dignity of women and men; the full implementation of all human rights of women and the girl child; and the empowerment and advancement of women.¹

Importantly, the Beijing Declaration commits signatory States to implement the **Beijing Platform for Action (BPfA)** which contains specific actions to be undertaken to remove all obstacles to women's active participation in all spheres of public and private life.

The Governments which signed the Beijing Declaration on behalf of 189 States declared that:

Women's empowerment and their full participation on the basis of equality in all spheres of society, including participation in the decision-making process and access to power, are fundamental for the achievement of equality, development and peace;

Women's rights are human rights;

Equal rights, opportunities and access to resources, equal sharing of responsibilities for the family by men and women, and a

harmonious partnership between them are critical to their well-being and that of their families as well as to the consolidation of democracy;

Eradication of poverty based on sustained economic growth, social development, environmental protection and social justice requires the involvement of women in economic and social development, equal opportunities and the full and equal participation of women and men as agents and beneficiaries of people-centred sustainable development;

The explicit recognition and reaffirmation of the right of all women to control all aspects of their health, in particular their own fertility, is basic to their empowerment;

Local, national, regional and global peace is attainable and is inextricably linked with the advancement of women, who are a fundamental force for leadership, conflict resolution and the promotion of lasting peace at all levels;

It is essential to design, implement and monitor, with the full participation of women, effective, efficient and mutually reinforcing gender-sensitive policies and programmes, including development policies and programmes, at all levels that will foster the empowerment and advancement of women;

The participation and contribution of all actors of civil society, particularly women's groups and networks and other non-governmental organizations and community-based organizations, with full respect for their autonomy, in cooperation with Governments, are important to the effective implementation and follow-up of the Platform for Action.

Beijing Declaration, Beijing, China, September 1995, Paragraphs 13-21.

¹ Beijing Declaration, Beijing, China, September 1995.

The BPfA presents an agenda for women's empowerment.² It recognises that equality between women and men is a matter of human rights and a condition for social justice.³ It emphasises that women share common concerns that can be addressed only by working together and in partnership with men towards the common goal of gender equality, whilst recognising that some women face particular barriers to their empowerment because of such factors as their race, age, language, ethnicity, culture, religion or disability, or because of other status.⁴

The BPfA sets out **twelve critical areas of concern** which require strategic action to achieve equality between women and men. For each of the twelve critical areas of concern, strategic objectives with concrete actions to be taken by governments, the international community and civil society, including NGOs⁵ and the private sector are outlined. It provides a framework to underpin action on women's empowerment at every level – local, state, global – and emphasises collaboration between governments and NGOs.

Although the BPfA emphasises the critical role that NGOs and other non-State actors (such as private companies) play in promoting women's rights and gender equality, it is the primary responsibility of governments, acting on behalf of the State, to implement the strategic action.

The participation of so many States in its formulation and adoption means that the BPfA is a powerful and persuasive global policy document on women's rights.

Beijing Platform for Action – Twelve Critical Areas of Concern

- Women and Poverty
- Women and Education
- Women and Health
- Violence against Women
- Women and Armed Conflict
- Women and the Economy
- Women in Power and decision-making
- Institutional Mechanisms for the Advancement of Women
- Human Rights of Women
- Women and the Media
- Women and the Environment
- The girl-child

Each of the twelve areas of critical concern and the related objectives are interdependent and mutually reinforcing: progress towards achieving one set of objectives is intrinsically linked to achieving the others. In this way, the BPfA recognises the interconnected nature of all forms of inequality that women experience, recognising for example the links between violence against women and economic inequality; or between inequality in decision making at all levels and a lack of respect for and inadequate protection of the human rights of women.

1.1.1 Does the UK have to implement the Beijing Declaration and Platform for Action?

Unlike the international human rights treaties to which the UK is a signatory, the BPfA is not a binding legal document. Instead, it is often referred to as a global policy document.⁶ As such, it presents a persuasive tool against which to benchmark UK commitments against progress in

² BPfA, Chapter I, Para 1.

³ BPfA, Chapter I, Para 1.

⁴ BPfA, Chapter I, Para 3 and BPfA, Chapter IV, Paras 45 - 46.

⁵ A Non-Governmental Organisation (NGO) is an organisation which is independent from government control and is non-profit-making. Voluntary and Community Sector organisations that are independent from government control and are non-profit making are NGOs.

⁶ See for example UN Department of Public Information, *Beijing Declaration and Platform for Action: fifteen years later*, February 2010.

relation to violence against women. This is because by signing the Beijing Declaration, and subsequently affirming its content through public statements, the UK Government publicly committed to adopting the framework and actions presented in the BPfA for addressing violence against women.

Although not legally binding, the Beijing Declaration and BPfA draw upon international treaties to which the UK is a State party – including the **International Covenant on Civil and Political Rights (ICCPR)**, the **International Covenant on Economic, Social and Cultural Rights (ICESCR)**, the **Convention on the Elimination of all forms of Discrimination against Women (CEDAW)** and the **Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)** – and applies the standards contained in those treaties to specific obligations in relation to violence against women. UK obligations under these treaties are legally binding, and by signing the Beijing Declaration the UK has indicated that it agrees to the content and the specific actions to be taken in order to meet obligations under international law.

The BPfA is closely related to CEDAW and should be read in conjunction with that treaty. The text of the BPfA highlights the central importance of CEDAW, and calls on States to implement it, taking into account **General Recommendation No. 19** on violence against women which was issued by the Committee on the Elimination of Discrimination against Women (CEDAW Committee) in 1992.⁷

The CEDAW Committee which monitors the UK's binding obligations under CEDAW has confirmed the authority of the BPfA and its relationship to State obligations under CEDAW. The CEDAW Committee has asserted that the twelve critical areas of concern are both compatible with CEDAW rights and fall within the mandate of the CEDAW Committee. State parties to CEDAW are required to submit information on actions

undertaken in relation to the twelve critical areas of concern, including violence against women, identified in the BPfA.⁸

1.1.2 Monitoring State compliance with the Beijing Platform for Action

The UN Commission on the Status of Women (CSW) is the main intergovernmental agency responsible for coordinating special follow up conferences to monitor the implementation of the BPfA. Since 1995, the CSW has reviewed progress in the implementation of the twelve critical areas of concern identified in the BPfA at its annual sessions.

Aside from the annual sessions of the CSW, there have been three formal UN sessions which have been held to review and appraise global progress towards implementing the BPfA. A five-year follow up to the Beijing World Conference was held during the twenty-third special session of the General Assembly (Beijing + 5) in 2000 (the CSW acted as the preparatory committee for this special session); a ten-year review of the BPfA was carried out by the CSW at its forty-ninth session in March 2005; and a fifteen-year review of the BPfA took place in 2010 during the fifty-fourth session of the CSW. At these sessions, individual State progress towards implementing the BPfA is not discussed. The focus is rather on global implementation of the BPfA.

However, for the first time, in preparation for the 15-year review in 2010, Member States to the United Nations were invited to fill in a questionnaire providing information on major achievements and remaining gaps and challenges in implementation of the BPfA at the national level. Questionnaire results were coordinated and considered by the CSW according to global regional groupings (for example, the UK response was coordinated and considered within the United Nations Economic Commission for Europe (ECE) grouping). Individual State responses and regional grouping reports were published and made available on the website of the UN Division for the

⁷ *Beijing Platform for Action, Chapter IV, Strategic Objective D1, Para 124(f). See also, UN Committee on the Elimination of Discrimination against Women, General Recommendation No. 19, Violence against women, Eleventh Session, 1992.*

⁸ *UN, Compilation of guidelines on the form and content of reports to be submitted by states parties to the international human rights treaties, UN Doc. HRI/GEN/2/Rev.1/Add.2, Para G.1, 5 May 2003.*

Advancement of Women.⁹ These individual and regional grouping responses to the questionnaire were not scrutinised in order to assess the progress made by individual States in implementing commitments made under the Beijing Declaration and BPfA. Instead, they were used as the basis for analysis of trends and challenges in implementation of the BPfA. In this way, they contributed to the general outcome document of the 15-year review, which reaffirmed States commitments to the BPfA and called “upon the United Nations system, international and regional organizations and all sectors of civil society, including non-governmental organizations, as well as all women and men, to fully commit themselves and to intensify their contributions to the implementation of the Beijing Declaration and Platform for Action.”¹⁰

The monitoring of States’ compliance with their obligations under the BPfA is quite different to that under treaties such as CEDAW. Under CEDAW, States must report periodically to the CEDAW Committee on their progress in implementing the Convention. The Committee in turn asks questions of the State and publishes its own assessment of the State’s progress under the Convention. It can accept written evidence from NGOs and other interested parties to help it formulate relevant questions. This process is quite a useful tool for NGOs and activists who want to hold their governments accountable to their obligations in relation to women’s rights.

Unlike the process under CEDAW, there is no formal mechanism for assessing individual State compliance with the BPfA. However, as has been seen above, States can be encouraged to report on their progress under the twelve areas of concern and specific actions outlined in the BPfA through the CEDAW reporting process.

The lack of a formal, compulsory or institutional reporting mechanism for assessing individual State progress in implementing the BPfA means that it is essential that NGOs and activists use the document as a reference point when interacting with government on women’s rights in order to

keep the document alive and on the top of the agenda. Using and referring to the BPfA in all our work, and ensuring that the Government does the same, will contribute to the authority of the document under international law.

Rights of Women therefore hopes that this project will increase the capacity and confidence of community, women’s and voluntary sector organisations working on violence against women to use the BPfA in their vital lobbying and campaigning work.

⁹ See the Website of the UN Division for the advancement of women: www.un.org/womenwatch/daw/.

¹⁰ UN Economic and Social Council, Commission on the Status of Women, Fifty-fourth session, Declaration on the occasion of the fifteenth anniversary of the Fourth World Conference on Women, Adopted 2 March 2010, UN Doc. E/CN.6/2010/L.1.

1.2 Violence against women and human rights

1.2.1 Defining violence against women

The BPfA reiterates the definition of violence against women set out in the 1993 United Nations Declaration on the Elimination of Violence Against Women:

“The term “violence against women” means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life. Accordingly, violence against women encompasses but is not limited to the following:

(a) Physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation;

(b) Physical, sexual and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution;

(c) Physical, sexual and psychological violence perpetrated or condoned by the State, wherever it occurs.”¹¹

Rights of Women applies this definition in all its work. It is a particularly useful definition because it recognises the systemic nature of violence against women and identifies the different forms as well as the different sites (or places) that violence may occur such as in private or public spaces.

In 1992, an earlier definition of violence against women was offered by CEDAW Committee. The CEDAW Committee refers interchangeably to violence against women and gender-based violence in its work and in General Recommendation No. 19 defined gender-based violence as:

“violence that is directed at a woman because she is a woman or affects women disproportionately.”¹²

The CEDAW Committee has identified gender-based violence as “a form of discrimination that seriously inhibits women’s ability to enjoy rights and freedoms on a basis of equality with men.”¹³

Both the definitions adopted by the BPfA and the CEDAW Committee highlight that violence against women is gender-based violence, and is inextricably linked to gender inequality.

1.2.2 Violence against women and human rights

Violence against women violates and impairs or nullifies the enjoyment by women of their human rights and fundamental freedoms.

Beijing Platform for Action, Chapter IV (D), Paragraph 113.

Violence against women must be addressed through a human rights framework. As is highlighted by the CEDAW Committee definition, it is particularly important to understand and address violence against women through the right to non-discrimination. It is the result of historically unequal power relations between men and

¹¹ BPfA, Chapter IV (D), Para 113. This is the same definition as found in Articles 1 and 2 of the UN Declaration on the Elimination of Violence Against Women, General Assembly resolution 48/104, UN Doc. A/RES/48/104, 20 December 1993.

¹² UN Committee on the Elimination of Discrimination against Women, General Recommendation No. 19, Violence against women, Eleventh Session, 1992, Para 6.

¹³ UN Committee on the Elimination of Discrimination against Women, General Recommendation No. 19, Violence against women, Eleventh Session, 1992, Para 1.

women, which have led to domination over and discrimination against women by men and to the prevention of women's full advancement.¹⁴

In all its manifestations, violence against women is a form, cause and consequence of discrimination.

The relationship between violence against women and discrimination is complex and mutually reinforcing. Because violence against women is gender-based violence, when a State fails to prevent and respond to violence against women it fails in its obligation to provide equal protection of the law based on sex. This failure also exacerbates the structural, economic, social and cultural inequalities which perpetuate discrimination, including violence, against women.

Whilst there is no international human rights treaty that specifically addresses violence against women, all forms of violence against women raise concerns under general human rights treaties and can engage a number of rights including:

- (a) The right to life;
- (b) The right not to be subject to torture or to cruel, inhuman or degrading treatment or punishment;
- (c) The right to equal protection according to humanitarian norms in times of international or internal armed conflict;
- (d) The right to liberty and security of the person;
- (e) The right to equal protection under the law;
- (f) The right to equality in the family;
- (g) The right to the highest standard attainable of physical and mental health;
- (h) The right to just and favourable conditions of work.¹⁵

The UK is party to all major human rights treaties relevant to violence against women, including **the International Covenant on Civil and Political Rights (ICCPR), International Covenant on**

Economic Social and Cultural Rights (ICESCR), International Convention on the Elimination of all forms of Discrimination Against Women, International Convention on the Rights of the Child and the **UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.**¹⁶

Respect, protect, fulfil

When States sign up to human rights treaties, they undertake a three-tiered obligation to respect, protect, and fulfil human rights.¹⁷ The obligation to **respect** requires States to refrain from interfering directly or indirectly with the enjoyment of human rights. This is often referred to as a negative obligation to not infringe on the rights of individuals.

The obligations to protect and fulfil can be seen as positive obligations. The obligation to **protect** requires States to take measures that prevent third parties from interfering with other people's human rights. In addition to the adoption of gender sensitive law and policy to protect women from violence, the CEDAW Committee in its General Recommendation 19 on violence against women has outlined that protective measures include provision of refuges, counselling, rehabilitation and support services for women who are the victims of violence or who are at risk of violence.¹⁸ The obligation to protect could also include an obligation to challenge social attitudes that condone or perpetuate violence against women. The UN Committee on Economic, Social, and Cultural Rights has outlined in relation to State's obligation to protect the right to health that "[v]iolations of the obligation to protect follow from the failure of a State party to take all necessary measures to safeguard persons within their jurisdiction from infringements of the right to health by third parties. This category includes such omissions as...the failure to protect women against violence or to prosecute perpetrators;

¹⁴ *UN Declaration on the Elimination of Violence Against Women, General Assembly resolution 48/104, UN Doc. A/RES/48/104, 20 December 1993, Preamble.*

¹⁵ *This list is not exhaustive, but is a list of examples provided by the CEDAW Committee in its General Recommendation No. 19, Eleventh Session, 1992, Para 7.*

¹⁶ *Supplementing the United Nations Convention against Transnational Organized Crime.*

¹⁷ *UN Committee on Economic, Social and Cultural Rights, General Comment No. 14, The right to the highest attainable standard of health (2000), Para 33.*

¹⁸ *UN Committee on the Elimination of Discrimination against Women, General Recommendation No.19, Violence against women, Eleventh Session, 1992, Para 24 (t)(iii).*

[and] the failure to discourage the continued observance of harmful traditional medical or cultural practices.”¹⁹

The obligation to **fulfil** requires States to adopt appropriate legislative, administrative, budgetary, judicial, promotional and other measures towards the full realisation of human rights.²⁰ The obligation to fulfil contains within it obligations to **promote and facilitate access to rights**, and to **provide** a specific right when an individual or group is unable, for reasons beyond their control, to realise the right themselves.²¹ This is important where, for example, a woman experiencing violence from an intimate partner or family member might need the State to provide alternative housing and shelter.

The content of the three obligations – to respect, protect and fulfil – can overlap, but they provide a useful framework to understand the different levels of state obligations to women who experience or are at risk of experiencing violence.

The positive obligations of States under international treaty law – to protect and fulfil (promote, facilitate and provide) – are especially useful when addressing violence against women. This is because many cases of violence against women are perpetrated by private individuals – including intimate partners, family members, and individuals in the wider community. Traditionally, many States have argued that they cannot be held responsible for private acts and that they can only be held responsible for violations of human rights perpetrated by State actors – such as the police and the military. States have often argued that many forms of violence against women – such as domestic violence – are private acts for which the State has no responsibilities. International law breaks down this false divide between public and private acts and places all forms of violence

against women – wherever they occur – within the responsibility of the State.²²

The positive obligations of States under general international law mean that States can be held responsible for acts of violence perpetrated by private persons or entities if they fail to act with due diligence to prevent, punish, investigate and redress harm caused by private persons or entities.²³

1.2.3 The due diligence standard and violence against women

The concept of due diligence has a long history under international law. It is used in human rights law to describe the obligations of States that go beyond refraining from causing harm and require positive action to prevent private individuals and entities (such as private companies) from causing harm and to respond by investigating, punishing and redressing any harm that may be caused by private individuals or entities.

The BPfA calls on States to “refrain from engaging in violence against women and exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons”.

BPfA, Strategic Objective D.1. Chapter 3, Paragraph 124(b).

Whilst the due diligence standard applies to State obligations in relation to all human rights, it has been developed as a particularly useful tool to identify the specific obligations of States to prevent and respond to violence against women. When this standard is considered in light of the right to equality and non-discrimination, it

¹⁹ UN Committee on Economic, Social and Cultural Rights, General Comment No. 14, *The right to the highest attainable standard of health* (2000), Para 51.

²⁰ UN Committee on Economic, Social and Cultural Rights, General Comment No. 14, *The right to the highest attainable standard of health*, Para 33.

²¹ UN Committee on Economic, Social and Cultural Rights, General Comment No. 13, *The right to education*, Para 47; General Comment No. 12, *The right to adequate food*, Para 15; General Comment No. 14, *The right to the highest attainable standard of health*, Para 33.

²² For further discussion see Chinkin, Christine., “A Critique of the Public/Private Dimension”, *European Journal of International Law*, EJIL 10, 1999, pp387-395.

²³ UN Human Rights Committee, General Comment No. 31, *Nature of the General Legal Obligation on States Parties to the Covenant*, Para 8. See also, Report of the Special Rapporteur on violence against women, its causes and consequences, Yakin Ertürk, *The due diligence standard as a tool for the elimination of violence against women*, UN Doc. E/CN.4/2006/61, 20 January 2006, p8; UN Committee on the Elimination of Discrimination against Women, General Recommendation No.19, *Violence against women*, Eleventh Session, 1992, Para 9.

requires States to employ all means to ensure that efforts to prevent, investigate, punish and provide remedies for violence against women are as effective as the efforts employed with regards to other forms of violence. This means that the law, policies and their implementation must be gender sensitive and respond to violence against women within a wider context of gender inequality.

In 1999, the former UN Special Rapporteur on Violence against women, its causes and consequences, Radhika Coomaraswamy, developed the following list of considerations for determining State compliance with obligations of due diligence in relation to violence against women:

- Ratification of international human rights instruments;
- Constitutional guarantees of equality for women;
- The existence of national legislation and/or administrative sanctions providing adequate redress for women victims of violence;
- Policies or plans of action that deal with the issue of violence against women;
- The gender-sensitivity of the criminal justice system (including police practice, judicial decision making, sensitivity of health care professionals assisting in prosecution to violence against women);
- Accessibility and availability of support services such as shelters, legal and psychological counselling, specialised assistance and rehabilitation;
- The existence of measures to raise awareness and modify discriminatory policies in the field of education and the media;
- The collection of data and statistics concerning violence against women.²⁴

This is a useful checklist which has been applied

and expanded using the BPfA actions as an analytical framework for this report. (See below in this Section, Chapter 2.4 for a list of criteria used in this report to assess UK progress on violence against women).

Due diligence, inequality, multiple discrimination and violence against women

As has been highlighted above, effective prevention and responses to violence against women must be developed through an understanding that it is a form, cause and a consequence of discrimination and gender inequality.

Because equal treatment does not mean identical treatment, the due diligence standard in many circumstances will require that the law, policies and their implementation treat women experiencing violence differently to men, so that they benefit from equal protection of the law.

The right to non-discrimination is violated when a State, without an objective and reasonable justification, fails to treat differently persons whose situations are significantly different.²⁵ This basic principle stems from a substantive notion of equality and also requires that women in different situations should be treated differently according to their individual need. It therefore requires States to tailor their responses to all forms of violence against women to ensure that they respect, protect and fulfil the rights of all women, and pay particular attention to the needs of women who may experience violence because of more than one ground of discrimination, or because of a combination of grounds of discrimination.

The BPfA underscores the obligations of States to address the needs of the most disadvantaged women and respond to multiple discrimination. It highlights how some groups of women, “such as women belonging to minority groups, indigenous

²⁴ UN, *Violence against women in the family, Report of the Special Rapporteur on violence against women, its causes and consequences, Ms. Radhika Coomaraswamy, submitted in accordance with Commission on Human Rights resolution 1995/85 GE.9911354, UN Doc. E/CN.4/1999/68, 10 March 1999, Para 25.*

²⁵ See for example the decision of the European Court of Human Rights in the case of *Thlimmenos v. Greece*, where the court held that “[t]he right not to be discriminated against in the enjoyment of the rights guaranteed under the Convention is also violated when States without an objective and reasonable justification fail to treat differently persons whose situations are significantly different.” *Thlimmenos v. Greece*, application no. 34369/97, judgment of 6 April 2000, Para. 44.

women, refugee women, women migrants, women in poverty living in rural or remote communities, destitute women, women in institutions or in detention ... women with disabilities, elderly women, displaced women, repatriated women, women living in poverty” are particularly vulnerable to violence.²⁶

This obligation to address the needs of the most disadvantaged women and respond to multiple discrimination recognises that women experience discrimination, and violence, in different ways. A Black woman might experience violence because she is a woman, in addition to experiencing violence because she is Black. This form of multiple discrimination can have a **compound effect** and expose her to greater risk to all forms of violence against women as well as imposing additional barriers to accessing state protection, legal remedies and rehabilitation services in respect of those forms of violence.

The CEDAW Committee in its **General Recommendation No. 25** (temporary special measures) has outlined how:

“Certain groups of women, in addition to suffering from discrimination directed against them as women, may also suffer from multiple forms of discrimination based on additional grounds such as race, ethnic or religious identity, disability, age, class, caste or other factors. Such discrimination may affect these groups of women primarily, or to a different degree or in different ways than men. States parties [to CEDAW] may need to take specific temporary special measures to eliminate such multiple forms of discrimination against women and its compounded negative impact on them.”²⁷

A Black woman might also experience violence because she is a Black woman, in such a way as the discrimination she experiences because she is Black is inseparable from the discrimination she faces because she is a woman. This form of multiple discrimination is sometimes referred to as **intersectional discrimination**.

Violence against women frequently occurs at the intersection of different types of discrimination. Because of this, the former UN Special Rapporteur on violence against women has highlighted that strategies to effectively prevent and combat all forms of violence against women must be multifaceted and tailored to the needs of different groups of women.²⁸

“The Platform for Action recognizes that women face barriers to full equality and advancement because of such factors as their race, age, language, ethnicity, culture, religion or disability, because they are indigenous women or because of other status. Many women encounter specific obstacles related to their family status, particularly as single parents; and to their socio-economic status, including their living conditions in rural, isolated or impoverished areas. Additional barriers also exist for refugee women, other displaced women, including internally displaced women as well as for immigrant women and migrant women, including women migrant workers. Many women are also particularly affected by environmental disasters, serious and infectious diseases and various forms of violence against women”.

BPfA, Chapter IV, Para 46.

Because the relationship between violence against women and discrimination is complex and multifaceted, it is essential that States study the causes and consequences of violence against women and develop systems that will enable relevant authorities to gather statistics not only on the prevalence of different forms of violence, but the way that those different forms of violence affect different groups of women. States must also monitor the effectiveness of law and policy in preventing and responding to violence against women experienced by different groups of women. This will include, for example, making sure that specialist support services are accessible to migrant women.

²⁶ BPfA, Chapter IV (D), Para 116.

²⁷ UN CEDAW Committee, General Recommendation No. 25, Temporary Special Measures, Thirtieth Session, 2004.

²⁸ UN Commission on Human Rights, The due diligence standard as a tool for the elimination of violence against women, Report of the Special Rapporteur on violence against women, its causes and consequences, Yakin Ertürk, UN Doc. E/CN.4/2006/61, 20 January 2006, page 2.

Under the BPfA, States must “establish linguistically and culturally accessible services for migrant women and girls, including women migrant workers, who are victims of gender-based violence”.

BPfA, Chapter IV, Strategic Objective D.1 Para 125 (b).

1.2.4 Specific actions to be taken by States under the Beijing Declaration and Platform for Action Strategic Objective D.1: Violence Against Women

Violence against women is one of the twelve critical areas of concern identified within the BPfA which States must address in order to accelerate progress toward gender equality and women’s empowerment.

By signing up to the BPfA, the Government committed to undertake specific actions to achieve the following three strategic objectives to combat violence against women:

- **Strategic Objective D.1:** take integrated measures to prevent and eliminate violence against women
- **Strategic Objective D.2:** study the causes and consequences of violence against women
- **Strategic Objective D.3:** eliminate trafficking in women and assist victims of violence due to prostitution and trafficking

The BPfA sets out a large number of specific actions that States must undertake in order to meet the three strategic objectives related to violence against women. The specific actions are useful because they provide content and meaning to the concept of due diligence as it relates to States’ obligations to take positive action to prevent and respond to violence against women. For the purposes of analysis in this report, we have identified 11 specific actions which States must undertake to fulfil their obligations on violence against women under the BPfA. These 11 actions reflect a summary of the many actions that the BPfA requires of States to effectively prevent and respond to violence against women.

Strategic Objective D.1: obligation to take integrated measures to prevent and eliminate violence against women

Strategic Objective D.1 contains the most comprehensive list of actions that States must undertake in respect of violence against women. In all, it contains 34 specific actions which can broadly be divided into 9 thematic areas:

1. Define and respond to violence against women as set out in international law – addressing it through the framework of equality and non-discrimination and as a human rights issue.
2. Ratify international human rights instruments and engage with international human rights mechanisms.
3. Develop strategic policies and action plans that address all forms of violence against women and mainstream a gender perspective in all policies and action plans.
4. Address the needs of the most disadvantaged women and respond to multiple discrimination.
5. Adopt and implement gender-sensitive policies to prevent and respond to violence against women at all levels.
6. Adopt and implement legislation providing adequate redress for women victims of violence through criminal and civil law remedies.
7. Ensure access to and availability of services for all women including by giving vigorous support to the efforts of women’s organisations and other non-governmental and community organisations.
8. Allocate adequate resources within the government budget including resources for the implementation of plans of action at all appropriate levels.
9. Raise awareness of violence against women and challenge discriminatory attitudes and stereotypes including harmful traditional or social practices through education and the media.

Strategic Objective D.2: study the causes and consequences of violence against women

Strategic Objective D.2 contains four specific actions which are best described as an obligation to:

10. Study the causes and consequences of violence against women; collect disaggregated data and statistics concerning all forms of violence against women; monitor the effectiveness of law and policy related to violence against women.

Strategic Objective D.3: Eliminate trafficking in women and assist victims of violence due to prostitution and trafficking

Strategic Objective D.3 contains five specific actions related to preventing and responding to trafficking. It requires States to:

11. Eliminate trafficking in women and assist victims of violence due to prostitution and trafficking.

This set of 11 actions form the basis for analysis. An overall assessment of UK progress towards fulfilling each of the actions is presented in the conclusion, Section 4 of this report.

The following chapter (Section 1 Chapter 3) presents a more detailed overview of the actions which States must undertake in order to meet the three strategic objectives contained in the BPfA on violence against women.

1.3 Beijing Platform for Action: specific actions to be undertaken to prevent and respond to violence against women

Strategic Objective D.1: Take integrated measures to prevent and eliminate violence against women

1. Define and respond to violence against women as set out in international law – addressing it through the framework of equality and non-discrimination and as a human rights issue

The BPfA says:

All actors should focus action and resources on the strategic objectives relating to the [twelve] critical areas of concern which are, necessarily, interrelated, interdependent and of high priority. There is a need for these actors to develop and implement mechanisms of accountability for all the areas of concern (BPfA, Chapter III, Para 43).

Violence against women:

Violates and impairs or nullifies the enjoyment by women of their human rights and fundamental freedoms (BPfA, Chapter IV (D), Para 112).

Is one of the crucial social mechanisms by which women are forced into a subordinate position compared with men (BPfA, Chapter IV(D), Para 117).

Is a manifestation of the historically unequal power relations between men and women, which have led to domination over and discrimination against women by men and to the prevention of women's full advancement (BPfA, Chapter IV(D), Para 118).

The term "violence against women" means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life (BPfA, Chapter IV (D), Para 113).

2. Ratify international human rights instruments and engage with international human rights mechanisms

By signing the BPfA the UK Government has committed to:

Work actively to ratify and/or implement international human rights norms and instruments as they relate to violence against women, including those contained in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (BPfA, Chapter IV, Strategic Objective D.1. Para 124 (e)).

Implement the Convention on the Elimination of All Forms of Discrimination against Women, taking into account general recommendation 19 adopted by the Committee on the Elimination of Discrimination against Women, at its eleventh session (BPfA, Chapter IV, Strategic Objective D.1. Para 124(f)).

Include in reports submitted in accordance with the provisions of relevant United Nations human rights instruments, information pertaining to violence against women and measures taken to implement the Declaration on the Elimination of Violence against Women (BPfA, Strategic Objective D.1. Para 124 (g)).

(r) Cooperate with and assist the Special Rapporteur of the Commission on Human Rights on violence against women in the performance of her mandate and furnish all information requested; cooperate also with other competent mechanisms, such as the Special Rapporteur of the Commission on Human Rights on torture and the Special Rapporteur of the Commission on Human Rights on summary, extrajudiciary and arbitrary executions, in relation to violence against women (BPfA, Strategic Objective D.1. Para 124 (r)).

3. Develop strategic policies and action plans that address all forms of violence against women and mainstream a gender perspective in all policies and action plans

The BPfA says:

In addressing violence against women, Governments and other actors should promote an active and visible policy of mainstreaming a gender perspective in all policies and programmes so that before decisions are taken an analysis may be made of their effects on women and men, respectively (BPfA Chapter IV (D) Para 123).

By signing the BPfA the UK Government has committed to:

Formulate and implement, at all appropriate levels, plans of action to eliminate violence against women (BPfA, Chapter IV, Strategic Objective D.1. Para 124(j)).

Promote an active and visible policy of mainstreaming a gender perspective in all policies and programmes related to violence against women and actively encourage, support and implement measures and programmes aimed at increasing the knowledge and understanding of the causes, consequences and mechanisms of violence against women among those responsible for implementing these policies, such as law enforcement officers, police personnel and judicial, medical and social workers, as well as those who deal with minority, migration and refugee issues, and develop strategies to ensure that the revictimization of women victims of violence does not occur because of gender-insensitive laws or judicial or enforcement practices (BPfA, Chapter IV, Strategic Objective D.1. Para 124(g)).

4. Address the needs of the most disadvantaged women and respond to multiple discrimination

The BPfA says:

The Platform for Action is intended to improve the situation of all women, without exception, who often face similar barriers while special attention should be given to groups that are the most disadvantaged (BPfA, Chapter IV, (D), Para 45).

Women face barriers to full equality and advancement because of such factors as their race, age, language, ethnicity, culture, religion or disability, because they are indigenous women or because of other status. Many women encounter specific obstacles related to their family status, particularly as single parents; and to their socio-economic status, including their living conditions in rural, isolated or impoverished areas. Additional barriers also exist for refugee women, other displaced women, including internally displaced women as well as for immigrant women and migrant women, including women migrant workers. (BPfA, Chapter IV (D), Para 46).

By signing the BPfA the UK Government has committed to:

Take special measures to eliminate violence against women, particularly those in vulnerable situations, such as young women, refugee, displaced and internally displaced women, women with disabilities and women migrant workers (BPfA, Chapter IV, Strategic Objective D.1. Para 126 (d)).

Ensure that women with disabilities have access to information and services in the field of violence against women (BPfA, Chapter IV, Strategic Objective D.1. Para 124(m)).

Establish linguistically and culturally accessible services for migrant women and girls, including women migrant workers, who are victims of gender-based violence (BPfA, Chapter IV, Strategic Objective D.1. Para 125 (b)).

Recognize the vulnerability to violence and other forms of abuse of women migrants, including women migrant workers, whose legal status in the host country depends on employers who may exploit their situation (BPfA, Chapter IV, Strategic Objective D.1. Para 125 (c)).

Develop counselling, healing and support programmes for girls, adolescents and young women who have been or are involved in abusive relationships, particularly those who live in homes or institutions where abuse occurs (BPfA, Chapter IV, Strategic Objective D.1. Para 126 (c)).

5. Adopt and implement legislation providing adequate redress for women victims of violence through criminal and civil law remedies

By signing the BPfA the UK Government has committed to:

Enact and/or reinforce penal, civil, labour and administrative sanctions in domestic legislation to punish and redress the wrongs done to women and girls who are subjected to any form of violence, whether in the home, the workplace, the community or society (BPfA, Chapter IV, Strategic Objective D.1. Para 124(c)).

Adopt and/or implement and periodically review and analyse legislation to ensure its effectiveness in eliminating violence against women, emphasizing the prevention of violence and the prosecution of offenders; take measures to ensure the protection of women subjected to violence, access to just and effective remedies, including compensation and indemnification and healing of victims, and rehabilitation of perpetrators (BPfA, Chapter IV, Strategic Objective D.1. Para 124 (d)).

Provide women who are subjected to violence with access to the mechanisms of justice and, as provided for by national legislation, to just and effective remedies for the harm they have suffered and inform women of their rights in seeking redress through such mechanisms (BPfA, Chapter IV, Strategic Objective D.1. Para 124 (h)).

Enact and enforce legislation against the perpetrators of practices and acts of violence against women, such as female genital mutilation, prenatal sex selection, infanticide and dowry-related violence and give vigorous support to the efforts of non-governmental and community organizations to eliminate such practices. (BPfA, Chapter IV, Strategic Objective D.1. Para 124(i)).

Adopt laws, where necessary, and reinforce existing laws that punish police, security forces or any other agents of the State who engage in acts of violence against women in the course of the performance of their duties, review existing legislation and take effective measures against the perpetrators of such violence (BPfA, Chapter IV, Strategic Objective D.1. Para 124 (o)).

6. Adopt and implement gender-sensitive policies to prevent and respond to violence against women at all levels

By signing the BPfA the UK Government has committed to:

Promote an active and visible policy of mainstreaming a gender perspective in all policies and programmes related to violence against women and actively encourage, support and implement measures and programmes aimed at increasing the knowledge and understanding of the causes, consequences and mechanisms of violence against women among those responsible for implementing these policies, such as law enforcement officers, police personnel and judicial, medical and social workers, as well as those who deal with minority, migration and refugee issues, and develop strategies to ensure that the revictimization of women victims of violence does not occur because of gender-insensitive laws or judicial or enforcement practices (BPfA, Chapter IV, Strategic Objective D.1. Para 124(g)).

Create, improve or develop as appropriate, and fund the training programmes for judicial, legal, medical, social, educational and police and immigrant personnel, in order to avoid the abuse of power leading to violence against women and sensitize such personnel to the nature of gender-based acts and threats of violence so that fair treatment of female victims can be assured (BPfA, Chapter IV, Strategic Objective D.1. Para 124 (n)).

7. Ensure access to and availability of services for all women including by giving vigorous support to the efforts of women's organisations and other non-governmental and community organizations

By signing the BPfA the UK Government has committed to:

Take measures to ensure the protection of women subjected to violence, access to just and effective remedies, including compensation and indemnification and healing of victims, and rehabilitation of perpetrators (BPfA, Chapter IV, Strategic Objective D.1. Para 124 (d)).

Create or strengthen institutional mechanisms so that women and girls can report acts of violence against them in a safe and confidential environment, free from the fear of penalties or retaliation, and file charges (BPfA, Chapter IV, Strategic Objective D.1. Para 124(i)).

Ensure that women with disabilities have access to information and services in the field of violence against women (BPfA, Chapter IV, Strategic Objective D.1. Para 124(m)).

Give vigorous support to the efforts of non-governmental and community organizations to eliminate violence against women (BPfA, Strategic Objective D.1. Para 124(i)).

Provide well-funded shelters and relief support for girls and women subjected to violence, as well as medical, psychological and other counselling services and free or low-cost legal aid, where it is needed, as well as appropriate assistance to enable them to find a means of subsistence (BPfA, Chapter IV, Strategic Objective D.1. Para 125 (a)).

Establish linguistically and culturally accessible services for migrant women and girls, including women migrant workers, who are victims of gender-based violence (BPfA, Strategic Objective D.1. Para 125 (b)).

Disseminate information on the assistance available to women and families who are victims of violence (BPfA, Chapter IV, Strategic Objective D.1. Para 125(h)).

8. Allocate adequate resources within the government budget including resources for the implementation of plans of action at all appropriate levels

By signing the BPfA the UK Government has committed to:

Allocate adequate resources within the government budget and mobilize community resources for activities related to the elimination of violence against women, including resources for the implementation of plans of action at all appropriate levels (BPfA, Chapter IV, Strategic Objective D.1. Para 124 (p)).

Create or strengthen institutional mechanisms so that women and girls can report acts of violence against them in a safe and confidential environment, free from the fear of penalties or retaliation, and file charges (BPfA, Chapter IV, Strategic Objective D.1. Para 124(i)).

Recognize, support and promote the fundamental role of intermediate institutions, such as primary-health-care centres, family-planning centres, existing school health services, mother and baby protection services, centres for migrant families and so forth in the field of information and education related to abuse (BPfA, Chapter IV, Strategic Objective D.1. Para 125 (f)).

Support initiatives of women's organizations and non-governmental organizations all over the world to raise awareness on the issue of violence against women and to contribute to its elimination (BPfA, Chapter IV, Strategic Objective D.1. Para 125(d)).

9. Raise awareness of violence against women and challenge discriminatory attitudes and stereotypes including harmful traditional or social practices through education and the media

By signing the BPfA the UK Government has committed to:

Condemn violence against women and refrain from invoking any custom, tradition or religious consideration to avoid their obligations with respect to its elimination as set out in the Declaration on the Elimination of Violence against Women (BPfA, Chapter IV, Strategic Objective D.1. Para 124 (a)).

Adopt all appropriate measures, especially in the field of education, to modify the social and cultural patterns of conduct of men and women, and to eliminate prejudices, customary practices and all other practices based on the idea of the inferiority or superiority of either of the sexes and on stereotyped roles for men and women (BPfA, Chapter IV, Strategic Objective D.1. Para 124(k)).

Organize and fund information campaigns, educational and training programmes in order to sensitize girls and boys and women and men to the personal and social detrimental effects of violence in the family, community and society; teach them how to communicate without violence; promote training for victims and potential victims so that they can protect themselves and others against such violence (BPfA, Chapter IV, Strategic Objective D.1. Para 125 (e)).

Organize and fund information campaigns, educational and training programmes in order to sensitize girls and boys and women and men to the personal and social detrimental effects of violence in the family, community and society; teach them how to communicate without violence; promote training for victims and potential victims so that they can protect themselves and others against such violence (BPfA, Chapter IV, Strategic Objective D.1. Para 125 (g)).

Strategic Objective D.2: Study the causes and consequences of violence against women and the effectiveness of preventive measures

10. Study the causes and consequences of violence against women; collect disaggregated data and statistics concerning all forms of violence against women; monitor the effectiveness of law and policy related to violence against women

The BPfA says:

The absence of adequate gender-disaggregated data and statistics on the incidence of violence makes the elaboration of programmes and monitoring of changes difficult. Lack of or inadequate documentation and research on domestic violence, sexual harassment and violence against women and girls in private and in public, including the workplace, impede efforts to design specific intervention strategies (BPfA, Chapter IV (D) Para 120).

Strategic Objective D.2 contains four specific actions which require states to undertake studies to establish the causes and consequences of violence against women and collect disaggregated data and statistics concerning all forms of violence against women; monitor the effectiveness of law and policy related to violence against women:

By signing the BPfA the UK Government has committed to:

- a. Promote research, collect data and compile statistics, especially concerning domestic violence relating to the prevalence of different forms of violence against women and encourage research into the causes, nature, seriousness and consequences of violence against women and the effectiveness of measures implemented to prevent and redress violence against women.
- b. Disseminate findings of research and studies widely.
- c. Support and initiate research on the impact of violence, such as rape, on women and girl children, and make the resulting information and statistics available to the public.
- d. Encourage the media to examine the impact of gender role stereotypes, including those perpetuated by commercial advertisements which foster gender-based violence and inequalities, and how they are transmitted during the life cycle and take measures to eliminate these negative images with a view to promoting a violence-free society.

(BPfA, Chapter IV, Strategic Objective D.2. Paras 129 (a) to (d)).

Strategic Objective D.3: Eliminate trafficking in women and assist victims of violence due to prostitution and trafficking

11. Eliminate trafficking in women and assist victims of violence due to prostitution and trafficking

Strategic Objective D.3 contains five actions specifically related to the elimination of trafficking and assisting victims of violence due to prostitution and trafficking.

By signing the BPfA the UK Government has committed to:

- a. Consider the ratification and enforcement of international conventions on trafficking in persons and on slavery.
- b. Take appropriate measures to address the root factors, including external factors, that encourage trafficking in women and girls for prostitution and other forms of commercialized sex, forced marriages and forced labour in order to eliminate trafficking in women, including by strengthening existing legislation with a view to providing better protection of the rights of women and girls and to punishing the perpetrators, through both criminal and civil measures.
- c. Step up cooperation and concerted action by all relevant law enforcement authorities and institutions with a view to dismantling national, regional and international networks in trafficking.
- d. Allocate resources to provide comprehensive programmes designed to heal and rehabilitate into society victims of trafficking including through job training, legal assistance and confidential health care and take measures to cooperate with non-governmental organizations to provide for the social, medical and psychological care of the victims of trafficking.
- e. Develop educational and training programmes and policies and consider enacting legislation aimed at preventing sex tourism and trafficking, giving special emphasis to the protection of young women and children.

(BPfA, Chapter IV, Strategic Objective D.3. Para 130 (a) to (e)).

Section 2

The policy framework



2.1 Overarching policy on violence against women in England and Wales

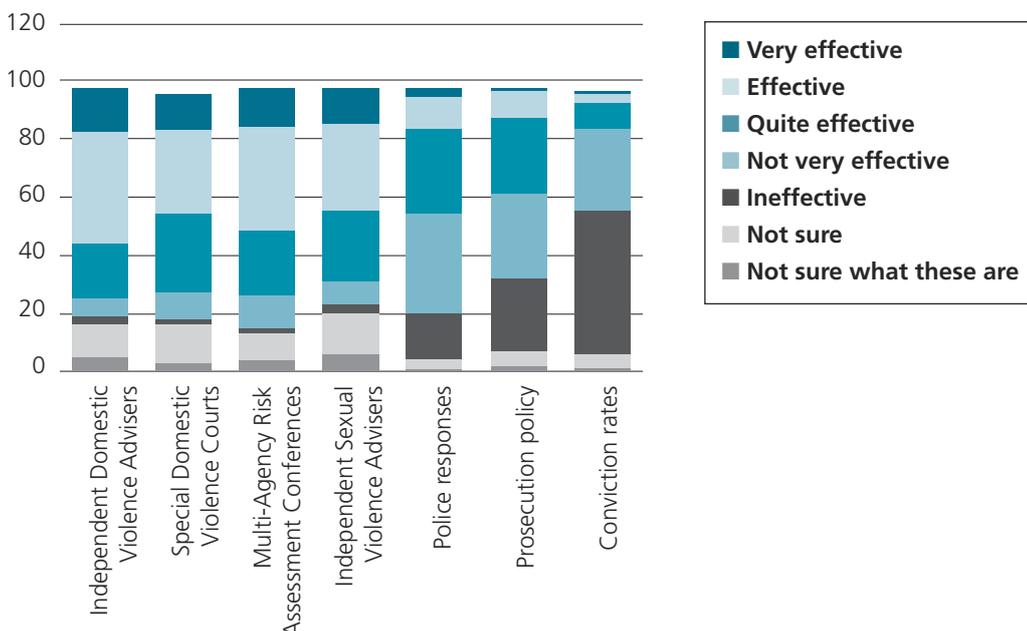
This chapter sets out the Government strategies in England and Wales related to violence against women. It then briefly analyses those strategies against the framework and specific actions set out in the BPfA for addressing violence against women. More detailed analysis of current policy and provision in relation to specific forms of violence against women is provided in Section 3 of this report.

In July 2009 we conducted a survey to obtain the views of other professionals working on violence against women issues in respect of the Government’s policies to tackle violence against women. Our survey predated the publication of the Government’s Together we can end violence against women and girls – a national strategy for England.

Respondents to our survey were asked how effective they thought Government initiatives on violence against women are. The table and diagram below set out the responses collected.

Answer Options	Very effective	Effective	Quite Effective	Not very effective	Ineffective	Not sure	Not sure what these are	Response Count
Independent Domestic Violence Advisers	15	38	19	6	3	11	5	97
Special Domestic Violence Courts	12	29	27	9	2	13	3	95
Multi-Agency Risk Assessment Conferences	13	36	22	11	2	9	4	97
Independent Sexual Violence Advisers	12	30	24	8	3	14	6	97
Police responses	3	11	29	34	16	3	1	97
Prosecution policy	1	9	26	29	25	5	2	97
Conviction rates	1	3	9	28	49	5	1	96

*answered question 98
skipped question 2*



2.1.1 The national strategies

Under the Beijing Platform for Action the Government must develop strategic policies and action plans that address all forms of violence against women and mainstream a gender perspective in all policies and action plans.

Together we can end violence against women and girls – a national strategy for England, 2009

Prior to the development of a national strategy the Government had published a number of action plans and implemented a number of initiatives aimed at addressing specific forms of violence against women in England. These included the cross-government Action Plan on Sexual Violence and Abuse,¹ the Tackling Violence Action Plan,² UK Action Plan on Tackling Human Trafficking³ and UK Prostitution Strategy.⁴ However, these did not provide the gendered, holistic and integrated approach to violence against women required by CEDAW and the BPfA and which women's organisations, including Rights of Women, have long called for.

On 29 November 2009 the Government launched its' national strategy, **Together we can end violence against women and girls** (the England strategy).⁵ This strategy was the culmination of a period of extensive consultation including focus groups with groups of survivors of violence and the wider public as well as interested individuals and organisations from the statutory, community and voluntary sectors. The strategy was broadly supported and welcomed by women's organisations as a demonstration of the Government's commitment to an integrated approach to all forms of violence against women and girls. It sets out the Government's current and proposed initiatives for:

- protection – delivering an effective criminal justice system
- provision – helping women and girls continue with their lives
- prevention – changing attitudes and preventing violence

The strategy sets out the Government's plans to address violence against women including the continuation of existing initiatives and the implementation of new initiatives, measures and legislation.

The Right to be Safe – a national strategy for Wales, 2010

Following the devolution of powers to the Welsh Assembly Government by the Government of Wales Act 1998, Wales has separate strategies for addressing violence against women. In 2005 the Welsh Assembly Government published **Tackling Domestic Abuse: The All Wales National Strategy**⁶ which followed the same prevent, protect, provide (3 P's) framework which has been adopted by the England strategy. It focused on the need to provide a multi agency approach for addressing domestic violence (referred to as domestic abuse in the strategy) in Wales. Despite its acknowledgement that a greater proportion of victims of domestic violence in Wales are women, this strategy was gender neutral. It also focused predominantly on only one form of violence against women and therefore did not comply with the recommendations of both the CEDAW Committee and the BPfA - that countries should adopt integrated and gender specific strategies for addressing violence against women.

In June 2009 the Welsh Assembly Government consulted on a **Strategic Action Plan to Address Violence against Women and to Update the Welsh Assembly Government's Domestic Abuse Strategy**.⁷ In our response to

¹ HM Government, *Cross Government Action Plan on Sexual Violence and Abuse*, April 2007.

² HM Government, *Saving Lives, Reducing Harm. Protecting the Public. An Action Plan for Tackling Violence 2008-2011*.

³ Home Office, *UK Action Plan on Tackling Human Trafficking*, March 2007.

⁴ Home Office, *A Coordinated Prostitution Strategy and a summary of responses to Paying the Price*, January 2006.

⁵ HM Government, *Together We Can End Violence Against Women and Girls: A Strategy*, November 2009.

⁶ Welsh Assembly Government, *Tackling Domestic Abuse: The All Wales National Strategy*, 2005.

⁷ Welsh Assembly Government, *Strategic Action Plan to address violence against women and update to the Welsh Assembly Government's Domestic Abuse Strategy*, June 2009.

this consultation, and alongside other women’s organisations, we were critical of the continuing lack of a gendered and integrated approach calling for “gender to be mainstreamed throughout all the relevant areas for which the Welsh Assembly Government has responsibility - education and training, health and health services, transport, housing, local government – to achieve sustainable long term gains in an integrated, gender inclusive manner whilst working towards the elimination of gender based violence.”⁸

On 25 March 2010 the Welsh Assembly Government published **The Right to be Safe⁹ (the Wales Strategy)**, a six year integrated strategy for tackling all forms of violence against women together with a three year implementation plan. This strategy again broadly follows the three P’s framework with four key objectives to:

- challenge attitudes and raise awareness
- provide support for victims and protect children
- improve the response of criminal justice agencies
- improve the response of health services and other agencies.

We warmly welcome the fact that the Wales strategy makes reference to UK commitments under CEDAW, that violence against women is a form of gender based violence that affects women disproportionately and that it must be addressed through a human rights framework.

The Wales strategy is not as detailed as that for England but makes reference to many of the measures and initiatives to address violence against women in the England strategy. For this reason this report largely focuses on the England strategy.

The UK government needs to follow the Scottish Parliament which has put into effect a strategy plan with regards to challenging male violence against women and children.

Respondent to our survey

A comparison with Scotland

As in Wales, power was devolved to the Scottish Parliament by the Scotland Act 1998. However, the Scottish Parliament has greater powers and unlike Wales can make legislation in a number of areas including criminal and civil law, health, housing and social care.

Due to campaigning and lobbying by activists and women’s organisations, violence against women has been high on the agenda of the Scottish Parliament since its inception. Firmly adopting the recommendation in the BPfA to adopt integrated measures to eliminate violence against women, partnership is key to the Scottish approach. In 1998 the Scottish Partnership on Domestic Abuse was established, later becoming the National Group to Address Violence Against Women.

In 2007 the First Minister signed the Women’s Coalition Statement of Intent committing the Scottish Government to continue its work in addressing violence against women and importantly adopting a broader definition of gender based violence.¹⁰ This commitment culminated last year in the publication of **Safer Lives: Changed Lives: A Shared Approach to Tackling Violence Against Women in Scotland.**¹¹ The approach aims to ensure that work on violence against women is carried out across four P’s:

Prevention – to prevent, remove or diminish

⁸ *Rights of Women, Rights of Women’s Response to the Welsh Assembly Government’s Strategic Action Plan to Address Violence Against Women and Update the Welsh Assembly Government’s Domestic Abuse Strategy, 2009.*

⁹ *Welsh Assembly Government, The Right to be Safe, March 2010.*

¹⁰ *The Women’s Coalition is a coalition formed in Scotland by Engender, Scottish Women’s Aid, Rape Crisis Scotland, The Women’s Support Project and Zero Tolerance.*

¹¹ *The Scottish Government, Safer Lives; Changed Lives. A Shared Approach to Tackling Violence Against Women in Scotland, 2009.*

the risk of violence against women and its impacts on children and young people

Protection – to protect women from victimisation, repeat victimisation or harassment by perpetrators and protect children and young people affected

Provision – to provide adequate services to deal with the consequences of violence against women and children to help them to rebuild their lives

Participation – to ensure policy making and practice development around violence against women is shaped by the experiences, needs and views of those who use services

The approach aims to provide a shared understanding and approach to guide the work of the various partners working in Scotland to address violence against women including public bodies, Community Planning Partnerships, Violence Against Women Multi-Agency Partnerships and Training Consortia and requires them to develop their own action plans for delivery, monitoring and reporting.

Importantly, the Scottish approach is backed with important commitments in terms of funding. The Scottish Government has committed to an investment of £44 million in 2008-2011 to tackle violence against women. The Violence against Women Fund assists the development of measures to tackle violence against women including supporting frontline services and partnership working and the Rape Crisis Specific Fund provides core funding for local rape crisis centres.

2.1.2 Defining violence against women

Under the Beijing Platform for Action, the Government must define and respond to violence against women as set out in international law – addressing it through the framework of equality and non-discrimination and as a human rights issue.

The BPfA highlights that each of the twelve critical areas of concern are interrelated, and interdependent. It identifies that violence against women is inextricably linked to gender inequality. This means that it must be addressed as part of wider social, economic and cultural gender inequalities.

The BPfA places violence against women very firmly within a human rights context, stating that it “violates and impairs or nullifies the enjoyment by women of their human rights.”¹²

Both the England and Wales strategies define violence against women with reference to the definitions used in the UN Declaration on the Elimination of Violence Against Women and by the CEDAW Committee in its General Recommendation No.19. Both strategies acknowledge violence against women as a human rights concern. The England strategy sets out the key human rights frameworks relevant to violence against women, to which the UK is a signatory including the BPfA and the European Convention on Human Rights. Over a number of years Rights of Women has called on the Government to adopt the UN definitions of violence against women and therefore welcomes this new approach to the issues set out in both strategies.

Rights of Women welcomes the recognition in both strategies that women’s experience of violence does not take place in silos and that women may experience multiple forms of violence.

The England strategy seeks to directly address eight forms of violence against women:

- domestic violence
- sexual violence
- forced marriage
- “honour” crimes
- prostitution
- trafficking for sexual exploitation
- stalking
- female genital mutilation

¹² BPfA, Chapter IV (D) Para 112.

The Wales strategy is not so clear about the forms of violence against women it seeks to address but includes reference to:

- domestic abuse
- rape and sexual violence
- sexual harassment
- forced marriage
- prostitution and trafficking
- honour crimes
- female genital mutilation

The inclusion of forced marriage, “honour” crimes and female genital mutilation within this broader definition of violence against women by both governments demonstrates an important acknowledgement of and commitment to addressing these harmful practices linked to tradition and culture, as called for in the BPfA.¹³

However, there are some forms of violence which are not covered at all in the strategies or which receive scant mention. The England strategy does not address sexual harassment at all, and the Wales strategy makes reference to it in relation to prevention and awareness-raising work only. This omission is significant. Sexual harassment, however, is addressed in the new Equality Act 2010 which received Royal Assent on 8 April 2010, with its main provisions expected to enter into force in October 2010. Whilst we welcome this new equalities legislation, it only provides a remedy for the discrimination women experience from sexual harassment and does not directly address sexual harassment as a form of violence against women.

Those forms of violence which form part of the BPfA definition of violence against women but which are not addressed by either strategy include:

- dowry-related violence
- forced pregnancy, sterilisation or abortion
- pre-natal sex selection and female infanticide

The omission of these other forms of violence is not explained in either strategy. Their absence could be due to a lack of statistical information as to the prevalence of these forms of violence against women in England and Wales. It could perhaps be also be argued that dowry-related violence forms part of the wider context of “honour” crimes and is therefore is addressed by the two strategies. However, we would be concerned about these forms of violence being homogenised in this way. Likewise forms of violence including forced pregnancy and abortion could form part of the definition of domestic and/or sexual violence. However the fact that they are not expressly mentioned within either strategy or adopted specifically within the definitions adopted means that they will not be directly addressed by it.

We believe that it is important that more research is carried out into these forms of violence which we know from anecdotal evidence are occurring in England and Wales in order that strategies can be put in place to tackle them.

2.1.3 Meeting the needs of the most disadvantaged women

Under the Beijing Platform for Action the Government must address the needs of the most disadvantaged women and respond to multiple discrimination.

The BPfA repeatedly calls for a recognition of the needs of women who face additional barriers to addressing the violence they are experiencing, particularly those who are most vulnerable and disadvantaged including women belonging to minority groups, refugee women, women migrants, including women migrant workers, women in poverty living in rural or remote communities, destitute women, women in institutions or in detention, women with disabilities and elderly women.¹⁴ It sets out the need to recognise and meet the needs of women with disabilities, and women migrants.¹⁵

¹³ BPfA, Chapter IV (D) Para 118, and Chapter IV, Strategic Objective D.1, Para 124(i).

¹⁴ BPfA, Chapter IV (D), Paras 46 and 116.

¹⁵ BPfA, Chapter IV, Strategic Objective D.1. Paras 124(m), 125 (b), and 125 (c).

Rights of Women welcomes the recognition in the England strategy of the specific needs of women with insecure immigration status, including women asylum seekers.¹⁶ We are closely following the progress of the Sojourner Project, the national pilot which seeks to identify a way forward in providing support for women with an insecure immigration status who are experiencing domestic violence.¹⁷ Despite welcoming an increasing recognition of the need to address the rights of women with an insecure immigration status, we do not believe that current law and policy provides adequate protection for this very vulnerable and largely invisible group of women (see Section 3 Chapter 7).

In 2009-2010 16.29% of women seeking advice from our telephone helpline on sexual violence issues identified as disabled indicating a very real need for any strategy on sexual violence to address the needs of disabled women.

We are concerned that the England strategy makes very scant or no mention of actions to address the particular needs of disabled women, women in rural or remote communities and elderly women when these women remain some of the most vulnerable and disadvantaged in society and who face multiple discrimination barriers.

We know, and there is plentiful evidence, that BMER women experience multiple barriers to accessing legal remedies and support when they are at risk of or experiencing violence. The England strategy provides very little guidance on the way that the Government plans to address this. It recognises that certain forms of violence are more likely to be experienced by particular “sub groups” of women and that for example BMER women are more likely to experience female genital mutilation, forced marriage and so-called honour crimes.¹⁸ It also outlines an example of best practice from Bradford Metropolitan District Council, which is

“one of the only areas in the country which has seen an expansion in the provision of Violence Against Women services over the last 12 months. In particular, Bradford has a high level of provision of services for Black, Asian Minority Ethnic (BAME) women.”¹⁹ Aside from this reference, the England strategy makes no reference, or commitment, to expand service provision or ensure that existing service provision meets the specific needs of BMER women.

We are disappointed that the strategy does not adequately recognise and provide for the needs of women experiencing multiple discrimination.

In our view the Wales strategy also fails to address the needs of vulnerable and disadvantaged women. There are very few mentions of such groups and no specific commitments to addressing their particular needs. Largely, women are referred to as a homogenous group which is of particular concern given the demography and geography of Wales. For example, there are four dispersal areas for asylum seekers in Wales and no reference in the strategy to asylum seeking women. Whilst immigration and asylum powers are not devolved to the Welsh Assembly Government, it does have responsibility for supporting women asylum seekers.

2.1.4 Allocation of resources to implement action plans

Under the Beijing Platform for Action the Government must allocate adequate resources within its budget including resources for the implementation of plans of action at all appropriate levels.

“The success of the Platform for Action will require ... adequate mobilization of resources at the national and international levels;... financial resources to strengthen the capacity of national, subregional, regional and international institutions; and the establishment or strengthening of mechanisms at all levels for accountability to the world’s women” (Beijing Declaration, Para 36).

¹⁶ HM Government, *Together We Can End Violence Against Women and Girls: A Strategy*, November 2009, page 52.

¹⁷ HM Government, *Together We Can End Violence Against Women and Girls: A Strategy*, November 2009, page 52.

¹⁸ HM Government, *Together We Can End Violence Against Women and Girls: A Strategy*, November 2009, page 15.

¹⁹ HM Government, *Together We Can End Violence Against Women and Girls: A Strategy*, November 2009, page 44.

Any national strategy to eliminate and respond to violence against women must outline a detailed timeline and specific sources of funding for its implementation. The BPfA clearly requires States to make infrastructure and resources available to effectively address and eliminate violence against women. It calls for the formulation and implementation of action plans to eliminate violence against women at all levels²⁰ and the recognition and support of the role of institutions such as health and education.²¹ Importantly, it calls for the allocation of adequate resources to address violence against women and effectively implement action plans.²²

Rights of Women welcomes the integrated nature of the England strategy and its commitment to addressing violence against women across Government departments. The roles of the Department of Health and Department of Children, Schools and Families in preventative and early intervention work are clearly set out in the strategy.

Despite this, we are concerned at the absence of a strategic funding strategy to support the England strategy policy commitments, particularly with regard to ensuring that every victim of violence receives proper advice and support.

The England strategy has a strong focus on local strategies, priorities and funding. It stipulates that “while central government has a role in the provision of some national services (such as national helplines) and can directly pump-prime new initiatives, the main responsibility for local services rests with local statutory partners to whom resources and commissioning responsibilities for all health and social care needs are now devolved.”²³ Thus, allocation of resources is dependent on local identification of need. Our concerns related to the devolution of decision making and patchy provision of violence against women services is discussed in more detail in the

following Section 2 Chapter 2. We are particularly concerned that the Government has underscored in the England strategy that “[w]hilst central Government has a key role to play, the majority of the funding for the VAWG third sector (community and voluntary sector organisations working on violence against women) will continue to come from local areas.”²⁴

The England strategy commits Government to continue to invest in specific violence against women services like Multi-Agency Risk Assessment Conferences (MARACs), Independent Domestic Violence Advisers (IDVAs), helplines and Sexual Assault Referral Centres (SARCs) in 2010/11 and prioritise investment in violence against women thereafter.²⁵ We welcome these commitments to expand statutory services but are concerned that there does not appear to be a commitment to expand funding for Independent Sexual Violence Advisors (ISVAs) despite the clear case and recommendations made, for the expansion of ISVA services made by two different independent reviews commissioned by the Home Office and conducted in 2009.²⁶ We are also concerned that Government commitments focus solely on provision of funding for services which predominantly fall to the statutory sector, and are geared up to support criminal justice processes. The strategy firmly places the obligation to provide services which are not directly linked to law enforcement and the criminal justice system, within the remit of local decision makers through Local Strategic Partnerships and Local Authorities. We are concerned that funding for the survival of these essential services, which are predominantly delivered by specialist community and voluntary sector organisations, are almost entirely left to decision making at the local level.²⁷

In April 2010, the Home Office published a consultation paper, **Mainstreaming the**

²⁰ BPfA, Chapter IV, Strategic Objective D.1. Para 124(j).

²¹ BPfA, Chapter IV, Strategic Objective D.1. Para 125 (f).

²² BPfA, Chapter IV, Strategic Objective D.1. Para 124 (p).

²³ HM Government, *Together We Can End Violence Against Women and Girls: A Strategy*, November 2009, page 8.

²⁴ Government Equalities Office, *Focused Consultation on a Strategic Action Plan for the Sustainability of Violence Against Women and Girls Third Sector*, April 2010, p3.

²⁵ HM Government, *Together We Can End Violence Against Women and Girls: A Strategy*, November 2009 pages 9 and 37.

²⁶ See recommendations contained in Home Office, *Rape: The Victim Experience Review*, by Sara Payne, *Victim's Champion*, November 2009, page 26 and Home Office, *The Stern Review, A report by Baroness Vivien Stern CBE of an independent review into how rape complaints are handled by public authorities in England and Wales*, page 123.

²⁷ See Section 2 Chapter 2 for further discussion.

Commissioning of Local Services to Address Violence Against Women and Girls, by way of follow up to the England strategy. It outlines Government plans for funding and commissioning violence against women services. That consultation paper recognises that “careful consideration should be given to the benefits of small dedicated specialist service providers versus larger, generic organisations, and the different options for funding these.”²⁸ However, the consultation paper does not introduce any new policy levers to ensure that Local Authorities also recognise and act upon the need to commission smaller, specialist service providers. Also in April 2010, the Government Equalities Office issued a **Focused Consultation on a Strategic Action Plan for the Sustainability of Violence Against Women and Girls Third Sector**. We welcome this initiative. However, we are concerned that despite recognising the essential role that small community and voluntary sector organisations play in delivering specialist violence against women services, the consultation paper is embedded with the same focus on local decision making and provision. It emphasises that “the Strategic Action Plan is not designed to replace current funding arrangements at local levels. Responsibility for decisions and local funding of violence against women and girls services has moved from central Government to regional areas and local partnerships. Decisions on funding for local services are based on local areas identifying a need and including this in their priorities for improvement with outcomes specifying how the issues will be addressed and how they contribute to wider national aims.”²⁹

Although we welcome references to financial commitments made in respect of homelessness in the England strategy, we are concerned that the commitments made are very broad, leading to a risk that resources will not be used to directly

address homelessness arising from violence against women.³⁰

The provision of accommodation and support is vital for women who are experiencing violence, a fact recognised by the Government in 2003:

“Victims are often deterred from seeking help or leaving a violent relationship because they have nowhere else to go, do not feel safe in their own homes or do not have legal rights to remain. The availability of safe and secure accommodation for victims is therefore critical and can be life-saving.”³¹

The sustainability and future of these specialist support services is of great concern to us as we continue to see the impact of commissioning in local areas and the mainstreaming of local services. The future of the Supporting People budget remains in doubt and yet is vital to the provision of support services provided by women’s refuges.

The Home Office acknowledges in the England strategy that funding arrangements have remained yearly and ad-hoc. In response to this, it commits to overhaul central Government funding arrangements to the violence against women sector in line with the Government’s Compact with the voluntary sector by moving to three-year funding arrangements where appropriate.³² In light of the fact that the provision of most violence against women services is the devolved responsibility of local authorities and other local statutory partners, it is unfortunate that the Government commits only to “encourage local commissioners to do the same.” The recent consultation on **Mainstreaming the Commissioning of Local Services to Address Violence Against Women and Girls** stipulates that all “local authorities and relevant statutory partnerships should ensure that their ways of working with the voluntary sector are Compact compliant.”³³ Given that the current structure of funding for local authorities rests upon delivery of

²⁸ Home Office, *Consultation - Mainstreaming the Commissioning of Local Services to Address Violence Against Women and Girls*, December 2009, page 10.

²⁹ Government Equalities Office, *Focused Consultation on a Strategic Action Plan for the Sustainability of Violence Against Women and Girls Third Sector*, April 2010, page 3.

³⁰ HM Government, *Together We Can End Violence Against Women and Girls: A Strategy*, November 2009, page 53.

³¹ Home Office, *Safety and Justice, the Government’s Proposals on Domestic Violence*, page 43, Para 1, 2003.

³² HM Government, *Together We Can End Violence Against Women and Girls: A Strategy*, November 2009, page 37. *The Compact is an agreement that sets out shared principles and guidelines for effective partnership working between government and the third sector in England. For more information see visit www.thecomcompact.org.uk.*

³³ Home Office, *Consultation - Mainstreaming the Commissioning of Local Services to Address Violence Against Women and Girls*, December 2009, page 38.

Local Area Agreements, it seems that voluntary and community sector organisations will need to be vigilant in monitoring local authorities' actions and highlighting where they are not Compact compliant in their funding and commissioning decisions.

We warmly welcome both strategies' commitment to training and resources to increase the awareness and capacity of professionals to identify and deal with violence against women. The Wales strategy commits to a national training plan in addition to specialist training on forced marriage. We believe that the training of professionals is vital to increasing women's ability and confidence to address the violence they are experiencing. Callers to our helplines frequently highlight the inadequacies in the understanding and response of key professionals providing them with services.

The England strategy's recognition of the role played by the community and voluntary sector in providing specialist services to women affected by violence is important but without firm commitments to support their sustainability, we believe the services will continue to decline. Likewise it is of concern that the Wales strategy contains very few commitments to support specialist services.

2.1.5 Studying the causes and consequences of violence against women

Under the Beijing Platform for Action, the Government must study the causes and consequences of violence against women.

The BPfA requires governments to collect and analyse disaggregated statistics on violence against women and analyse the prevalence of different forms of violence.³⁴ It also calls for research on the impact of violence such as rape

and for the periodic review and analysis of the impact of legislation.³⁵

The recent review by Chief Constable Brian Moore on tackling serial perpetrators of violence against women,³⁶ the Stern Review of rape cases in England and Wales,³⁷ the review by Dr Linda Papadopoulos into the sexualisation of young people³⁸ and Sara Payne's Victim's Experience Review³⁹ are all clear examples of the Government's commitment to reviewing key aspects of violence against women and addressing areas of concern. Section 3 of this report looks in greater detail at the availability and efforts to collect and analyse disaggregated statistics on all forms of violence against women.

2.1.6 Raising awareness and challenging stereotypes

Under the BPfA, the Government must raise awareness of violence against women and challenge discriminatory attitudes and stereotypes including harmful traditional or social practices through education and the media.

One of the core objectives of the BPfA is to prevent and eliminate violence against women through education and public awareness. It calls on governments to "adopt all appropriate measures, especially in the field of education, to modify the social and cultural patterns of conduct of men and women, and to eliminate prejudices, customary practices and all other practices based on the idea of the inferiority or superiority of either of the sexes and on stereotyped roles for men and women."⁴⁰ It addresses the importance in particular of the role of the media⁴¹ in prevention work as well as the importance of the education of children and young people and challenging harmful cultural practices.

³⁴ BPfA, Chapter IV (D) Para 120 and Chapter IV, Strategic Objective D.2. Para 129 (a).

³⁵ BPfA, Chapter IV, Strategic Objective D.1. Para 124 (d).

³⁶ Association of Chief Police Officers, *Tackling Perpetrators of Violence against Women and Girls, ACPO Review for the Home Secretary, 2009.*

³⁷ Government Equalities Office, *The Stern Review: A report by Baroness Vivien Stern CBE of an independent review into how rape complaints are handled by public authorities in England and Wales, 2010.*

³⁸ *Sexualisation of Young People Review, Dr Linda Papadopoulos, 2010.*

³⁹ *Rape: The Victims Experience Review, Sara Payne MBE, Victims' Champion, 2009*

⁴⁰ BPfA, Chapter IV, Strategic Objective D.1. Para 124(k).

⁴¹ BPfA, Chapter IV, Strategic Objective D.1. Para 125 (j).

Rights of Women believes that in order to address the causes of violence against women challenging attitudes about gender equality and raising awareness of violence against women is essential. We are therefore pleased that the Government and Welsh Assembly Government are committed to a wide range of actions to prevent violence. In line with the BPfA recommendations, there are key actions for raising awareness amongst the public and in schools as well as working with the media to improve reporting on violence against women issues. We have already seen the publication of the report by Dr Linda Papadopoulos on the sexualisation of young people and whose key recommendations seek to reduce the exposure of children and young people to sexualised material.

However, there are very few concrete commitments to additional resources to implement these actions.

2.1.7 Availability and accessibility of services

Under the BPfA the Government must ensure access to and availability of services for all women including by giving vigorous support to the efforts of women's organisations and other non-governmental and community organizations.

The Government does appear to be trying to change and improve – MARACs and IDVAs are doing a great job and tightening provision but funding is being cut for women's centres and rape crisis centres

Respondent to our survey

Central to the BPfA is the need to provide women with adequate, appropriate and accessible advice, information and support to address the violence they are experiencing. It calls for the provision of "well-funded shelters and relief support for girls and women subjected to violence, as well as medical, psychological and other counselling services and free or low-cost legal aid"⁴² and for the dissemination of "information on the assistance available to women and families who are victims of violence"⁴³

Our concerns related to the provision of services are outlined above and discussed in more detail in Section 2 Chapter 2. One issue on which Rights of Women has very serious concerns is women's ability to access legal advice and representation. Recent reforms to the Legal Aid system have significantly impacted on women's ability to access their legal remedies. The strategy makes no mention of the provision of legal advice and support to assist women in protecting themselves and their families from further violence. Improving women's understanding of the law and their legal rights – and ensuring the availability of free or low-cost legal aid is key to addressing violence against women and is required of States under the BPfA.⁴⁴ For further discussion on women's access to justice see Section 3 Chapter 1.

2.1.8 Gender sensitivity of law and policy

Under the BPfA the Government must:

Adopt and implement legislation providing adequate redress for women victims of violence through criminal and civil law remedies.

Adopt and implement gender-sensitive policies to prevent and respond to violence against women at all levels.

As outlined in Section 1 of this report, the Government must exercise due diligence to prevent, investigate and punish all acts of violence

⁴² BPfA, Chapter IV, Strategic Objective D.1. Para 125 (a).

⁴³ BPfA, Chapter IV, Strategic Objective D.1. Para 125(h).

⁴⁴ BPfA, Chapter IV (D) Para 118; Strategic Objective D.1. Para 125 (a); Strategic Objective D.3. Para 130 (d).

against women. In order to meet this obligation, the BPfA underscores that Governments must adopt and implement gender sensitive law and policy to prevent and respond to violence against women;⁴⁵ provide women who have been subjected to violence with access to effective remedies for the harm they have suffered;⁴⁶ and create or strengthen institutional mechanisms so that women and girls can report acts of violence against them in a safe and confidential environment.⁴⁷

Over the past few years Rights of Women has welcomed key improvements in the response to violence against women including the development of legislation on sexual offences, domestic violence, forced marriage and female genital mutilation and we have welcomed developments in the response of the Police and CPS to victims of violence against women (see Section 3). Sara Payne's Victims Experience Review⁴⁸ and the Stern Review of rape cases⁴⁹ clearly highlight further improvements needed to increase victim confidence and experience within the criminal justice system.

We welcome the creation of Domestic Violence Protection Notices and Orders to provide increased protection to women affected by domestic violence and the commitment to improving work with perpetrators and managing the ongoing risk to women.⁵⁰ However, we have for some time been concerned about the focus on criminal justice responses to violence against women. We believe that women should have an active and informed choice about the remedy, legal or otherwise, they choose to address the violence they have experienced which means strengthening the civil law remedies available to women and their access to them as well as supporting the provision services for women.

Section 3 of this report provides a detailed analysis of law and policy as it applies to specific forms of violence against women.

Measuring up: national strategies on violence against women

We see the recent adoption of both the England and Wales strategies as a very important step towards addressing violence against women in the UK and to meeting the recommendations of the BPfA. Lengthier discussion about the Government's strategies to tackle specific forms of violence against women can be found in Section 3.

Despite welcoming progress and the adoption of integrated strategies on violence against women in England and Wales, we consider that current policy falls short of commitments made under the BPfA. In order to meet obligations, we consider that the Government must:

- allocate adequate funding and resources to prevent and address violence against women, including allocating resources to ensure adequate and sustainable funding for specialist women's services
- conduct research, with the view to adopting appropriate strategies, into all of forms of violence against women, including sexual harassment, dowry-related violence, forced sterilisation and abortion
- review current policy on violence against women to ensure that it adequately addresses the needs of the most disadvantaged women including women facing multiple discrimination.

⁴⁵ BPfA, Chapter IV, Strategic Objective D.1. Para 124(g).

⁴⁶ BPfA, Chapter IV, Strategic Objective D.1. Para 124 (h).

⁴⁷ BPfA, Chapter IV, Strategic Objective D.1. Para 124 (h) and (i).

⁴⁸ Rape: The Victims Experience Review, Sara Payne MBE, Victims' Champion, 2009

⁴⁹ Government Equalities Office, The Stern Review: A report by Baroness Vivien Stern CBE of an independent review into how rape complaints are handled by public authorities in England and Wales, 2010.

⁵⁰ HM Government, Together We Can End Violence Against Women and Girls: A Strategy, November 2009, pages 69-70.

2.2 The policy delivery framework

Under the BPfA, the Government must adopt and implement gender-sensitive policies to prevent and respond to violence against women at all levels.

The Government has put things in place but then does not follow it through, the Borough may have excellent strategies for women leaving a violent relationship but then no housing provision for the women to stay in thus forcing them to return. There needs to be a complete chain.

Respondent to our survey

Rights of Women broadly welcomes the policy framework set out by Government to tackle violence against women. We are however concerned about its delivery and in particular are concerned that key decisions related to the provision of services and allocation of resources to prevent and respond to violence against women are left to local authority level areas (local areas). Numerous reports have detailed what is best described as a patchwork of policy implementation between local areas. This means that the area in which a woman lives can directly influence her experience of, and access to remedies in respect of, violence against women.

In this section, we have taken the example of England to highlight some concerns we have in

relation to the roll-out of national policy to the local level. We focus on the role of local authorities and Local Strategic Partnerships, which are non-statutory and yet the overarching strategic partner and decision maker for each local area.

This section describes the framework for delivery of national policy at the local area level and then details some concerns that we have specifically in relation to the way that violence against women is addressed. It looks at the availability of specialist services to protect women from violence and facilitate their access to effective legal remedies and the role of the equality duties and Equality and Human Rights Commission (EHRC) in ensuring provision of these services at the local area level.

2.2.1 Local Area Agreements, Local Strategic Partnerships and National Indicators

In England, the delivery framework for all national policy has a strong focus on devolution of decision making to the local level. This focus derives from the Local Government White Paper, **Strong and Prosperous Communities**,¹ which committed to giving local authorities more freedom to lead in their area and work with other local partners to respond to local needs and demands. It also committed to radically reducing the number of targets (national indicators) which local authorities must work towards and report on progress to central Government.²

Local Strategic Partnerships

Local Strategic Partnerships (LSPs) are the overarching strategic partner and decision maker for each local area in England. They are usually led by the Local Authority but are made up of a mix

¹ Department for Communities and Local Government, *Strong and prosperous communities - The Local Government White Paper*, October 2006.

² Department for Communities and Local Government, *The New Performance Framework for Local authorities and Local Authority Partnerships: Single Set of National Indicators*, October 2007.

of representatives from public sector bodies (such as the police and primary care trust), local businesses, and local voluntary and community sector organisations. Although the composition of LSPs is not standardised, they usually have a central board which makes key decisions, as well as a number of other groups which feed into the central board. Such groups would include, for example, local Crime and Disorder Reduction Partnerships (CDRPs).³

Research conducted in 2007 highlighted that a disproportionately low number of women are represented on LSPs, especially at senior levels, such as on the central board. The research also found that the representation of women's organisations was very low – amounting to just 1.8% of voluntary and community sector organisations involvement in the LSPs surveyed.⁴ This raises a number of concerns in relation to gender equality. We are particularly concerned that women's organisations – which are most likely to prioritise responses and resources to combat violence against women – appear to be severely under-represented on LSPs.

Local Area Agreements

A Local Area Agreement (LAA) sets out the priorities for a particular area over a three year period and forms the basis for local decision making, including allocation and prioritisation of resources and services.

LSPs decide the local priorities for each area and agree with central Government upon an LAA. An LAA is a three-year agreement between a local area (represented by the local authority and other partners in the LSP) and central Government. It sets out the priorities for a particular area over a three year period and forms the basis for local decision making, including allocation and

prioritisation of resources and services. All local authorities produce a Sustainable Community Strategy which sets out the long term strategic vision for their area. The LAA is a shorter, three-year plan which sets priorities to achieve the longer term strategy. LSPs are not statutory bodies and they have no formal legal status. This means that whilst many different agencies are involved in the delivery of an LAA, it is the local authority which is the body responsible in law for its delivery.⁵

An LAA is therefore a particularly important agreement which influences the provision of services and funding for particular issues in any area. The current LAAs run from June 2008-2011, and were "refreshed"(revised) in April 2010.⁶

National Indicators

When developing an LAA, each LSP agrees with central Government 35 targets or National Indicators (NIs) which will be prioritised locally over three years. These local targets are selected from the "National Indicator Set" (NIS) which in 2009 contained 188 NIs.⁷ This set of indicators includes a wide range of issues which may be of concern to a local area such as "serious violent crime" (NI 15), "use of public libraries" (NI 9), "take-up of school lunches" (NI 52), "proportion of children in poverty" (NI 116), "stopping smoking" (NI 123), "supply of ready to develop housing sites" (NI159) and "bus services running on time" (NI 178).

Thus, out of this pool of 188 NIs, local authorities (through LSPs) are required to prioritise (and report to central Government) on just 35, plus a series of mandatory targets related to education and early years. An LSP can also agree to include additional voluntary targets (referred to as local targets)⁸ in an LAA, but will not have to report,

³ *Urban Forum, Oxfam and Women's Resource Centre, Where are the women in LSPs? Women's representation in Local Strategic Partnerships, 2007, page 2.*

⁴ *Urban Forum, Oxfam and Women's Resource Centre, Where are the women in LSPs? Women's representation in Local Strategic Partnerships, 2007, page 15.*

⁵ *Essex County Council, The Essex Local Area Agreement 2008-11, A Brief Guide, page 7.*

⁶ *All Local Area Agreements are available on the Improvement and Development Agency for local government website at <http://www.idea.gov.uk/idk/core/page.do?pageld=8399555>, last visited May 2010.*

⁷ *The original National Indicator Set (NIS), published in October 2007 following the Government's Comprehensive Spending Review 2007, included 198 National Indicators. 10 Indicators were later removed. See, Department for Communities and Local Government, National Indicators for Local authorities and Local Authority Partnerships: Updated National Indicator Definitions, February 2009. A further 18 indicators were removed from the NIS with effect from 1 April 2010. See, Department for Communities and Local Government, Smarter Government, March 2010.*

⁸ *Department for Communities and Local Government, National Indicators for Local authorities and Local Authority Partnerships: Handbook of Definitions, Revised edition May 2008, page 17.*

and the local authority will not be performance managed on these by central Government.⁹

National Indicators and violence against women

Of the 188 NIs set out by the Government for England, just three specifically refer to forms of violence against women:

NI 26 – Specialist support to victims of a serious sexual offence

NI 32 – Repeat incidents of domestic violence

NI 34 – Domestic violence – murder

Whilst there are mandatory NIs related to education and early years, the three indicators related to violence against women are not mandatory and thus an LAA could omit to prioritise any or all of them.

NI 26 – Specialist support to victims of a serious sexual offence

This indicator relates to the proportion of victims of a serious sexual offence (who report the offence to the police) that receive support from a specialist sexual violence and abuse service. According to Government guidelines, the relevant offences are: “rape, sexual assault on a male, sexual assault on a female, causing sexual activity without consent and sexual activity etc. with a person with a mental disorder.” Only crimes where the victim is 16 or over are included in the analysis.¹⁰

For the purposes of this indicator, “support means:

delivery of agreed plan of practical support co-ordinated by an Independent Sexual Violence Adviser, or equivalent following a needs assessment;

following a needs assessment, attends at least one counselling session with an organisation operating within the ethical framework of a professional regulatory body (at least 6 sessions should be offered);

undergoes a needs assessment and is offered, but declines, further support.

Specialist sexual violence and abuse service refers to:

Voluntary sector organisations providing specialist counselling and support services for victims of sexual violence and abuse;

Sexual Assault Referral Centres;

Adult mental health services participating in the Mental Health Trust routine enquiry pilots.”¹¹

NI 32 – Repeat incidents of domestic violence

This indicator relates to the rate of repeat victimisation for those domestic violence cases reviewed by a MARAC. A repeat case occurs when a case that is reviewed at MARAC has also been reviewed at the same MARAC within the preceding 12 months (from the review).¹²

NI 34 – Domestic violence – murder

This indicator relates to the number of domestic homicide offences per 1,000 population.

The introduction of 13 indicators from the original NIS published in 2007 was “deferred” (delayed) owing to a lack of agreement on their definitions and how to measure them.¹³ Two of the violence against women indicators, NI 32 (repeat incidents

⁹ Department for Communities and Local Government, *National Indicators for Local authorities and Local Authority Partnerships: Handbook of Definitions, Revised edition May 2008, page 17.*

¹⁰ Department for Communities and Local Government, *National Indicators for Local authorities and Local Authority Partnerships: Updated National Indicator Definitions, 2009, Annex 1, page 7.*

¹¹ Department for Communities and Local Government, *National Indicators for Local authorities and Local Authority Partnerships: Updated National Indicator Definitions, 2009, Annex 1, page 7.*

¹² Department for Communities and Local Government, *National Indicators for Local authorities and Local Authority Partnerships: Updated National Indicator Definitions, 2009, Annex 1, page 9.*

¹³ Department for Communities and Local Government, *National Indicators for Local authorities and Local Authority Partnerships: Updated National Indicator Definitions, 2009.*

of domestic violence) and NI 26 (specialist support to victims of a serious sexual offence) were amongst those for which implementation was delayed.

NI 32 (repeat incidents of domestic violence) was finally introduced on 1 April 2009. According to Home Office figures dated December 2009, just 79 areas (just over 53% of the 150 areas with LAAs) had selected NI 32 in their LAA and started collecting data on it in 2009-10.¹⁴ At the time of writing, NI 26 remained deferred with three areas in the South West of England (Plymouth, Cornwall and Bristol) piloting the development of its performance framework. It had also been adopted as a local target in the Thurrock LAA.

In our assessment, there are clear shortfalls to the current NIS and rules related to LAAs which undermine the potential for a coordinated and effective prevention and response strategy to violence against women in England.

Lack of mandatory targets in LAAs on violence against women

In November 2007, the Women's Resource Centre, NAVCA and Rape Crisis (England and Wales) published a briefing identifying the lack of targets set by central Government as a key reason why LSPs have tended not to address sexual violence or fund services. They welcomed the inclusion of NI 26 to the NIS and flagged it as a useful policy lever to ensure the sustainability of services and funding for rape crisis centres.¹⁵ Two years later, in December 2009, James Brokenshire MP asked the Secretary of State for the Home Department for his assessment of the effect on victims of a serious sexual offence of the decision not to introduce NI 26.¹⁶ The Secretary of State failed to answer the question, and instead underscored commitments made in November 2009 by the Home Office in the England strategy

to explore the possibility of introducing a wide-ranging NI on violence against women and girls and to mainstream violence against women and girls into other NIs.

Echoing the findings from 2007, it is our assessment that the continued lack of a NI related to support services for women who are at risk of, or who have experienced any form of violence against women, contributes to the patchy provision of services for those women country-wide. We would therefore welcome the speedy introduction of a wide-ranging indicator or indicators on violence against women to the NIS. However, we remain concerned about the voluntary election of these indicators.

The lack of mandatory targets related to violence against women is at odds with the statutory equality duties and recent guidance from EHRC. The inclusion of optional rather than mandatory NIs sends a signal that the allocation of funding and resources, and the monitoring of progress in combating violence against women are optional and dependant on the local area. The Home Office in 2010 highlighted that overall levels of violence against women are not sensitive to changes in demographics and place and thus every area needs to make provision.¹⁷ This, coupled with the statutory gender equality duty incumbent upon local authorities to address the causes and consequences of violence against women, highlights how the current LAA framework is at odds with government policy and the legal obligations of local authorities.

We recognise that performance against all NIs is reviewed and published annually by the Audit Commission, as part of the Comprehensive Area Assessment, for every LAA area,¹⁸ and that this provides scope to hold local authorities to account where they are not addressing the NIs related to violence against women. However, LAAs are the

¹⁴ Home Office, *Consultation - Mainstreaming the Commissioning of Local Services to Address Violence Against Women and Girls*, December 2009, page 27.

¹⁵ Women's Resource Centre, NAVCA and Rape Crisis (England and Wales), *Briefing for Local Infrastructure Organisations (LIOs) on the 'crisis in rape crisis' and sexual violence policy drivers*, November 2007.

¹⁶ Hansard, House of Commons, *Written Answers Text for 15 December 2009*, Column 1116W.

¹⁷ Home Office, *Consultation - Mainstreaming the Commissioning of Local Services to Address Violence Against Women and Girls*, December 2009, page 13.

¹⁸ *Comprehensive Area Assessments (CAA) were introduced in April 2009 as part of the new local performance framework. The scope of the CAA encompass all outcomes delivered by local authorities working alone or in partnership. There is an annual publication of performance for each area against the NIS. See, National Indicators for Local authorities and Local Authority Partnerships: Handbook of Definitions, May 2008, page 21.*

central framework through which Government has set out for performance managing local authorities.

LAAs and equality duties

The majority of bodies involved in LAAs are public bodies and as such will all have legislative obligations to promote equality.¹⁹ Government guidance for Local authorities on NIs stipulates that “local authorities and their partners are subject to a range of statutory equalities duties relating to race, gender and disability. They need to have suitable mechanisms in place, including collection and monitoring of information, to monitor and deliver on these duties.”²⁰ The guidance suggests that local authorities could use disaggregated data according to different equalities strands²¹ “to identify groups of people within an area who are disadvantaged in relation to the outcome being measured by an indicator, and to enable local authorities and their partners to set targets aimed specifically at delivering improvement for those groups in the LAA.”²² We consider that this should be a requirement, rather than a recommendation, upon local authorities and LSPs when drawing up and monitoring LAAs.

National Indicators on violence against women are too narrowly construed

The NIs related to violence against women are narrowly construed: they do not capture certain forms of violence such as forced marriage or FGM; and the indicators related to domestic violence focus solely on the most serious offences. We are concerned that they do not capture the need to prioritise and monitor early intervention efforts

and local responses to all domestic violence, not just the most serious or high risk cases.

Generic indicators in the NIS which are relevant to violence, such as NI 15 (serious violent crime rate), do not capture the gendered dimension of violence. NI 15 measures the number of most serious violent crimes per 1,000 population.²³ In order to capture progress on combating gender based violence, we consider that an approach similar to that applied to NI 34, (whereby recorded crimes that are flagged as falling within the definition of domestic violence are highlighted) is needed. The Home Affairs Select Committee in 2008 urged Government to revisit the NIS and ensure that indicators on domestic violence include essential prevention and early intervention work and that they are adopted by every local authority with regard to funding assessment.²⁴

In the England strategy the Government committed to exploring the potential for mainstreaming violence against women and girls into other NIs. We would warmly welcome this but are concerned that the Government commits only to “exploring” possibilities. It is not acceptable in our view that the introduction of indicators on violence against women against which Local authorities may be assessed for performance is delayed any further.

We underscore the findings of the Home Affairs Select Committee in 2008 and consider that comprehensive indicators on violence against women must be adopted in all LAAs and take up of these indicators must be tied to performance and funding assessments conducted by Government.

¹⁹ See below for a discussion of the statutory Gender Equality Duty.

²⁰ Department for Communities and Local Government, *National Indicators for Local authorities and Local Authority Partnerships: Handbook of Definitions, May 2008, page 19.*

²¹ “Equality strand” is the term used by public authorities to refer to the different protected grounds of discrimination – now referred to in the Equality Act 2010 as the “protected characteristics” of age, disability, gender, race, religion and belief, sexual orientation and gender reassignment.

²² Department for Communities and Local Government, *National Indicators for Local authorities and Local Authority Partnerships: Handbook of Definitions, May 2008, page 20.*

²³ Department for Communities and Local Government, *National Indicators for Local authorities and Local Authority Partnerships: Handbook of Definitions, May 2008, Annex 1: Stronger and Safer Communities, page 33.* The definition of serious violent crime includes: Homicide and Child Destruction (the new offence of corporate manslaughter is not included), Attempted Murder, Wounding or other act endangering life, and Grievous Bodily Harm without intent, Including racially and religiously aggravated, Causing Death by Dangerous Driving, Causing death by Careless Driving when under the influence of drink or drugs, and Causing Death by Careless or Inconsiderate Driving, Causing Death by Aggravated Vehicle Taking. This is an APACS indicator and monitoring data is provided by the police.

²⁴ House of Commons, Home Affairs Select Committee, *Sixth Report, Session 2007-08, 2008.*

“The current Local Area Agreement National Indicators on domestic violence seem to be inadequate, both in terms of the scope of the indicators themselves, and of the fact that they are in principle optional with regard to funding assessment, and in practice their implementation has been delayed. This amounts to a retrograde step in respect of the current ‘postcode lottery’ provision of domestic violence services. The Government should revisit the Local Area Agreement indicators to ensure that they include essential prevention and early intervention work, are not overly focused on the criminal justice system, and are adopted by every authority with regard to funding assessment.” House of Commons, Home Affairs Select Committee, Sixth Report, Session 2007-08.

2.2.2 Access and availability of specialist services: the problem of patchy provision and “post code lotteries”

Under the BPfA the Government must ensure access to and availability of services for all women including by giving vigorous support to the efforts of women’s organisations and other non-governmental and community organisations.

The positive obligations of States to protect and fulfill the human rights of all women who are at risk of, or who have experienced violence against women require the provision of accessible services to:

- Protect women from violence
- Facilitate access to legal remedies
- Ensure full rehabilitation (this should include medical and psychological care as well as legal and social services)

The need for Governments to provide specialist services in relation to all forms of violence against women is underscored in the BPfA and a number of other international policy documents.

Under the BPfA, the Government committed to provide well-funded shelters and relief support for girls and women subjected to violence, as well as medical, psychological and other counselling services and free or low-cost legal aid, where it is needed, as well as appropriate assistance to enable them to find a means of subsistence.

CEDAW

The CEDAW Committee has underscored that:

“States parties should establish or support services for victims of family violence, rape, sexual assault and other forms of gender-based violence, including refuges, specially trained health workers, rehabilitation and counseling.

...

Measures that are necessary to overcome family violence should include:

...

Services to ensure the safety and security of victims of family violence, including refuges, counselling and rehabilitation programmes.”

(CEDAW Committee General Recommendation No.19, Paras. 24 (k) and 24(r)(iii)).

UN Declaration on the Elimination of Violence Against Women

“States should pursue by all appropriate means and without delay a policy of eliminating violence against women and, to this end, should:

ensure that women subjected to violence and, where appropriate, their children have specialized assistance, such as rehabilitation, assistance in child care and maintenance, treatment, counselling, and health and social services, facilities and programmes, as well as support structures, and should take all other appropriate measures to promote their safety and physical and psychological rehabilitation.”

(UN Declaration on the Elimination of Violence Against Women, Article 4(g)).

Access to legal remedies: the need for statutory and specialist community and voluntary sector support services

Rights of Women firmly believes that all women must have unimpeded access to effective legal remedies to prevent the risk of violence and redress harm caused by all forms of violence against women. Owing to the gendered causes and consequences of violence against women, specialist services are required to effectively support and respond to the needs of women who are at risk of, or who have experienced violence. We warmly welcome developments to improve availability of statutory services which are geared up to supporting women through the criminal justice system. We have for example, in relation to sexual violence, strongly welcomed and called for expansion in the provision of SARCs and ISVAs. Our recommendations on such services are outlined in more detail in Section 3 of this report.

Whilst welcoming expansion in the provision of statutory services over recent years, we believe that the provision of specialised voluntary and community services for violence against women is essential to facilitate women's access to legal remedies and ensure the effective functioning of the criminal justice system. This is backed up by the findings of our own consultation, and that of the Government in 2009.

During 2009 the Home Office asked the Women's National Commission to hold 24 focus groups with 300 women to gather their views on local services, their experience of violence, what would make them feel safer and to suggest proposals to prevent violence against women and girls. One of the key findings of that consultation was that women most valued women only specialist support services.²⁵

We know through our experience providing legal advice to individual women through Rights of Women's advice lines that many women feel more comfortable and willing to approach a voluntary or community organisation in the first instance when they are at risk of or have experienced violence. We also know that a positive experience of support from a voluntary or

community organisation can encourage women to have greater confidence to report to and access statutory services, including those linked to the criminal justice system, in the longer term.

The obligation to provide specialist services to facilitate full rehabilitation for survivors

Whilst we are an organisation which focuses on helping women through the law, our experience and that of others working on violence against women demonstrates very clearly that access to legal remedies is just one part of a path towards rehabilitation for survivors of violence. In fact, women who are at risk of, or who have experienced violence, may not want to access civil or criminal legal remedies at all and in particular, many do not want to engage with the criminal justice system. We believe that women have the right to choose their route to rehabilitation and underscore the urgent need for the expansion in provision of specialist support services which are not linked in any way to the enforcement of law and the criminal justice system.

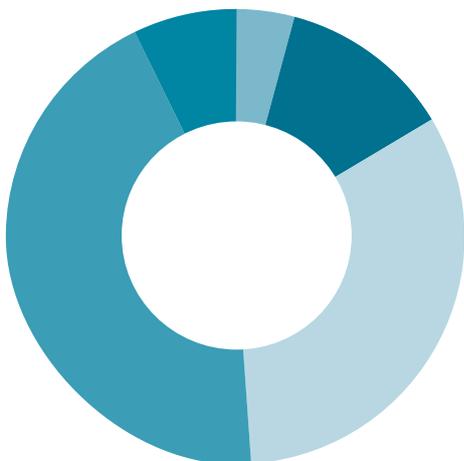
Our survey conducted in 2009 overwhelmingly indicated that women value most independent, voluntary and community sector services which help them to recover from violence experienced independently from law enforcement and the criminal justice system.

The government has concentrated on victims who are in the Criminal Justice System and have set all their targets on brought to justice outcomes thereby failing the vast majority of victims/survivors who will never report to the police.

Respondent to our survey

²⁵ Women's National Commission, *Still We Rise: Report from WNC Focus Groups to inform the Cross- Government Consultation "Together We Can End Violence Against Women and Girls"*, July 2009.

Respondents to our survey were asked:
 “How often do women survivors of violence wish to pursue legal action, whether criminal or civil against the perpetrator?”



Answer Options	Response Percent	Response Count
Most often	4.1%	4
Often	12.2%	12
More often than not	32.7%	32
Rarely	43.9%	43
Never	0.0%	0
Not sure	7.1%	7

*answered question 98
 skipped question 2*

Perhaps the desire for justice through the courts comes at a later stage; it is not so important to our SUs [service users], whose main concerns while they are on the acute service are safety, overcoming trauma and creating stability (through housing, imm status etc.)

They fear authority, men, have no faith in the CJS. Fear they will be judged by authority, will not be believed. They feel too ashamed to disclose anything and even fear for their safety and their family’s safety if they disclose anything about the violence they had endured.

With respect to domestic violence; most women just want nothing more to do with their abuser. Some will go for a non molestation order if they can get legal help but it’s generally beyond their means if they have to pay for it themselves. Once they’re safe, most women don’t have any interest in pursuing “justice” for their injuries because they know they won’t get it and, anyway, supporting a prosecution is likely to make things worse for them in the long run - especially if he’s the father of their children and the Family Court Judge awards a Contact Order in his favour (which means he’ll find out where she is in no time and she’ll be back to square one again).

Respondents to our survey

Women are scared of pursuing legal/criminal options for several reasons. It may alert social services - women still think (and are often told) that they will get their children taken off them, they are also frightened of further abuse/violence from the perpetrator/his family/friends. Cost of civil remedies is also a barrier for some women.

More would take legal action if it resulted in them and their children being any safer, or adequate punishment.

Respondents to our survey

We must always remember that not all female survivors of male violence are in a position to want to pursue legal action against the male perpetrator(s). Many women survivors do not have economic stability and have to rely on the male partner's financial contribution even when he is the one who has/is committing violence against them. More needs to be done with regards to providing support and assistance to women survivors of male violence wherein they would no longer be dependent on state benefits or having to rely on their abusive male partner to provide financial assistance. Remember it is primarily women who are the ones responsible for childcare and this in itself means many women survivors do not have the option of finding suitable adequately paid employment.

Women's first concern is their safety and that of the children, in order to continue with a successful conviction against the perpetrator they themselves need to be in a safe and supported position, in most cases the support and promise of an actual conviction is exceedingly rare.

Respondents to our survey

Voluntary and community sector violence against women services: a sector in crisis

In January 2009, the End Violence Against Women Coalition (EVAW)²⁶ and the Equality and Human Rights Commission (EHRC) published "Map of Gaps 2" – the second edition of research documenting the uneven distribution of specialised services²⁷ in Britain. Their research revealed that in large parts of Britain, provision is scarce or non-existent with over one in four local authorities in Britain having no specialised support services at all.²⁸ They identified how any woman at risk of or experiencing violence faces a "post-code lottery" and that her access to and availability of support depends on where she lives. Their research found that this post-code lottery is particularly apparent for ethnic minority women and the specialist services that they need.

The patchy provision of services in different areas across England and Wales was a key concern raised by respondents to our survey.

I think that strategies sound good but often the services on the ground are patchy and limited.

Respondent to our survey

Respondents to our survey were also concerned that Government policy focussed on the expansion of statutory services linked to criminal justice processes, whilst voluntary and community sector services providing independent support to women at risk of, or experiencing violence, were in decline. These concerns are supported by the findings in Map of Gaps 2.

Map of Gaps 2 highlighted that "funding in England and Wales and increasingly Scotland, is

²⁶ End Violence Against Women (EVAW) is a coalition representing 7 million individuals and organisations across the UK. More information is available on their website: www.endviolenceagainstwomen.org.uk.

²⁷ End Violence Against Women and Equality and Human Rights Commission, *Map of Gaps 2, 2009*. The report described "services whose primary work is supporting women who have experienced violence as 'specialised', to reflect the skills and knowledge accumulated from experience and research." It outlined how "specialised services are, in the main, run by voluntary sector organisations and include: Rape Crisis Centres, refuges, domestic violence outreach projects, services for ethnic minority women, support for trafficked women and women in prostitution. Some important services are located in the statutory sector, such as Sexual Assault Referral Centres and clinics dealing with female genital mutilation."

²⁸ End Violence Against Women and Equality and Human Rights Commission, *Map of Gaps 2, 2009*, page 7.

dependent on local authorities recognising the need for specialised services and making financial commitments that enable their delivery.”²⁹ The research found that whilst there had been some expansion in services in certain areas during 2008, the expansion related to statutory services geared around ensuring access to criminal justice remedies. Specialist non-statutory support services were on the decline.³⁰

There is a general consensus amongst the women’s community and voluntary sector that we are a sector in crisis owing to a lack of sustainable funding. This finding is supported by research published by the Women’s Resource Centre in March 2009 which found that one in five women’s organisations in England were thought to have closed down between 2004 and 2007.³¹ Small, specialist services are most at risk. In 2008, Imkaan published research indicating that 50% of specialist Black, Asian and minority ethnic violence against women organisations had closed in the past five years.³²

The Government has an obligation to ensure that all women have access to services which protect them from violence, facilitate access to legal remedies and ensure full rehabilitation. A number of studies conducted in recent years point to patchy provision of services and that a woman’s access to services is determined by the locality in which she lives.

We know and the Government has acknowledged that specialist services run by community and voluntary sector should form an essential component of any strategy to effectively prevent and respond to violence against women. We are very concerned that there has been a continuing decline in the availability of services run by the voluntary and community sector and that women who face multiple forms of discrimination – in

particular ethnic minority women – do not have adequate access to support services.

2.2.3 The Equality Duties: powers of the Equality and Human Rights Commission (EHRC) and compliance notices

The **gender equality duty (GED)** was introduced into legislation in the **Equality Act 2006** (amending the Sex Discrimination Act 1975) and entered into force in April 2007. Its introduction marked a significant and progressive shift in sex equality legislation because it placed a general duty on listed public authorities to take strategic action to eliminate gender inequality. This general equality duty requires public authorities to show “due regard” to the need to:

- (a) eliminate unlawful discrimination and harassment, and
- (b) promote equality of opportunity between men and women.³³

Listed public authorities must also adhere to a series of ‘specific duties’ in order to meet the general equality duty. Those specific duties include an obligation to prepare and publish a **gender equality scheme** which includes a time-tabled and evidence-based three year plan of action for public authorities to tackle the most significant gender inequalities in their remit.³⁴ Listed public authorities must also assess the impact of current and proposed policies and practices on gender equality by conducting “equality impact assessments”. The majority of public sector bodies in England revised their gender equality schemes in April 2010.³⁵

The EHRC issued guidance in January 2010 to assist public sector bodies subject to the gender equality duty in revising their schemes.³⁶ In its guidance, the EHRC identified tackling the causes

²⁹ *End Violence Against Women and Equality and Human Rights Commission, Map of Gaps 2, 2009, page 28.*

³⁰ *End Violence Against Women and Equality and Human Rights Commission, Map of Gaps 2, 2009, page 67.*

³¹ *Women’s Resource Centre, Not just bread, but roses too: Funding to the women’s voluntary and community sector in England 2004 - 07, March 2009.*

³² *Imkaan, A matter of life and death: The loss of specialist services for BAMER women and children experiencing violence, 2008.*

³³ *Sex Discrimination Act, Section 76A(1).*

³⁴ *EHRC, A practical guide to revising gender equality schemes, 29 January 2010.*

³⁵ *EHRC, A practical guide to revising gender equality schemes, 29 January 2010.*

³⁶ *EHRC, A practical guide to revising gender equality schemes, 29 January 2010.*

and consequences of violence against women and girls as one of four key issues that requires special action by local authorities owing to its significance in relation to realising equality of opportunity and tackling disadvantage.³⁷

The EHRC has made clear that under the GED, “local authorities should be providing specialist support services for women through statutory and non-statutory agencies including:

- Women’s Aid services and refuges
- Perpetrator programmes targeting offenders
- Specialist domestic violence courts
- Sexual assault referral centres
- Rape crisis centres
- Services specifically for ethnic minority women suffering violence such as those provided by the Southall Black Sisters.”³⁸

In November 2009, the EHRC issued “gender equality duty compliance notices” to three local authorities warning that each needed to take immediate steps to address gender inequality in their community or face legal action for failing to comply with the Sex Discrimination Act.³⁹ The notices were issued specifically in response to a failure by local authorities to provide specialist services for women who have experienced violence.

As this exercise of EHRC powers demonstrates, under the GED, local authorities have a legal obligation to take a lead on assisting women who have experienced violence, and the EHRC is willing to pursue legal action in respect of recalcitrant authorities.

During the same month as the three compliance notices were issued, the Home Office issued its England strategy. The England strategy commits to a “locally driven co-ordinated approach to VAWG [violence against women and girls] services

in every local authority, with the aim of encouraging every area to have a co-ordinated VAWG [violence against women and girls] strategy in place for April 2011.”⁴⁰

This commitment to “encourage” fails to link up, with any clarity, the various existing policy threads on violence against women and pre-existing policy mechanisms such as the NIs and the GED. Will the drafting of a violence against women and girls strategy be a statutory requirement or an optional extra? How does this fit with Government proposals under the Equality Act 2010 to remove the specific duty to draft gender equality schemes and replace them with equality objectives?⁴¹

The Home Office, in its England strategy stated that: “public authorities should consider whether they need to address VAWG [violence against women and girls] as part of their approach to gender equality when drawing up their gender equality scheme and action plans.”⁴² This apparently permissive position presented by the Home Office in our opinion again exposes an underlying cause of discord between national policy and local implementation.

The Government acknowledged in the England strategy the fact that stakeholders had reported “lack of visibility of VAWG at senior level on some Local Strategic Partnerships (LSPs); lack of proper local data and needs assessment or co-ordinated planning, and inadequate, confused and ad hoc funding arrangements, particularly for non-statutory providers, who have pioneered many of the services that are now taken for granted as an essential part of the landscape.”⁴³ With this in mind, it is clear to us that there needs to be much greater steer from Government to ensure local authorities meet national strategic objectives and comply with international obligations to effectively prevent and respond to violence against women.

³⁷ EHRC, *A practical guide to revising gender equality schemes*, 29 January 2010, page 3.

³⁸ EHRC, *Commission issues gender equality duty compliance notices to three local authorities*, 30 November 2009.

³⁹ EHRC, *Commission issues gender equality duty compliance notices to three local authorities*, 30 November 2009.

⁴⁰ HM Government, *Together We Can End Violence Against Women and Girls: A Strategy*, November 2009, page 41.

⁴¹ See below for a discussion of proposals for new specific equality duties under the Equality Act 2010.

⁴² HM Government, *Together We Can End Violence Against Women and Girls: A Strategy*, November 2009, page 7.

⁴³ HM Government, *Together We Can End Violence Against Women and Girls: A Strategy*, November 2009, page 37.

We welcome the fact that the new England strategy refers clearly to the need for local authorities to tackle the causes and consequences of violence against women and girls under the Equality Act 2006.⁴⁴ We are however concerned that this recognition has not led to a firm commitment to ensure that all local authorities and LSPs plan, through their LAAs, to address violence against women.

We recommend the introduction of a much more joined up approach between LAA's and the equality duties.

Equality Act 2010 and the Public Sector Equality Duty

Under the Equality Act 2010, public authorities will be subject to a new, multi-strand "public sector equality duty" which replaces and brings together the three existing race, gender and disability equality duties, and extends those duties to the protected characteristics of age, gender reassignment, pregnancy and maternity, religion or belief and sexual orientation. The new duty also requires public bodies to promote equality through public procurement.

Section 149(1) of the Equality Act 2010 stipulates that "a public authority must, in the exercise of its functions, have due regard to the need to –

- (a) eliminate discrimination, harassment, victimisation and any other
- (b) conduct that is prohibited by or under this Act;
- (c) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (d) foster good relations between persons who share a relevant protected characteristic and persons who do not share it."⁴⁵

The new public sector equality duty has the potential to ensure a more substantive approach to equality as it does not merely require that

equality of opportunity be "promoted" but requires that it be "advanced".⁴⁶

Section 153 of the Equality Act 2010 grants a Minister power to impose specific duties on a listed public authority. At the time of writing it is not clear what the content of the specific duties will be. The specific duties attached to the existing gender equality duties (gender, race and disability) have been extremely important in ensuring public authorities uphold those general duties. In 2009 the Government published a consultation paper on the specific duties that will accompany the Equality Act which proposes to move away from requiring public authorities to draft equality schemes and instead to require organisations to set equality objectives and set out the steps they will take towards achieving them.⁴⁷ There is also likely to be a change in the specific duties concerning equality impact assessments. The Government raised concerns that equality impact assessments are often treated as "tick-box" exercises with little real impact or meaning. The proposals for change therefore focus on a move away from describing processes of decision making towards identifying outcomes and impact. We think that equality schemes and impact assessments are valuable, because they require public authorities to think and set out how they plan to meet their general equality duties. Published equality schemes also provide a useful mechanism through which voluntary and community sector organisations can hold public authorities accountable, either for omissions in the scheme itself, or in the implementation of the scheme.

We do not in principle oppose the proposals to change the emphasis from a requirement to draft equality schemes and equality impact assessments to a focus on outcomes and impact, but underscore the need for the new specific duties to provide a clear and transparent route to accountability for the decisions that are made by Public Authorities.

⁴⁴ HM Government, *Together We Can End Violence Against Women and Girls: A Strategy*, November 2009, page 7 and page 38.

⁴⁵ Equality Act 2010, Chapter 1, Section 149(1).

⁴⁶ For a discussion, see Monaghan QC, Karon, *The New Equality Duties: the Equality Act 2010*, Human Rights Law Association Seminar, April 2010.

⁴⁷ Government Equalities Office, *Equality Bill: Making it Work, Policy Proposals for Specific Duties, A Consultation*, 2009.

Measuring up: The delivery framework and local level provision and support services for women at risk of or experiencing violence

We welcome recent efforts by the Government outlined in the recent England strategy to mainstream violence against women issues into all national and local government policy. There is, however, a general discord between the way that Government performance manages local authorities through the voluntary election of NIs, and the statutory gender equality duties which require all local authorities to tackle the causes and consequences of violence against women and girls. We are therefore concerned that the various policy threads are not adequately joined up.

There needs to be a much more joined up approach to the devolution of decision making powers to local authorities and their partners on the one hand, and the statutory obligations on all local authorities to take strategic action to promote equality of opportunity on the other.

We have identified the following areas for improvement in the delivery framework of the Government's response to violence against women in England and Wales:

- There is a need for all LAAs to adopt comprehensive (and we would say mandatory) indicators on violence against women with take up tied to performance and funding assessments by the Government. This would require the immediate introduction of wide ranging indicators on violence against women to the National Indicator Set that address all forms of violence against women.
- We believe that the use of disaggregated data across all the equalities strands should be a requirement in the drawing up and monitoring of LAAs.
- We would like to see the increased participation of women and women's organisations in LSPs and therefore local decision making.
- Provision of specialist community and voluntary services is patchy but vital. We call on the Government to provide an overarching funding strategy for the provision and sustainability of these services which they acknowledge as vital in the delivery of their strategy. Again, where responsibility for provision and funding to this sector is devolved, we consider that mandatory targets are needed.
- We recommend a more joined up approach between LAAs and the equality duties with a more directive position on violence against women by the Government to local authorities.

Section 3

Violence against women in England and Wales



Introduction

This section is divided into seven chapters. The first chapter addresses women's access to legal aid, an issue which is of great concern to us and which is a prominent concern of our women service users. The following chapters address different forms of violence against women, with one chapter dealing specifically with the way that law and policy addresses the rights of women with an insecure immigration status. We have presented an analysis of the way that law and policy in England and Wales addresses each form of violence within separate chapters for clarity, although we recognise that some forms of violence may overlap (for example domestic violence may involve rape and sexual assault), and all occur along what is often referred to as a "continuum of violence".

For each form of violence against women, an overview and analysis is presented on the following issues:

- The prevalence of the problem: overview of the collection, availability and analysis of statistics in relation to each form of violence against women
- Definition and specific human rights norms related to each form of violence against women
- The relevant law
- The relevant policy
- Existence of measures to raise awareness and change discriminatory policies in education and the media
- Access to and availability of specialised services
- Overview of progress and shortfalls in preventing and responding to each form of violence against women

Integrated throughout the analysis in this section is a consideration of the extent to which the above factors affect different groups of women. The Government and all public authorities must identify and respond to the specific needs of different groups of women, and pay particular attention to

the way that responses take into account the needs of women who experience violence because of compound and intersectional discrimination. The principle of equality does not always require identical treatment and sometimes requires that women in different situations be treated differently according to their individual needs. With this in mind, special consideration is given to the way that the law, policy and services are tailored to meet the needs of all women – especially the most disadvantaged women.

The analysis in this section also includes information on efforts to monitor the effectiveness of law and policy to prevent and respond to violence against women – an action required of States under the BPfA.

Our focus on helping women through the law and influencing legal policies

Rights of Women's expertise lies in assessing the impact of the law on individual women. The ensuing analysis of policy therefore focuses on those Government departments and public authorities directly involved in law enforcement, implementation, and access to legal remedies including:

- Home Office
- Forced Marriage Unit
- Police
- Crown Prosecution Service
- UK Border Agency
- UK Human Trafficking Centre
- Local authorities

This section does not address the responsibilities of education or health authorities, beyond reference to the national strategies for England and Wales or their role in law and legal policy on violence against women.

3.1 Legal aid

Under the BPfA the Government must provide free or low-cost legal aid, where it is needed.

Women's ability to access their legal rights and remedies is dependent upon their ability to access legal information, advice and representation. This chapter sets out our concern that changes to the legal aid system are having a disproportionate impact on women affected by violence.

Legal aid

Legal aid, also called public funding, is the common term used for funding which is available from the Government to enable people to access free or lower cost legal advice and representation. The **Legal Services Commission** (LSC)¹, established in 1999, is a public body that is responsible for legal aid. Legal aid for civil matters is administered by the section of the LSC called the **Community Legal Service** (CLS) and is available for many types of civil legal problems affecting women, such as legal problems about housing, family or relationship breakdown, immigration or asylum, welfare benefits, debt, employment, education, community care or mental health law. Legal aid is also available for suspects and defendants in criminal proceedings. Legal aid for criminal matters is administered by the section of the LSC called the **Criminal Defence Service** (the CDS).

Legal aid is an increasingly scarce resource and we are particularly concerned about the impact that this has on women affected by violence. Over the

past four years, the number of solicitors' firms and advice agencies undertaking publicly funded family law work has gone down by 25%.² Since 1997, the legal aid budget has risen from £1.5 billion to £2.1 billion a year yet spending on civil legal aid has fallen by 24%.³ Figures from the CLS show that more women than men apply for civil legal aid. For example in 2005/2006 62.2% of 154,153 applications for civil representation in family matters were made by women (and 37.8% by men).⁴ Therefore changes to the legal aid system are likely to have a disproportionate impact on women, with women affected by violence being most vulnerable as a result of these changes.

We fear that recent developments including the introduction of Community Legal Aid Centres and Networks for the provision of advice services⁵ and the competitive tendering of family law contracts will only reduce further the number of providers of legal advice and representation. We are also particularly concerned about the impact of the Ministry of Justice's decision to take back direct control of the Legal Services Commission in March 2010. The Legal Aid Minister, Lord Bach explained the reason for this was to "bring tighter financial control over the legal aid budget."⁶ Our concern is that this could signal cuts to the budget which would impact further on women's ability to access justice.

¹ For further information see www.legalservices.gov.uk.

² Department of Constitutional Affairs, *A Fairer Deal for Legal Aid*, July 2005.

³ Department of Constitutional Affairs, *A Fairer Deal for Legal Aid*, July 2005.

⁴ Legal Services Commission, *Equalities Annual Report 2005/6*, published June 2007.

⁵ For more information about CLACs and CLANs visit the Community Legal Advice Centres and Networks website at www.communitylegaladvice.org.uk.

⁶ *Law Society Gazette*, Carolyn Regan quits as Jack Straw turns LSC into executive agency, 4 March 2010.

In Wales there are only two legal aid solicitors providing immigration advice and this is a massive barrier for BMER women.

Respondent to our survey

However, Rights of Women has welcomed the Lord Chancellor and LSC's commitment to prioritising the needs of victims of domestic violence in accessing civil remedies.⁷ The LSC introduced a discretionary waiver⁸ that extends eligibility for legal aid by allowing the upper capital limit, the gross income cap and the disposable capital limit to be waived. However, the income and capital contribution to legal costs still applies, this means that women may still have to make substantial monthly contributions to their legal costs. Also where injunction proceedings accompany other financial proceedings, the statutory charge continues to apply. This means that women may have to repay the costs of their case from any financial settlement they receive.

Rights of Women is concerned about a lack of knowledge about the waiver for domestic violence injunctions amongst family law practitioners and that work needs to be done to address this. Although access to the civil justice system is greatly enhanced by the waiver, victims are often single parents with limited budgets and may be deterred from applying for an injunction as they cannot afford the legal aid contribution payments. Therefore, we advocate a complete waiver of the contribution payments for applicants seeking domestic violence injunctions. We are also concerned that the waiver does not apply to women seeking to be represented in applications for forced marriage civil protection orders and therefore women seeking this protection from forced marriage are

disadvantaged (see Section 3 Chapter 3 for further details).

BMER women and access to justice

We know from our experience as a national organisation providing free confidential legal advice to women that women face many barriers in accessing justice, and that BMER women in particular face additional barriers. In order to explore these barriers and their impact on BMER women experiencing violence Rights of Women conducted a survey into our BMER service users' experiences of access to justice between April and November 2007.⁹

Access to legal advice can be difficult due to financial reasons.

Respondent to our survey

Our research focused on women's access to civil legal aid in family law matters.¹⁰ The results are based on responses from 327 BMER women who responded to our survey when contacting our legal advice lines. Survey questions focussed on women's access to legal aid, the barriers they faced trying to access justice and the legal issues which were of particular concern to the BMER respondents.

Diagram 1 demonstrates the range of BMER women represented in the survey.

The BMER women surveyed through our legal advice lines sought legal advice on a range of family law issues. The highest number of calls were about advice on children issues such as residence and contact (37.2%). However, 35.5% of calls were about domestic violence.

Only 22.8% of the BMER women who took part in the survey had either applied, or been assessed for, legal aid. This may reflect the fact that women

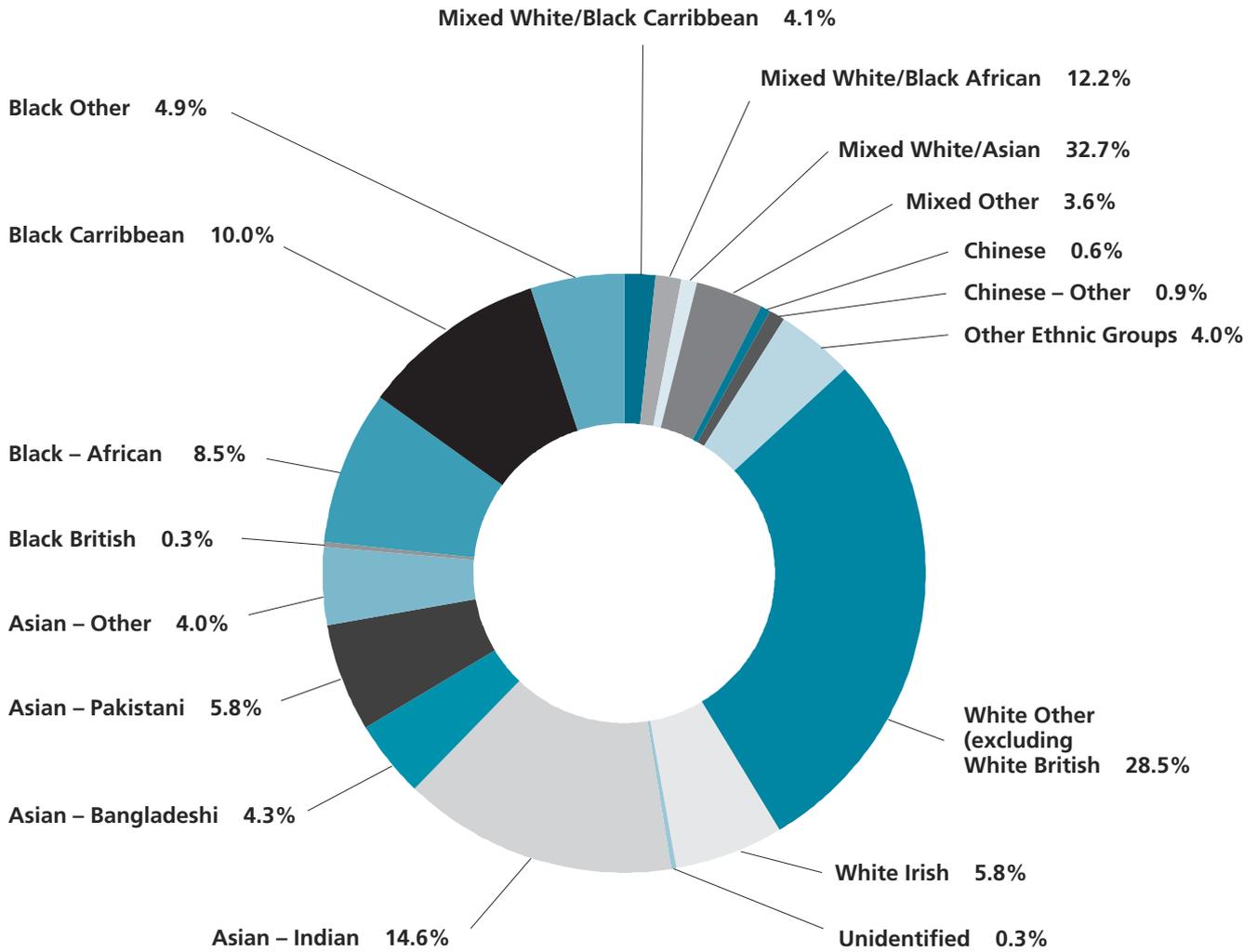
⁷ Legal Services Commission, *Legal Services Commission Manual, Volume 3, Part C, Decision Making Guidance, Domestic Violence*.

⁸ The discretion is to be exercised by the Legal Services Commission unless there are exceptional circumstances.

⁹ For more information about this unpublished research contact Rights of Women.

¹⁰ In 2006 -7 the top five issues callers to our general legal advice line called about were Children Act proceedings (private), which includes issues such as child contact and residence (45.7%); domestic violence (36.8%); divorce and judicial separation (29.9%); ancillary relief/division of property following relationship breakdown (27%); and child support (6.8%).

Diagram 1: The range of BMER women represented in the survey



contacting us for advice often do so before they seek legal advice from a solicitor, but it could also highlight a barrier that BMER women face in accessing information about the availability of legal aid.

Of the women who had applied for legal aid, 41.7% were eligible for either Legal Help and/or Legal Representation.¹¹ However, eligibility for legal aid does not necessarily mean free legal advice and representation. 40% of those receiving legal aid had to pay a contribution towards their legal costs and/or were affected by the statutory charge. 41.7% of service users considered the impact of these to be significant or very significant. We are very concerned about the negative impact that a requirement to make

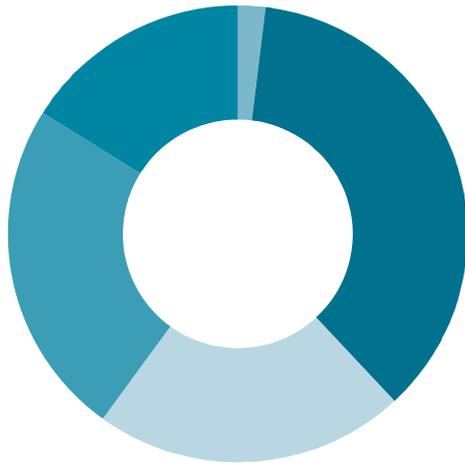
financial contributions towards legal costs has on the BMER women who are receiving legal aid and that these costs may contribute to women’s economic inequality, which is both a cause and consequence of violence against women.

58.3% of the BMER women applying for legal aid we surveyed were found to be ineligible and the vast majority of these were found ineligible on the grounds of their means rather than merits of their case as demonstrated in diagram 2. This means that although the LSC considered that their case falls within the criteria for those who should receive legal aid (“the Funding Code”)¹² their financial circumstances meant that they were ineligible for legal advice and representation.

¹¹ Legal Help and Legal Representation are two of the types of legal aid available for family cases. For more information visit the Legal Services Commission website.

¹² For more information about financial contributions and the statutory charge visit the Legal Services Commission website.

Diagram 2: Reasons for refusal of legal aid application



■ Merits	2%
■ Income	36%
■ Capital	22%
■ Disposable income	24%
■ Unknown	16%

When asked about the consequences of not receiving legal aid, a significant proportion of our BMER service users reported that they were either representing themselves (57.8%) or considering doing so (33.3%). A high percentage (45.2%) of respondents had been deterred from taking legal proceedings or were considering not taking legal action (14.3%). This is of particular concern in relation to the women surveyed who were at risk of or experiencing violence. Our results indicate that a significant proportion of women who were experiencing violence may not have taken legal steps to address the violence they were experiencing because they were not eligible for legal aid. We are also concerned about the increased risks that women representing themselves face in proceedings without an expert understanding of the law and the options available to them.

This research highlighted that BMER women experience significant barriers to accessing legal aid. It demonstrated that a lack of specialist advice and representation had serious implications for the BMER women respondents and their families' access to civil law remedies, underscoring a real need to improve women's access to legal aid.

Whilst this survey focused on our BMER service users, we are concerned that all women experience barriers to accessing effective civil law remedies because of the current legal aid system. More research is urgently needed to investigate the links between access to legal aid and access to effective remedies, and the impact of these factors on women's experiences of poverty.

Measuring up: women's access to justice in England and Wales

The Government has committed to the provision of free or low-cost legal aid under the BPfA.¹³ Legal aid is vital to women's ability to access the law and legal remedies and their ability to protect themselves from violence. Without an effective system by which women can receive free legal advice and representation we believe that women will continue to be at risk of violence.

Our experience shows that when women are unable to obtain the advice and representation they need and are presented with the stark option of representing themselves in proceedings without the necessary understanding of the law, they are too often unable or unwilling to access the legal remedies available to protect them from violence.

We believe that more research needs to be carried out to assess the impact of our current legal aid system on all women to enable the Government to address the current inequalities experienced by women within it.

¹³ BPfA, Strategic Objective D.1, Para 125 (a).

3.2 Domestic violence

The Government and the Association of Chief Police Officers (ACPO) defines domestic violence as:

“...any incident of threatening behaviour, violence or abuse (psychological, physical, sexual, financial or emotional) between adults who are or have been in a relationship together, or between family members, regardless of gender or sexuality.”¹

From 2004 this definition has included violence from family members other than a woman's partner as well as specific forms of violence such as forced marriage and female genital mutilation (FGM). Rights of Women welcomes the use of a definition of domestic violence which encompasses the lived experience of what constitutes domestic violence for many women.

The law relating to domestic violence has developed in a piecemeal way which has resulted in some forms of violence having specific legal remedies and / or criminal offences while others do not. This chapter will therefore be concerned with the general civil and criminal framework that relates to domestic violence. Forced marriage and FGM are forms of domestic violence that have specific legal remedies and so these will be dealt with in separate chapters (see Section 3 Chapter 3 for information about forced marriage and Section 3 Chapter 6 for information about FGM).

3.2.1 Prevalence

Under the BPfA the Government must study the causes and consequences of violence against women.

It is estimated that domestic violence affects one in four women and nearly one million women experience at least one incident of domestic violence each year.² The most recent evidence on domestic violence from the British Crime Survey (a survey that measures crime in England and Wales) found that one in three violent incidents against women were perpetrated by a current or former partner, or member of her family.³ Domestic violence has the highest repeat victimisation rate (43%) of any violent crime;⁴ it accounts for one in six incidents of violence. Every week two women are killed by their current or former partners.⁵ Out of all the categories of 'serious violence' in the British Crime Survey, domestic violence is the only category for which the chances of being a victim are significantly higher for women than for men. Almost all domestic violence is directed by men against women.⁶ Domestic violence affects women of all ages and backgrounds regardless of economic or social status, race, religion or immigration status. However, some women, such as BME women, may face additional barriers such as racial discrimination or religious stereotyping, which prevents them from accessing protection.

¹ See the archived Crime Reduction website at <http://tna.europarchive.org/20100413151441/http://www.crimereduction.homeoffice.gov.uk/violentcrime/dv01.htm>, last visited May 2010.

² Figures taken from the British Crime Survey and reported in HM Government, *Together We Can End Violence Against Women and Girls: A Strategy*, November 2009.

³ Kershaw, C, Nichola, S, Walker, A (eds.) 'Crime in England and Wales 2007/2008: Findings from the British Crime Survey and police recorded crime', July 2008.

⁴ C, Nichola, S, Walker, A (eds.) 'Crime in England and Wales 2007/2008: Findings from the British Crime Survey and police recorded crime', July 2008, page 37.

⁵ Government Equalities Office, *Tackling Violence Against Women – A cross-governmental narrative*, April 2008.

⁶ See the archived Crime Reduction website which states women were victims in eight out of ten incidents of domestic violence with women being at higher risk of sustaining serious injury and experiencing repeat victimisation <http://tna.europarchive.org/20100413151441/http://www.crimereduction.homeoffice.gov.uk/violentcrime/dv01.htm>, last visited May 2010.

The British Crime Survey Self Completion Module collects some data on the protected characteristics of victims of domestic violence. Ethnicity is divided into white and non-white and the survey records little variation between these groups.⁷ Whether or not the victim has an insecure immigration status is not recorded. The British Crime Survey records information on disability and has found that having a disability was strongly associated with experiencing domestic violence.⁸ The Crown Prosecution Service (CPS) records disaggregated information on the ethnicity of victims of domestic violence offences through the Witness Management System.⁹ Data on ethnicity is available from April 2006 and information on religion or belief and disability from April 2007. Statistics on the protected characteristics of victims has not been included in the CPS' **Violence Against Women Crime Report**, as "completeness and accuracy ... remain under development."¹⁰

The collection and analysis of improved, disaggregated data is essential to underpin effective strategies to prevent and respond to domestic violence. Consequently, Rights of Women calls on the Research Development and Statistics section of the Home Office and the CPS to monitor all the protected characteristics alongside immigration status to ensure that trends are identified and specific needs of particularly vulnerable women met.

3.2.2 Domestic violence, human rights and violence against women

Under the BPfA the Government must define and respond to violence against women as set out in international law – addressing it through the framework of equality and non-discrimination and as a human rights issue.

The BPfA specifically identifies domestic violence as a form of violence against women. It refers to violence within the family and outlines that this includes, but is not limited to, "battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation."¹¹

Domestic violence raises a number of human rights issues that engage State responsibility, including:

- the right to be free from torture or cruel, inhuman or degrading treatment;
- the right to an effective remedy;
- the right to non-discrimination and equal protection of the law;
- the right to private and family life;
- the right to health; and,
- the right to life.

In 2009, in the landmark case of *Opuz v Turkey*,¹² the European Court of Human Rights found that Turkey had violated Articles 2 (right to life), 3 (right to be free from torture, inhuman or degrading treatment) and 14 (non-discrimination) of the **European Convention on Human Rights** because it had failed to act with due diligence to protect the applicant and her mother from domestic violence perpetrated by the applicant's former husband, violence that culminated in him murdering the applicant's mother. The court concluded that:

"Bearing in mind its finding above that the general and discriminatory judicial passivity in Turkey, albeit unintentional, mainly affected women, the Court considers that the violence experienced by the applicant and her mother may be regarded as gender-based violence which is a form of discrimination against women. Despite

⁷ Home Office Statistical Bulletin, *Homicides, Firearm Offences and Intimate Violence 2007/08 (Supplementary Volume 2 to Crime in England and Wales 2007/08)*, David Povey (Ed.), Kathryn Coleman, Peter Kaiza and Stephen Roe, Third Edition, 22 January 2009.

⁸ Home Office Statistical Bulletin, *Homicides, Firearm Offences and Intimate Violence 2007/08 (Supplementary Volume 2 to Crime in England and Wales 2007/08)*, David Povey (Ed.), Kathryn Coleman, Peter Kaiza and Stephen Roe, Third Edition, 22 January 2009, page 65.

⁹ Crown Prosecution Service, *Violence Against Women Crime Report, 2008-2009*, page 17.

¹⁰ Crown Prosecution Service, *Violence Against Women Crime Report, 2008-2009*, page 17.

¹¹ BPfA, Chapter IV (D) Paragraph 113.

¹² *Opuz v. Turkey*, European Court of Human Rights, Application No. 33401/02, judgment of 9 June 2009.

the reforms carried out by the Government in recent years, the overall unresponsiveness of the judicial system and impunity enjoyed by the aggressors, as found in the instant case, indicated that there was insufficient commitment to take appropriate action to address domestic violence (see, in particular section 9 of the CEDAW...)." ¹³

The finding of discrimination by the European Court of Human Rights in *Opuz* reflects the position of the CEDAW Committee that domestic violence, along with other forms of violence against women, constitute discrimination which require positive State action. ¹⁴

3.2.3 The law

Under the BPFa the Government must adopt and implement legislation providing adequate redress for women victims of violence through criminal and civil law remedies.

There are a range of criminal and civil law remedies which are designed to respond to and protect women from, domestic violence.

Civil law

The **Family Law Act 1996** (FLA), provides two types of civil remedies to enable a woman to obtain an injunction to protect her from domestic violence:

- **Non-molestation orders** which can forbid an abuser from using or threatening violence, harassing or intimidating another person(s); and,
- **Occupation orders** which regulate who lives in the family home and can require an abuser to leave the home and continue to pay the rent, mortgage and other bills.

Non-molestation and/or occupation orders are available against a broad range of perpetrators within the category of "associated person". This

includes people who are married, engaged, in a civil partnership as well as people who are in a relationship, live together or are related. They are available from either a county court or family proceedings court; and protection is available for the survivor herself and any relevant children. Both non-molestation and occupation orders can be obtained without notice to the abuser and can provide protection in emergency situations. ¹⁵

The **Protection from Harassment Act 1997** (the PFHA 1997) creates criminal offences and civil remedies that are designed to protect women from harassment or stalking. Section 1 of the PFHA 1997 states that a person must not pursue a course of conduct:

- which amounts to harassment of another; and
- which he knows or ought to know amounts to harassment of another.

A woman who is experiencing harassment or who is in fear of violence can report it to the police as these are criminal offences. She can also apply to the county courts for a **restraining order** against a person who is harassing her. Restraining orders can also be made in criminal courts in certain circumstances.

The **Domestic Violence Crime and Victims Act 2004** (DVCVA 2004) built on these remedies, most notably by making breach of a non-molestation order a criminal offence punishable by up to 5 years imprisonment. Rights of Women welcomed this development as it sends a clear message to perpetrators that breaching protective orders is unacceptable and because many women who contact us for legal advice have reported considerable problems enforcing their orders through the civil courts.

Another important development in the DVCVA 2004 was the extension of "associated persons" to include the category of "intimate relationship of a significant duration" and extension of the range of family members to include first cousins, ¹⁶

¹³ *Opuz v. Turkey*, European Court of Human Rights, Application No. 33401/02, judgment of 9 June 2009, Para 200.

¹⁴ See for example the decision in *AT v Hungary*, UN Committee on the Elimination of all forms of Discrimination Against Women, Communication No.2/2003, Ms. A. T. v. Hungary, views adopted on 26 January 2005, thirty-second session.

¹⁵ For more information see *Rights of Women, Domestic Violence Injunction Handbook, Second Edition, 2006*.

¹⁶ Injunctions under the FLA are specifically to deal with domestic violence, consequently, in order to apply for a non-molestation or occupation order the person seeking protection must be associated to her abuser. For more information see *Rights of Women, Domestic Violence Injunction Handbook, Second Edition, 2006*.

two changes which extend the protection available to those who have not lived together and to those experiencing violence from extended family members. Previously, these individuals would have had to apply for protection in the county court under the PFHA 1997.

The final significant change introduced by the DVCVA 2004 was section 12 which came into force on 30 September 2009. This provision amends the PFHA 1997 to enable a restraining order to be made on conviction or acquittal for any criminal offence. The restraining order will be made in situations where the court deems it necessary to protect a person from harassment, whether or not the perpetrator has been convicted of a criminal offence.¹⁷ The CPS has issued detailed guidance to help prosecutors to obtain restraining orders.¹⁸ This development is also welcomed by Rights of Women as it is hoped it will enable victims of domestic violence and harassment to get protection from their abusers irrespective of the outcome of the criminal proceedings and without having to make a separate application under the FLA 1996. It will be interesting to see how this will be used by the CPS and the courts and how effective it is at providing additional safety to victims of domestic violence.

Women’s primary concern is for their safety and the safety of children

Respondent to our survey

The importance of civil remedies is that they provide ongoing protection for those who are experiencing domestic violence, in contrast the criminal law which operates to punish perpetrators. The calls we receive from survivors of domestic violence highlight the important role that civil remedies play, as many women do not want to criminalise the person responsible for the

violence they are experiencing and simply want protection. Our survey indicated that 95% of women regarded safety as “extremely important” while only 50% identified bringing the perpetrator to justice in the same category. Consequently, while we welcome the criminalisation of breaching a non-molestation order, we believe that women should have the choice as to where to go for protection (either the civil or the criminal courts) and how to enforce any protective measures that are obtained. However, the way that civil remedies have to be obtained can deter women from using them.

Many women find the fear of an attacker crippling

Respondent to our survey

Special measures have been available in the criminal courts for some time (see Section 3, Chapter 4), providing women with protection from their perpetrator during the court process and improving the quality of their evidence. Other protections in the criminal courts include separate waiting areas and pre-court visits. Rights of Women believes that there is a lack of adequate support and protection for victims going through the civil court process, as special measures and other forms of support for witnesses are not currently available in the civil courts. While women cannot be personally cross-examined by an alleged perpetrator of sexual violence in the criminal courts, women going to the civil courts can be personally cross-examined by the person responsible for the violence they are experiencing. The lack of procedural protections in the civil courts act as a barrier to women accessing protection. Rights of Women therefore believes that measures developed to improve the evidence of witnesses in criminal courts should be available in the civil courts to enable those experiencing violence to access the remedy that they believe will most meet their needs.

¹⁷ For more information on Section 12 of Domestic Violence Crime and Victims Act 2004 see the Crown Prosecution Service Legal Guidance, Restraining Orders - Section 12 Domestic Violence, Crime and Victims Act 2004 (in force from 30 September 2009), added to the Crown Prosecution Service website on added 15th September 2009.

¹⁸ Crown Prosecution Service, Violence Against Women Crime Report, 2008-2009, page 20.

Further to a review by ACPO on dealing with repeat offenders of domestic violence the **Crime and Security Act 2010** introduces two significant new measures to offer protection to victims of domestic violence: **Domestic Violence Protection Notices (DVPNs)** and **Domestic Violence Protection Orders (DVPOs)**. DVPNs will be made by police officers who can then apply for a DVPO from a local magistrates' court. DVPNs and DVPOs can order a perpetrator to leave the family home and can forbid him from using or threatening violence against the person for whose benefit they are made. DVPNs and DVPOs should, therefore, create a stronger bridge between civil and criminal law, offering immediate protection to a woman following an incident of violence, whether or not the perpetrator goes on to be charged with a criminal offence. DVPNs and DVPOs will be piloted in two police force areas later this year.¹⁹

We know from callers to our telephone helplines that many women who contact the police in an emergency feel let down by the criminal justice system. Rights of Women, therefore, broadly welcome these proposals. We believe that women who contact the police in response to an incident of violence need and deserve immediate and meaningful protection, as well as information on their rights and the remedies available to them so that they can make informed decisions about their future. However, we have concerns about how DVPNs and DVPOs will work in practice, the most significant of which relate to service provision and training for the police to ensure an appropriate and uniform response.

According to the impact assessment,²⁰ key to the success of DVPNs and DVPOs will be the caseworker who should make contact with the victim, offer support and outline the options available to her. This might include advice on applying for domestic violence injunctions or on criminal proceedings. It is envisaged that the caseworker will make contact with the victim as soon as a DVPO is issued. The impact assessment refers to caseworkers rather than Independent Domestic Violence Advocates (IDVAs) because,

although the support offered will be similar, IDVAs currently work with high-risk clients only and it is hoped that DVPNs and DVPOs will be used by all victims, whether high risk or not, whose situation meets the legal criteria described above. The challenge is that it is not clear how this caseworker function will actually work in practice. The impact assessment implies that IDVAs currently in post could perform the caseworker function in addition to managing their 'high risk' cases. Alternatively, the impact assessment envisages that caseworker roles could be "grown" within existing specialist support services if they are given appropriate "capacity building support". Given the funding crisis that our sector is currently experiencing, it seems likely that domestic violence support organisations will need a funding commitment that goes beyond "capacity building" if DVPNs and DVPOs are to stand a chance of meeting their potential. The Home Office recognises this by stating that the lack of "availability of caseworker support locally" is a "key risk" to the success of their proposals. However, on the same page they say: "Where possible, we will be seeking to reduce the burden on the Home Office by asking local partners to share costs with us. Those police forces who work with the pilot would agree to work with local partners to ensure an adequate level of provision (above and beyond current caseload) would be provided for".

Civil law remedies play a key role in protecting victims, where prosecution of the perpetrator is not possible or desired. However, access to these remedies, support through the civil process and their enforcement needs to be improved to ensure that all women have access to the protection they offer.

Criminal law

There is no specific criminal offence of "domestic violence", however, there are a number of criminal offences that may be committed by perpetrators. These offences may be found in the PFHA 1997 or the **Offences Against the Person Act 1861** and include harassment, common

¹⁹ For further information about DVPNs and DVPOs see Briddick, Catherine., *Update: violence against women and the law, in Safe – The Domestic Abuse Quarterly, Issue 32, Winter 2010, published by Women's Aid.*

²⁰ This is a document that outlines the costs and risks of the proposals.

assault, assault occasioning actual bodily harm, grievous bodily harm, threats to kill and murder.²¹ However, the usefulness of the criminal law in protecting those experiencing violence is dependent on the effectiveness of the criminal justice system and the response of the police and CPS (see below).

3.2.4 The policy

Under the BPfA the Government must:

Develop strategic policies and action plans that address all forms of violence against women and mainstream a gender perspective in all policies and action plans; and

Adopt and implement gender-sensitive policies to prevent and respond to violence against women at all levels.

Home Office

The first **National Domestic Violence Delivery Plan** (NDVDP) was produced in 2005 further to a consultation called **Safety and Justice**. The progress of this plan was most recently reported on in 2008. The plan focused on placing the victim at the heart of the criminal justice system; managing perpetrators to reduce the risk they pose; and, ensuring the provision of specialist support services for victims. The aims of the NDVDP 2005 were to:

- Reduce the number of domestic violence related homicides.
- Reduce the prevalence of domestic violence.
- Increase the rate at which domestic violence is reported.
- Increase the rate at which domestic violence offences are brought to justice.

- Ensure victims of domestic violence are adequately protected.

The NDVDP committed to funding Independent Domestic Violence Advisers, rolling out the Specialist Domestic Violence Court Programme (SDVCs) and developing a multi-agency response to domestic violence.²²

Independent Domestic Violence Advisers

(IDVAs) are trained specialist case workers who focus on protecting women at the highest risk of domestic violence. They work with statutory and voluntary agencies but are independent of both. A report published in November 2009 found that 57% of all victims supported by IDVAs surveyed experienced a near or complete cessation in the abuse they were experiencing following the support of an IDVA. The report also found that the receipt of multiple forms of support also increased the chances of positive changes in victim safety occurring.²³ Consequently, the report recommended that there is a need to expand the provision of IDVAs.²⁴

More than 50% of the respondents to the Rights of Women survey indicated that they regarded IDVAs as effective or very effective in tackling violence against women.

I think that IDVAs are highly effective as an immediate high risk response...

Respondent to our survey

Rights of Women welcome the use of IDVAs which have been shown to reduce repeat victimisation, diminish levels of abuse, increase the number of survivors willing to support a prosecution²⁵ and increase safety for victims.

²¹ This is not an exhaustive list, the range of criminal offences is extensive and the sanctions for criminal offences include custodial prison sentences ranging from six months to life imprisonment. For more information see *Rights of Women, Pathways to Justice, BMER Women, Violence and the Law, 2007*.

²² See Home Office, *Domestic Violence a National Report, 2005*.

²³ Howarth, Stimpson, Barran and Robinson, *Safety in Numbers: Summary of Findings and Recommendations from a Multi-site Evaluation of Independent Domestic Violence Advisors, November 2009*.

²⁴ Howarth, Stimpson, Barran and Robinson, *Safety in Numbers: Summary of Findings and Recommendations from a Multi-site Evaluation of Independent Domestic Violence Advisors, November 2009*.

²⁵ HM Government, *Together We Can End Violence Against Women and Girls: A Strategy, November 2009, page 49*.

However, there is an urgent need to extend the programme to offer IDVA support to more women affected by violence, from those who are considered to be at “high risk” to other women experiencing violence who would benefit from their support.

Multi-agency Risk Assessment Conferences (MARACs)²⁶ were introduced from 2003 in order to ensure a more coordinated response by both statutory and voluntary organisations in cases where women are considered to be at high risk. MARACs provided protection to 29,000 women²⁷ in the year 2008 / 2009 and there are now over 225 across England and Wales.²⁸

Whilst just over 50% of respondents to our survey indicated that they regarded MARACs as effective or very effective in tackling violence against women, there was some criticism of their scope and implementation.

The implementation of MARAC's has not been considered in context to sustaining the service and the remainder of the 90% cases of domestic violence. Awareness raising and the actual implementation of MARAC's has been limited due to limited resources and an under appreciation of the importance of voluntary services and their response to victims of domestic violence.

Respondent to our survey

Rights of Women welcomes the commitment in the England strategy to rolling out MARACs to cover all geographical areas and to reach 50,000 victims by 2011.²⁹ The ACPO review on reducing repeat victimisation carried out in 2009 proposed putting MARACs on a statutory footing to provide a consistent and multi-agency statutory response to managing high risk victims of domestic violence.³⁰ Rights of Women welcomes this proposal as MARACs have been found to be an effective way of reducing repeat victimisation and ensuring the safety of high risk victims. However, Rights of Women believes that the protections offered by MARACs should be made available to women who are not considered to be “high risk” and should be combined with greater awareness raising to ensure their efficacy.

In the England strategy, the Government has committed to exploring how to enable third parties, such as IDVAs, to apply for civil injunctions on behalf of victims.³¹ The operation of third party applications in forced marriage protection orders (see Section 3 Chapter 3) is in the early stages. There are some benefits to this proposal, in particular, it may assist women who are too intimidated to apply themselves to gain protection, putting distance between the victim and the application process. Rights of Women, however, has some reservations about this proposal as it could take the choice away from the woman concerned and further jeopardise her safety. Therefore, Rights of Women believes that third party applications should only be made in certain limited circumstances, for example, when the woman has given her informed consent to the application being made on her behalf. It will also be important that there is a leave hearing to examine the appropriateness of making the application for each individual concerned.

²⁶ MARACs are multi agency meetings held to support victims at high risk of domestic violence and are attended by local agencies from both the statutory (including police, probation, health visitors etc) and voluntary sector (including support workers and IDVAs). The participants share information and put in place a safety plan for the victims, with the purpose of protecting victims and their children from further domestic violence.

²⁷ HM Government, *Together We Can End Violence Against Women and Girls: A Strategy*, November 2009, page 17.

²⁸ HM Government, *Together We Can End Violence Against Women and Girls: A Strategy*, November 2009, page 17.

²⁹ HM Government, *Together We Can End Violence Against Women and Girls: A Strategy*, November 2009, page 73.

³⁰ Association of Chief Police Officers, *Tackling Perpetrators of Violence Against Women and Girls*, ACPO Review for the Home Secretary, September 2009.

³¹ HM Government, *Together We Can End Violence Against Women and Girls: A Strategy*, November 2009, page 86.

Police

The Police have acknowledged that domestic violence is both under-reported and under-recorded and have taken steps in recent years to deal with this. The National Policing Improvement Agency (NPIA) and ACPO **Guidance on Investigating Domestic Abuse 2008** is an extensive policy document recognising the specialist nature of domestic violence and setting out a clear and detailed process for reporting and identifying domestic violence, dealing with victims and providing them with support and safety. The guidance recommends the wider use of specialist domestic violence officers, referrals to IDVAs (where appropriate) and taking a multi-agency approach rather than simply a criminal justice approach to tackling domestic violence.³² The guidance is targeted at chief police officers, it is gender neutral and it is not mandatory.³³ It states that every police force should have a domestic violence co-coordinator and a domestic violence champion.

The Home Office confirmed that domestic violence training was rolled out to all police officers by 2008.³⁴ The ACPO Guidance is linked to the National Policing Improvement Agency (NPIA) modular training process and according to the England strategy NPIA is currently updating police training on domestic violence.³⁵ Rights of Women agree with the England strategy's recognition that training of police forces must be consistent and updated.³⁶ Calls to our advice lines indicate that many women reporting violence are simply not responded to appropriately or in line with the guidance. Rights of Women believes that training, alongside the widespread use of the guidance is vital if women experiencing violence are to receive a consistent and high quality response from the police.

The **ACPO Domestic Abuse, Stalking and Harassment (DASH) risk assessment** model seeks to ensure that all police officers, and other practitioners, working with victims of domestic violence will have a common process for identifying and assessing risk.³⁷ The risk assessment is a series of questions which helps the police identify those victims of domestic violence who are at serious risk of harm and who should be referred to a MARAC. The risk assessment also deals specifically with assessing risk of honour-based violence. Rights of Women welcomes the Government's commitment in the England strategy to seeing this rolled out nationally and having all officers trained in using it.³⁸

The police have guidance on interviewing vulnerable and intimidated witnesses in **Achieving Best Evidence**³⁹ which, following the **Youth Justice and Criminal Evidence Act 1999** enables the use of video recorded interviews which can be used as a witnesses' examination-in-chief if the case subsequently goes to court. Rights of Women believes that this protection should be extended to enable all those who have reported offences relating to domestic violence to be able to make an informed choice about whether or not their interview is recorded.

The police are also required to comply with the **Code of Practice for Victims of Crime** (the Victims Code)⁴⁰ which states that victims of domestic violence should receive an "enhanced service" from agencies in the criminal justice system. The Victims' Code states that women who have experienced domestic violence should be informed about developments in the case within specific time scales, as well as when key decisions are made, such as to arrest or charge a suspect. However, from our experience on our

³² See National Policing Improvement Agency, *Guidance on investigating Domestic Abuse, 2008*.

³³ For more information see the website of the National Policing Improvement Agency.

³⁴ See <http://www.crimereduction.homeoffice.gov.uk/violentcrime/dv01.htm>, last visited May 2010.

³⁵ HM Government, *Together We Can End Violence Against Women and Girls: A Strategy, November 2009*, page 65.

³⁶ HM Government, *Together We Can End Violence Against Women and Girls: A Strategy, November 2009*, page 65.

³⁷ See *Domestic Abuse, Stalking and Harassment and Honour Based Violence (DASH, 2009) Risk Identification and Assessment and Management Model*, created by Laura Richards on behalf of ACPO and in partnership with CAADA.

³⁸ HM Government, *Together We Can End Violence Against Women and Girls: A Strategy, November 2009*, page 65.

³⁹ Crown Prosecution Service, *Achieving Best Evidence in Criminal Proceedings: Guidance on Interviewing Victims and Witnesses, and Using Special Measures*.

⁴⁰ Home Office, *The Code of Practice for Victims of Crime, October 2005*.

advice lines the implementation of the Victims Code varies considerably, and in a high percentage of cases, is simply not followed at all. Many women are simply unaware of the provisions of the Victims Code, and so have no knowledge about the service they are entitled to or how to complain. Rights of Women therefore believes that much more needs to be done to “embed” the Victims Code in police practice to ensure that all victims of domestic violence get the service that they need and are entitled to.

Our survey indicated a negative experience of the police to violence against women generally with only 14.4% of respondents rating police response as effective or very effective.

Police still divide women into good victims and bad victims. Good victims leave abusers. Go to refuges. Carry on with prosecution. And never go back even once. Bad victims...are most of us. There still needs to be much attitude changing needed in police although their response has improved over years.

Respondent to our survey

We know from callers to our telephone helplines that many women who contact the police still feel let down by the response they receive. In addition to concerns they might have about whether or not they will be believed and supported if they report domestic violence to the police, many women feel that the procedures used to deal with criminal offences simply do not offer them meaningful protection from future violence. Rights of Women therefore welcomes the commitment in the England strategy to improving the police response to victims of domestic violence.

Crown Prosecution Service (CPS)

The CPS has made a great deal of progress in responding to domestic violence since their commitment to tackling it was reaffirmed in their **Violence Against Women Strategy 2008**.⁴¹ The CPS exceeded its target of 70% of successful prosecutions by April 2008 and prioritised violence against women as a national strategic theme in 2007–08.⁴² Rights of Women welcomes this significant improvement and achievement in the CPS’ response to domestic violence.

Specialist Domestic Violence Courts (SDVCs) have been at the centre of the National Domestic Violence Delivery Plan (see above) and the CPS has played a key role in implementing them. SDVCs provide a multi-agency approach to the specific safety and support needs of domestic violence victims within the criminal justice process.⁴³ The purpose of SDVCs is to enable police, prosecutors, courts and specialist services to work together to identify and track domestic violence cases, support victims and bring more offenders to justice. The key features of the 127 SDVCs across England and Wales include:

- police officers trained in investigating domestic violence;
- specially trained magistrates;
- specially trained prosecutors and CPS caseworkers;
- separate entrances and exits for victims; and,
- tailored support and advice for victims from IDVAs.

By September 2008 almost all prosecutors and caseworkers had received training on domestic violence.⁴⁴ Rights of Women welcomes the extension of the SDVCs and the successes that the CPS has had in this process. However, from the experience of our Legal Officers in advocating in these courts, and from our advice line callers, we are concerned about the consistency in service given to women whose cases go to an SDVC. In some areas women report feeling safe and

⁴¹ Crown Prosecution Service, Equality and Diversity Unit, *Violence against women Strategy and action plans*, published April 2008.

⁴² Home Office, *National Domestic Violence Delivery Plan, Annual Progress Report 2007/08*.

⁴³ HM Government, *Together We Can End Violence Against Women and Girls: A Strategy*, November 2009, page 67.

⁴⁴ See CPS *National Domestic Violence Delivery Plan Annual Progress Report 2007/8*.

supported while in others CPS Prosecutors remain overburdened (which can result in poor quality advocacy or decision-making) and a number of cases continue to be listed for the same time (with the consequence that trials are adjourned). Rights of Women believes that SDVCs have to be “more than a name”; they have to guarantee a consistently high response to survivors of domestic violence who use them.

The **CPS Guidance for Prosecuting Cases of Domestic Violence**⁴⁵ was issued in March 2009 and provides a comprehensive procedure for dealing with domestic violence cases, including how domestic violence is prosecuted and what victims can expect.

Central to CPS policy is the prosecution of all cases of domestic violence where there is sufficient evidence to proceed and the victim is willing to give evidence regardless of the seriousness of the injuries received or of whether the parties have reconciled. This is an important commitment and one which we have welcomed as sending out a clear message that all domestic violence is unacceptable.

Of some concern to us, however, is the CPS’ policy to continue with a prosecution without the victim’s co-operation.⁴⁶ Whilst we understand and accept the reasoning behind this policy, we are concerned with how it is implemented and the effect that it can have on survivors. Women who have contacted us for advice following being summoned report feeling bullied or intimidated. Witnesses summons need to be used alongside a tailored support package to ensure that women who are compelled to give evidence are not put at further risk or suffer unnecessary anxiety.

In accordance with the Victims Code (see above) victims of domestic violence are considered vulnerable or intimidated witnesses and they should receive an enhanced service from the CPS.⁴⁷ However, as is the case with the police, Rights of Women is concerned that the Code is not routinely followed by Prosecutors, with the

consequence that survivors continue to feel let down by the criminal justice process.⁴⁸

The CPS plays an important and integral role in the criminal justice system and has made great progress in increasing conviction rates for domestic violence. However, Rights of Women is concerned that while CPS policies purport to be victim centred, these policies are still not followed routinely by Prosecutors, a failure that results in those who have experienced domestic violence continuing to feel, in many cases, disenfranchised by the criminal justice system.

3.2.5 Raising awareness and challenging stereotypes

Under the BPfA the Government must raise awareness of violence against women and challenge discriminatory attitudes and stereotypes including harmful traditional or social practices through education and the media.

There needs to be a seismic shift in society for violence against women to end.

Respondent to our survey

A number of myths and stereotypes exist about domestic violence. In the past most advertising campaigns focused on providing information and safety for women experiencing domestic violence rather than on educating the general public as to the reality of the problem. Various police forces across England and Wales have run campaigns to tackle domestic violence. For example the Metropolitan Police ran a campaign with the slogan “Domestic Abusers are Losing Control,” featuring a picture of a man being arrested.⁴⁹

⁴⁵ Crown Prosecution Service, *CPS Policy for Prosecuting Cases of Domestic Violence*, March 2009.

⁴⁶ Crown Prosecution Service, *CPS Policy for Prosecuting Cases of Domestic Violence*, March 2009.

⁴⁷ Home Office, *The Code of Practice for Victims of Crime*, October 2005.

⁴⁸ Payne, Sarah., *Victims' Champion, Redefining justice: Addressing the individual needs of victims and witnesses*, November 2009.

⁴⁹ See http://www.met.police.uk/campaigns/domestic_violence/index.htm, last visited May 2010.

Alongside the need for increased awareness raising amongst the public, Rights of Women would call for increased awareness raising amongst women experiencing violence on the range of remedies available, including civil remedies.

Following the launch of the England strategy, the Government has already run a television campaign this year to challenge the perceptions of and change the attitudes of teenagers towards domestic violence. The England strategy also commits to working with the National Union of Journalists to draw up guidance for their members to ensure responsible reporting of violence against women.⁵⁰

Rights of Women welcomes the commitment in the England strategy to support the promotion of healthy relationships, and non-violence through work with children and young people in schools, and adults through parenting guidance and family support.⁵¹ We also warmly welcome the commitment that information on equality and violence against women will be introduced to the school curriculum.⁵² We would urge the Government to continue to roll out awareness raising initiatives and also work with voluntary organisations and the media to raise awareness of domestic violence, its causes and consequences and the remedies available to address it.

3.2.6 Availability and accessibility of services

Under the BPfA the Government must:

Allocate adequate resources within its budget including resources for the implementation of plans of action at all appropriate levels; and

Ensure access to and availability of services for all women including by giving vigorous support to the efforts of women's organisations and other non-governmental and community organisations.

The Government must accept that women's voluntary organisations have a wealth of expertise, experience and knowledge with regard to male violence against women and children.

Respondent to our survey

Rights of Women believes that effective civil and criminal remedies in isolation are not enough to provide women with the information and support they need to address the violence they have experienced.

The Government has, in recent years, recognised the need for a more holistic approach to domestic violence with the introduction of IDVAs and MARACs. In the England strategy, service provision for victims of violence has been divided into six key service areas:

- easily accessible advice available 24 hours a day;
- trained front line staff;
- acute care in the aftermath of violence;
- independent and personalised advocacy;
- follow up and support for longer term help; and,
- safe emergency accommodation.⁵³

Much of the service provision for survivors of domestic violence is provided by the third sector and funded by either central or local Government or through other fundraising initiatives.

Government strategies to respond to domestic violence rely significantly on the work done by the voluntary and community sector. Specialist domestic violence support organisations provide specialist workers and dedicated women-only services which save lives and reduce the

⁵⁰ HM Government, *Together We Can End Violence Against Women and Girls: A Strategy*, November 2009, page 21.

⁵¹ HM Government, *Together We Can End Violence Against Women and Girls: A Strategy*, November 2009, page 20.

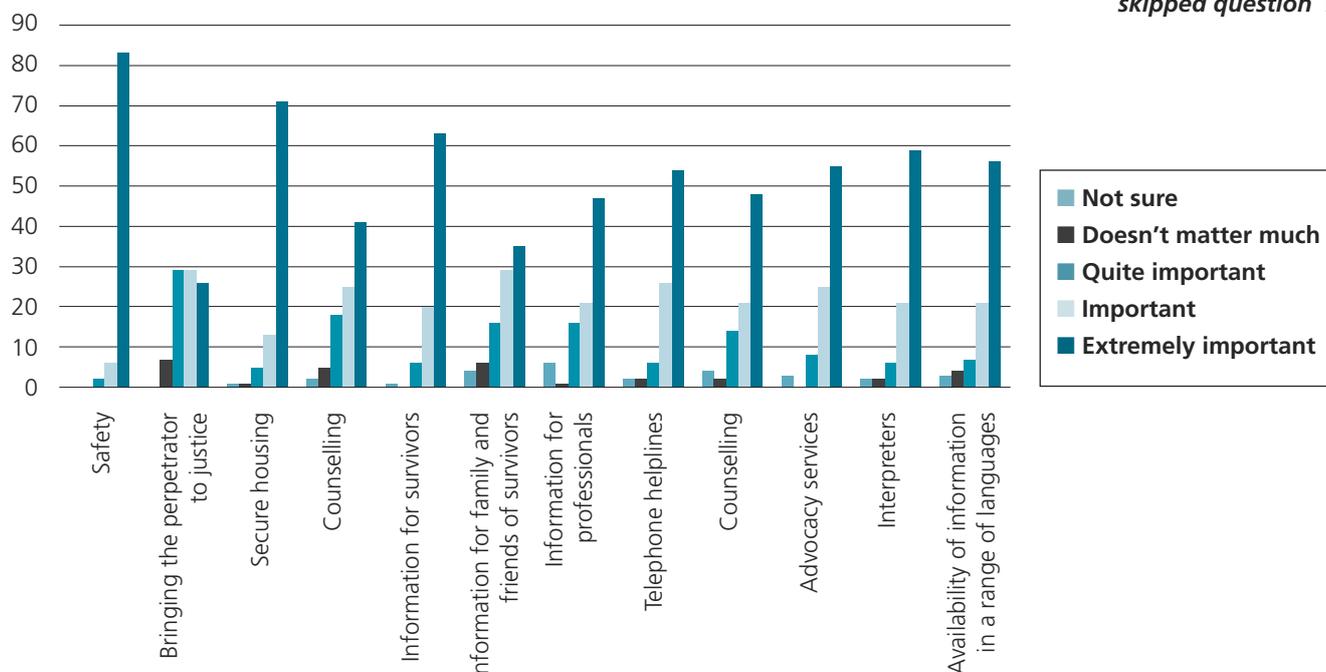
⁵² HM Government, *Together We Can End Violence Against Women and Girls: A Strategy*, November 2009, page 21.

⁵³ HM Government, *Together We Can End Violence Against Women and Girls: A Strategy*, November 2009, pages 39-40.

Respondents to our survey were asked to rate the importance of a number of issues to their service users. As the results below demonstrate, the three most important issues thought to be a priority for service users were safety, secure housing and information, respectively.

Answer Options	Extremely important	Important	Quite important	Doesn't matter much	Not sure	Response Count
Safety	83	6	2	0	0	91
Bringing the perpetrator to justice	26	29	29	7	0	91
Secure housing	71	13	5	1	1	91
Counselling	41	25	18	5	2	91
Information for survivors	63	20	6	0	1	90
Information for family and friends of survivors	35	29	16	6	4	90
Information for professionals	47	21	16	1	6	91
Telephone helplines	54	26	6	2	2	90
Counseling	48	21	14	2	4	89
Advocacy services	55	25	8	0	3	91
Interpreters	59	21	6	2	2	90
Availability of information in a range of languages	56	21	7	4	3	91
Other (please specify)						17

answered question 91
skipped question 9



devastating impact that domestic violence has on individuals, families and society as a whole. However these organisations are currently experiencing a funding crisis (see Section 2 Chapter 2).

The England strategy states that there has been an investment of £61 million since 2003 and that in 2007/8 local authorities spent over £64.5 million on housing related support services for women at risk of domestic violence.⁵⁴ Preventing

women from becoming homeless due to domestic violence also forms part of accommodation provision. The Government states that from 2008 to 2011, £220 million has and is being made available for tackling and preventing homelessness in local areas.⁵⁵ It is unclear how much of this money is being used to prevent and respond to domestic violence.

Sanctuary Schemes are also central to the England strategy. Sanctuary Schemes involve providing

⁵⁴ HM Government, *Together We Can End Violence Against Women and Girls: A Strategy*, November 2009, page 53.

⁵⁵ HM Government, *Together We Can End Violence Against Women and Girls: A Strategy*, November 2009, page 53.

extra security measures in a woman's home, such as panic alarms, security bars and toughened doors where a perpetrator has been lawfully removed. However, there has not been more recent comprehensive evaluation of the Sanctuary Schemes so it is not clear how successful they are in protecting women from violence and reducing homelessness.

We believe that evaluation and monitoring needs to be undertaken into how local authorities spend money to prevent homelessness. Funding for specialist domestic violence services also needs to be ring-fenced to ensure adequate services are available to all women experiencing domestic violence, regardless of where in the country they live.

Measuring up: Preventing and responding to domestic violence in England and Wales

Domestic violence is probably the form of violence against women that has seen the greatest improvements in law and policy and investment in services. Civil law remedies, such as occupation and non-molestation orders, play a vital role in protecting victims and we have welcomed the increased protection offered by the Domestic Violence Crime and Victims Act 2004 and the Crime and Security Act 2010. The criminal law, in our view, provides a sufficient range of offences for which perpetrators of domestic violence can be brought to justice. We also welcome the Government's commitment in the England strategy to continuing the measures and initiatives developed over the past few years to tackle domestic violence and provide support and protection for women.

Despite this progress, we remain concerned about a number of issues in relation to the implementation of the law and policy on domestic violence and have identified the following areas for improvement:

- There is a need for a review of the current legal aid system to ensure that women have fair and equal access to free legal advice and representation in proceedings to protect them from domestic violence.
- We would like to see the introduction of similar protections for witnesses in civil proceedings as there are in criminal proceedings. The implementation of special measures in the civil courts will increase women's confidence and safety in using civil remedies.

- Despite significant improvements in the police response to domestic violence, policies on the investigation of domestic violence and the treatment of vulnerable and intimidated witnesses needs to be implemented consistently across all police force areas and in all ranks. Women who report domestic violence to the police should be treated with dignity and respect and complaints need to be investigated thoroughly and in a way that is victim-centred.
- Women’s confidence in the criminal justice system will only improve if all women receive an “enhanced service” from agencies like the police and CPS. Rights of Women therefore believes that there needs to be a stricter adherence to the Victims Code by all agencies bound by it.
- Whilst we welcome the continued commitment of the Government to the provision of IDVAs and MARACs, we are concerned that these continue to be available only in high risk cases. Rights of Women believes that specialist services and multi-agency working is required for all victims of domestic violence.
- Alongside investment in awareness raising and education on domestic violence, we would like to see increased efforts to raise awareness amongst those at risk of, or experiencing domestic violence about the legal remedies and services available to them.
- Specialist women only services must be funded and supported to provide all women who need it with the accommodation, support and information they need. There is a need for greater commitment by the Government, both locally and nationally, to fund the provision of these services.

3.3 Forced marriage

A forced marriage is a marriage in which one or both parties to the marriage do not consent to the marriage taking place and duress is involved. The definition of duress used by the Government includes physical, psychological, sexual, financial and emotional pressure.¹ This is a broad definition and one which is welcomed by Rights of Women, as it covers a spectrum of violence including physical and non-physical abusive behaviour which often accompanies forced marriage.

This Chapter examines the law and policy in relation to forced marriage in England and Wales.

3.3.1 Prevalence

Under the BPfA the Government must study the causes and consequences of violence against women.

The Forced Marriage Unit (FMU) received reports of 1682 incidents of forced marriage in 2009, 86% of which involved women. However, forced marriage is widely regarded as an underreported problem and the statistics from the FMU are believed to represent only the tip of the iceberg. The FMU recognises that many women affected by forced marriage may not contact the FMU and their cases may be dealt with by voluntary organisations or other statutory agencies such as the police. One of the objectives of the FMU's 2009 - 2010 Action Plan is "to work with government and agency partners to develop mechanisms for improved collation of national statistics on forced marriage cases" in an effort to present the true scale of the problem.²

The majority of forced marriage reports to the FMU involve women from South Asia. 56% of reports of forced marriage in 2009 involved the Pakistani community and 10% and 8% of reports were from individuals of Bangladeshi and Indian origin respectively.³ This may reflect the fact that the UK has a large and established South Asian community.

There is evidence to suggest that forced marriage is more widespread than this and that the occurrence of forced marriage outside of South Asian communities is not reflected in the statistics. According to the FMU's data the practice of forced marriage also affects women from the Middle East, North Africa, Turkey, Afghanistan, and there is anecdotal evidence to suggest that forced marriage is an issue for women in Irish travelling communities.⁴ In 2009, Refuge carried out a research project funded by the FMU which looked at forced marriage in the UK and the experience of women in Middle Eastern and North East African communities. The study highlighted that less than half of the forced marriage survivors (42%) supported by Refuge were from South Asia, compared to 74% of cases reported to the FMU. Refuge's research shows that this may be an issue with survivors not identifying themselves as being in a forced marriage situation when they first seek help, but that it can become clear, when a case worker works with a woman to explore how her marriage came about, that she is in a forced marriage situation.⁵

There is anecdotal evidence to suggest that as many as 10% of those affected by forced marriage have learning difficulties and the Judith Trust is currently carrying out detailed research on

¹ HM Government, *Multi-agency practice guidelines: Handling cases of forced marriage*, 2009.

² Foreign and Commonwealth Office, *Forced Marriage Unit, Action Plan 2009-2010*.

³ For more information on these statistics contact the Forced Marriage Unit.

⁴ Marianne Hester, Khatidja Chantler, Geetanjali Gangoli, Jasvinder Devgon, Sandhya Sharma & Ann Singleton, *Forced marriage: the risk factors and the effect of raising the minimum age for a sponsor, and of leave to enter the UK as a spouse or fiancé(e)*, 2008.

⁵ Refuge, *Forced Marriage in the UK: A scoping study of women from Middle Eastern and North East African Communities*, February 2010.

this which is due to be published in July 2010.⁶ The FMU began monitoring disability in forced marriage in August 2009. In at least 15 cases of forced marriage dealt with by the FMU, the individual identified as having learning difficulties and 7 as having physical difficulties.⁷

Insufficient information exists on the extent and prevalence of forced marriage in the UK and the way that it affects different groups of women. We welcome recent commitments by the FMU to address this concern and consider that improved, disaggregated data are essential to underpin effective strategies to prevent and respond to forced marriage and also to monitor the effective implementation of legislation.

3.3.2 Forced marriage, human rights and violence against women

Under the BPfA the Government must define and respond to violence against women as set out in international law – addressing it through the framework of equality and non-discrimination and as a human rights issue.

The BPfA clearly outlines forced marriage as a form of violence against women.

Forced marriage raises concerns related to a number of human rights including the right to freely choose a spouse and to enter into marriage only with free and full consent, the right to non-discrimination and equal protection of the law.

The right to freely choose a spouse and to enter into marriage only with free and full consent is provided by CEDAW Article 16(1)(a) and (b) which provides that:

1. States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:

(a) The same right to enter into marriage;

(b) The same right freely to choose a spouse and to enter into marriage only with their free and full consent.

Forced Marriage can also violate the right to non-discrimination and equal protection of the law. The CEDAW Committee has clarified that “a woman's right to choose a spouse and enter freely into marriage is central to her life and to her dignity and equality as a human being subject to reasonable restrictions based for example on woman's youth or consanguinity with her partner, a woman's right to choose when, if, and whom she will marry must be protected and enforced at law.”⁸

Under the BPfA and general international human rights law, the UK Government must act with due diligence to prevent and respond to forced marriage. As is outlined below, available information and statistics indicate that forced marriage affects different groups of women disproportionately in the UK. The due diligence standard and right to non-discrimination that applies to all human rights requires that the UK Government must tailor its responses to forced marriage, including the support services available to different groups of women, according to their individual needs and circumstances, in order to ensure that they enjoy equal protection and benefit of the law.

3.3.3 The law

Under the BPfA the Government must adopt and implement legislation providing adequate redress for women victims of violence through criminal and civil law remedies.

The Forced Marriage (Civil Protection) Act 2007 (the Act) came into force in November 2008 and created a new civil law remedy for those affected by forced marriage and for the first time, provided a legal framework for State intervention in forced marriage. Those at risk of or who have

⁶ *The Judith Trust work to support people with learning disabilities and mental illness needs. For more information visit <http://www.judithtrust.org.uk/>.*

⁷ *For more information on these statistics contact the Forced Marriage Unit.*

⁸ *UN Committee on the Elimination of Discrimination against Women, General Recommendation No.19, Violence against women, Eleventh Session, 1992, Para 16.*

experienced forced marriage can now apply to the county court or the High Court for a forced marriage protection order (FMPO). A FMPO can forbid a perpetrator from a wide range of behaviours including using or threatening violence, making arrangements for a marriage or taking the victim abroad as well as ordering them to hand over passports and travel documents or revealing the whereabouts of the victim. One important difference between this type of protection and other civil law remedies (such as non-molestation orders, occupation orders and restraining orders; see Section 3 Chapter 2 on domestic violence) that address violence is that persons other than the victim can apply as third parties for an order either with the court's permission or by virtue of being a relevant third party and authorised to be able to make such applications.

It was decided further to a Government consultation in 2008 that local authorities were best placed to take on the role of relevant third parties as it would compliment the work they already do in protecting children and vulnerable adults.⁹ From 1 November 2009 local authorities are designated as relevant third parties and can apply for FMPOs in respect of those affected by forced marriage.

The same consultation also highlighted the role that the voluntary sector plays in supporting applicants through court proceedings such as providing Independent Domestic Violence Advisors (IDVAs) and other specialist victim centred services.¹⁰ Under the current provisions, an IDVA can apply on behalf of a victim with leave (permission) of the court or could support a victim in their application for an FMPO. There is scope within the Act to extend the role of relevant third party to other agencies and the Ministry of Justice have carried out a pilot scheme into IDVAs acting as relevant third parties. The pilot lasted 6 months and the consultation report, which is due to be published in June 2010, should indicate whether

IDVAs will become relevant third parties or whether it is sufficient for them to apply for orders with leave of the court.¹¹ The FMU also consulted with voluntary sector organisations at an FMU NGO Roundtable in March 2010 on the extension of the category of relevant third party to voluntary organisations. At this meeting which Rights of Women attended representatives from voluntary sector organisations supporting women affected by forced marriage welcomed the idea of IDVAs acting as relevant third parties but raised a number of concerns including funding for IDVA roles and also a need for training and understanding of the law.

FMPOs are currently only available in a number of designated courts; including the High Court in London (Royal Courts of Justice) or wherever the High Court has jurisdiction, the Principal Registry of the Family Division (central London) and the county courts in Birmingham, Blackburn, Bradford, Bristol, Cardiff, Derby, Leeds, Leicester, Luton, Manchester, Newcastle, Middlesbrough, Romford and Willesden. The Ministry of Justice has no current plans to roll this out to all county courts across England and Wales.¹²

The number of FMPOs made during the pilot exceeded expectations and as of 31 March 2010, 131 FMPOs had been issued throughout England and Wales. The Government's estimate of 40 – 50 FMPOs in the first year was exceeded and this would seem to be evidence that this new protection has been welcomed by women and professionals. The Ministry of Justice's '**One Year On**' Report (published twelve months after the in-force date of the Act), indicates that this may be because the application process is straightforward and due to the fact that the police have been proactive in using FMPOs, seeing the orders as both emergency intervention and as providing preventative protection to victims of honour-based violence.¹³

⁹ *Forced Marriage (Civil Protection) Act 2007 – Relevant Third Party CP 31/07.*

¹⁰ *Home Office, Specialist Domestic Violence Court Programme Resource Manual, March 2006.*

¹¹ *For more information contact the Family Law and Justice Division at the Ministry of Justice.*

¹² *For more information contact the Family Law and Justice Division at the Ministry of Justice.*

¹³ *Ministry of Justice, One Year On: the Initial impact of the Forced Marriage (Civil Protection) Act 2007 in its first year of operation, November 2009.*

The Ministry of Justice advised in June 2009 that a third of the orders made at this time had been with respect to children under the age of 16, a third had been made to protect individuals between the ages of 16 and 18 years; and a third in respect of people over the age of 18.¹⁴

Unfortunately, 'One Year On' does not provide disaggregated statistics in relation to those protected by the orders made and does not give details of the particular courts which have made the orders. The rationale for this is that as so few orders have been made, they do not want individuals to be identified through the data. The report does highlight that two thirds of the orders have been made in two of the designated courts and there is anecdotal evidence to indicate that many of the FMPOs have been made in Birmingham County Court.¹⁵

One of the real benefits of FMPOs is that they are available to women regardless of their immigration status. The courts have been willing to make orders in respect of women who are not permanent residents in England and Wales and whose immigration position is insecure. Rights of Women welcomes this approach as providing important protection to a group of women who are particularly vulnerable and disadvantaged and who face additional barriers to accessing their legal rights and remedies.

The Act also puts previously discretionary guidance for public bodies on a statutory footing.

The Right to Choose: Multi agency statutory guidance for dealing with forced marriage sets out the duties and responsibilities of public bodies including the police, education and health services as well as local authorities in respect of protecting children, young people and adults facing forced marriage. The guidance is targeted at chief executives and senior managers and not frontline staff. It includes obligations to ensure that:

- there is a named person who is responsible for ensuring cases of forced marriage are handled monitored and recorded properly;

- they have policies and procedures in place to protect those facing forced marriage; and,
- their staff understand their role in protecting people under threat of forced marriage.

The Act does not create a specific enforcement process to deal with failures to abide by the statutory guidance. The process for dealing with a breach would be to raise this with internal management and, if necessary, to refer the matter to the governing body of the particular agency. For example, if it was about a school OFSTED would deal with it, or at more senior levels it could be referred to the relevant Government department such as the Department of Children, Schools and Families.

Protecting vulnerable adults: The High Court has inherent jurisdiction (the power to make orders) to protect vulnerable adults and over the past few years has made orders to protect women affected by forced marriage. For example, in the case of *Re SK*¹⁶ the High Court made an order in respect of a British citizen in Bangladesh who, reports suggested, was being forced into a marriage. Her parents were ordered to disclose her whereabouts and assist her to visit the British High Commission in Dhaka to be interviewed alone. They were forbidden to allow her to undergo a marriage or from using or threatening to use violence against her. Rights of Women welcomes the fact that the Act preserved the powers of the High Court in relation to forced marriage as this ensures that the High Court has a range of powers to deal with the challenging issues it raises.

Criminal law remedies: In addition to the new civil law remedy, the act of forcing someone into a marriage can involve a number of criminal offences including assault, rape, sexual assault, theft of passport, failing to ensure a child's education and false imprisonment. For this reason Rights of Women, with other women's organisations, argued against the creation of a new criminal offence of forced marriage but

¹⁴ Speech given by Jodie Smith, Ministry of Justice (Head of Domestic Violence Branch) at the Family Justice Council Diversity Committee Meeting, Wednesday 17th June 2009.

¹⁵ *The Sunday Mercury*, 17 January 2010.

¹⁶ *Re SK (An Adult) (Forced Marriage: Appropriate Relief) [2004] EWHC 3202 (Fam)*.

called for improvements in the response of the criminal justice agencies in identifying and dealing with cases of forced marriage.¹⁷

We consider that the current law on forced marriage provides a sound framework for addressing this form of violence. We are, however, concerned that women affected by forced marriage have proper information about and access to the law and their legal remedies. Although legal aid is available to women to apply for FMPOs, unlike applications for non-molestation and/or occupation orders under the Family Law Act 1997, there is no waiver of the upper income limit and therefore women with an income of over £733 per month or with capital of £8000 or more will not be eligible for free legal advice and representation to make their application. Our survey of BMER women contacting our telephone advice line in 2007 showed that 45% of those women who were refused legal aid were deterred from taking legal proceedings and a further 14% were considering not taking legal action (see Section 3 Chapter 1).

We also believe that increasing civil law remedies needs to be accompanied by access to specialist advice and support services which provide additional practical and emotional support to meet the complex needs of women at risk of forced marriage. For the reasons discussed below and in Section 2 Chapter 2 we are concerned about the decreasing availability of specialist services for these women.

As participants at our 2009 seminars on forced marriage told us (see below), legislation to address forced marriage is only part of the solution to tackling and eliminating this form of violence against women.

3.3.4 The policy

Under the BPfA the Government must:

Develop strategic policies and action plans that address all forms of violence against women and mainstream a gender perspective in all policies and action plans

Adopt and implement gender-sensitive policies to prevent and respond to violence against women at all levels.

Forced Marriage Unit

The joint Home Office and Foreign and Commonwealth Office Forced Marriage Unit (FMU) was set up in January 2005 to provide advice, support and assistance to those affected by forced marriage. They provide a range of services from a helpline and publications to direct assistance in cases of forced marriage including intervening in cases where victims have been taken abroad. Their action plan for 2009-2010¹⁸ has two core objectives:

- strengthening safeguards in order to ensure that all victims of forced marriage receive sympathetic, effective and joined-up support from all relevant UK agencies; and,
- to work towards eliminating forced marriage in the UK by challenging the practice before it takes place, through working with communities, victims and governments to overcome the culture of acceptance or of denial.

In line with the prevent, protect, provide framework adopted by the Government's England strategy, the action plan sets out key objectives in relation to strengthening the response of practitioners and the community to forced marriage as well as the FMU's response to cases of British nationals overseas. Actions include developing training and guidance for professionals, undertaking awareness raising activities and building relationships with community groups and faith leaders and

¹⁷ For more information about the law relating to forced marriage, including the law relating to children, see *Rights of Women, Pathways to Justice: BMER Women, Violence and the Law, 2007, Chapter 11* and *A Guide to Marriage, 2010*.

¹⁸ *Foreign and Commonwealth Office, Forced Marriage Unit, Action Plan 2009-2010*.

developing protocols and partnerships with governments and other agencies in key countries.

The FMU has demonstrated a willingness to learn from and work with the community and voluntary sector and meets regularly with leading organisations at the FMU NGO Roundtable. Rights of Women attends this group and welcomes the FMU’s approach to working in partnership and the sharing of expertise.

Police

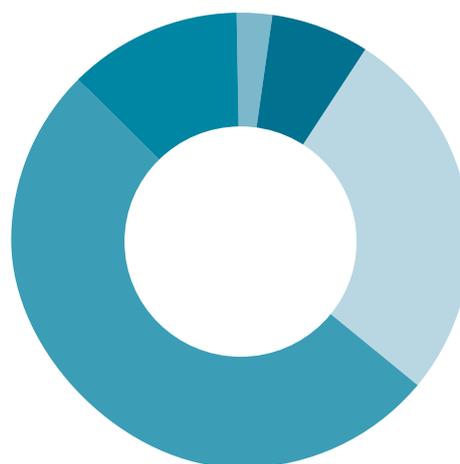
The police response to forced marriage is set out in the **Association of Chief Police Officers Honour Based Violence Strategy 2008**.¹⁹ The strategy sets out key priorities for the police to:

- develop monitoring and data collection systems to identify the scale of honour based violence including cases of forced marriage;
- improve the trust and confidence of victims and potential victims to report to the police; and,
- develop specialists to provide support, assistance and guidance to officers and improve the training and resources available to forces.

Whilst Rights of Women welcomes this strategy, we believe that improvements still need to be made in the response of individual forces and officers to forced marriage. One issue apparent from our forced marriage seminars (see below) was that the agency most likely to support women to apply for FMPOs or lead on an application was the police rather than the local authority or education authority. The ‘One Year On’ Report confirms that police are the active players in applying for FMPOs.²⁰ Whilst this demonstrates a more proactive response by the police to protecting women affected by forced marriage, this does raise concerns for us. Many women, for many reasons, do not want to report to the police and therefore these women are continuing to go unprotected. We are also concerned that this may also mean that criminal justice remedies are not being used and therefore perpetrators are not being brought to justice.

Respondents to our survey were asked “how effective is the statutory sector at collaborating and learning from the voluntary sector?”

51% of respondents considered that the statutory sector is not effective at all at collaborating and learning from the voluntary sector. The BPfA encourages cooperation between statutory and voluntary sector initiatives. In our assessment, the FMU approach to working on forced marriage presents an example of best practice which should be rolled out across all agencies. Our concerns in relation to the performance of other agencies in this regard are discussed throughout this report. See, for example, Section 3 Chapter 5 in relation to the UK Human Trafficking Centre (UKHTC) record on working with voluntary sector organisations.



Answer Options	Response Percent	Response Count
Very effective	2.1%	2
Effective	7.2%	7
Quite effective	26.8%	26
Not effective	51.5%	50
Not sure	12.4%	12

*answered question 97
skipped question 3*

¹⁹ See Association of Chief Police Officers Honour Based Violence Strategy, 2008.

²⁰ Foreign and Commonwealth Office, Forced Marriage Unit, One Year On: The initial impact of the Forced Marriage (Civil Protection) Act 2007 in its first year of operation, November 2009.

Crown Prosecution Service (CPS)

Forced marriage and honour-based violence has been a focus in the Crown Prosecution Service's Violence against Women Strategy. In December 2008 they published a report into their nine month pilot to identify and monitor crimes relating to forced marriage and honour-based violence.²¹ The recommendations taken from the pilot²² focus on three areas:

Prosecutions: recommendations included the revision of guidance and the development of an aide memoire for specialist prosecutors, consideration of specialist prosecutors, lead advisers and networks to support and advise in cases and the development of a portfolio of good practice and mandatory training, consideration of increased multi agency working particularly with the police and the development of expert witnesses.

Support of victims: recommendations included the identification of support services and increased multi agency working, the provision of specialist support services to Witness Care Units and addressing improvements in victim data and consideration of further community engagement to raise awareness and build community confidence.

Flagging of cases: recommendations included improving defendant and victim equality profile flagging (the process by which the CPS identifies and tracks the profile of victims and defendants on its systems), rolling out flagging across the CPS for all cases and revising guidance on flagging cases to ensure more accurate monitoring of cases.

Rights of Women has been impressed at the CPS' commitment to improving the identification, prosecution and monitoring of forced marriage cases. Although we believe a criminal justice response is only part of the solution to addressing forced marriage, these are very important

developments in ensuring that cases are dealt with appropriately, victims are effectively supported and, importantly, that our understanding of forced marriage is increased.

UK Border Agency

In November 2008 the marriage visa sponsorship age was raised by the Government from 18 to 21. In our response to the Government's consultation²³ in December 2007 we expressed our concern that there was no evidence that increasing the age required to enter the UK from 18 to 21 would protect women from forced marriage. We were concerned that this would in fact make women and girls more vulnerable by increasing the time, either before or after marriage, that they have to remain abroad before they can return to the UK.²⁴

Increasing the time that a woman may have to remain abroad before she can return to the UK with her spouse increases the time that she may be subject to further violence and abuse. It will also prevent many women from obtaining an annulment as the time limit for having a marriage annulled, because it was entered into without the full and free consent of both parties, is 3 years from the date of the purported marriage.²⁵

The UK Border Agency (UKBA) is proposing a pre-declaration system whereby people leaving the UK to go abroad to marry non British Nationals would have to declare their intention before travelling. Rights of Women is concerned about the practicalities of this proposal as well as its implementation. We are concerned that there is potential for it to be applied unequally across racial or national groups and that, as with raising the visa sponsorship age, this will not actually provide protection for those affected by forced marriage.²⁶

Rights of Women welcomes the strategies that have been set out by the FMU, Police and CPS to

²¹ Crown Prosecution Service, *CPS pilot on forced marriage and so called 'honour' crime – findings*, December 2008.

²² Crown Prosecution Service, *CPS pilot on forced marriage and so called 'honour' crime – findings*, December 2008.

²³ Border and Immigration Agency, *Marriage to Partners Overseas: A Consultation Paper*, December 2007.

²⁴ For more information see Rights of Women's response to the Government's consultation, *Rights of Women, Rights of Women Response: Marriage to Partners from Overseas*, February 2008 available online at http://www.rightsofwomen.org.uk/pdfs/marriage_partners_overseas.pdf.

²⁵ See *Rights of Women, A Guide to Marriage*, 2010.

²⁶ *Rights of Women, Rights of Women Response: Marriage to Partners from Overseas*, February 2008 available online at http://www.rightsofwomen.org.uk/pdfs/marriage_partners_overseas.pdf.

address forced marriage. The strategies developed by these agencies are gender sensitive and have in the main incorporated the views of specialist voluntary and community sector organisations. They demonstrate a commitment to improving not only the response of these agencies to tackling forced marriage but also to improving our understanding of its nature and prevalence.

We are concerned, however, about the focus of the police response and that their strategy needs to better integrate with the CPS strategy to ensure the effectiveness of prosecutions and improve the confidence of those at risk of forced marriage. We are also concerned that the response of the UKBA will not provide any effective protection to women at risk of forced marriage; rather, it will put those women at further risk of harm.

3.3.5 Raising awareness and challenging stereotypes

Under the BPfA the Government must raise awareness of violence against women and challenge discriminatory attitudes and stereotypes including harmful traditional or social practices through education and the media.

In advance of the implementation of the Forced Marriage (Civil Protection) Act 2007 the Government undertook a road show around England and Wales to raise awareness of the issue and the new civil remedies available for victims. The FMU has produced a range of publications for victims including the leaflet "What is a forced marriage?", a survivor's handbook and a Guide to forced marriage for LGBT people. They have also produced publicity materials including posters aimed at raising awareness of forced marriage in the community.

Alongside the statutory guidance the FMU has produced guidance on dealing with forced

marriage cases for professionals²⁷ including social workers, police and education professionals and the FMU is currently developing an online e-learning package to accompany this. The National Policing Improvement Agency is also updating the training provided to officers on forced marriage.

The FMU has also produced an awareness raising pack for schools and young people²⁸ and the England strategy makes it clear that all forms of violence against women are a safeguarding issue and sets out commitments for ensuring guidance is mainstreamed throughout school policies and that the issues are covered in the curriculum.²⁹

At our forced marriage seminars (see below) participants were clear that one of the most effective ways to improve agencies and society's response to forced marriage was to raise awareness of forced marriage and the remedies available. They were also clear that a multi-agency response was essential and that this needed to be backed up by adequate resources.

3.3.6 Availability and accessibility of services

Under the BPfA the Government must:

Allocate adequate resources within its budget including resources for the implementation of plans of action at all appropriate levels; and

Ensure access to and availability of services for all women including by giving vigorous support to the efforts of women's organisations and other non-governmental and community organisations.

²⁷ HM Government, *Multi-agency practice guidelines: Handling cases of Forced Marriage*, 2009.

²⁸ Department of Child, Schools and Families and Forced Marriage Unit, *Forced Marriage – awareness raising materials*.

²⁹ HM Government, *Together We Can End Violence Against Women and Girls: A Strategy*, November 2009, Page 21.

Women affected by forced marriage are able to contact the FMU for support and advice over the telephone. However, the issues arising from forced marriage mean that women have complex and ongoing needs which in our view are best met by specialist service providers. As forced marriage predominantly affects women from BME communities, the specialist provision offered by organisations such as the Ashiana Project, Karma Nirvana and the Iranian and Kurdish Women's Rights Organisation is vital.³⁰ Map of Gaps 2: The postcode lottery of Violence Against Women support services in Britain demonstrates a clear decline in the availability of such services.³¹

Research by Imkaan makes the direct link between this decline and the recent changes in the funding of these services.³² The continuation of these vital services, without which we do not believe women can be adequately supported to achieve justice and equality, is at risk from the Government's devolution of funding decisions to local areas. Any response to forced marriage, as with any other form of violence which disproportionately affects different groups of women (for example women who share experiences of discrimination and disadvantage because of their race and ethnicity), requires services which meet, amongst others, their cultural, religious and language needs.

The FMU Domestic Programme Fund continues to fund small projects to address forced marriage in order to support the key objectives in their Action Plan, but this is entirely inadequate in ensuring the future of services providing advice and support to women affected by forced marriage.

It is extremely disappointing that neither the England nor Wales strategies contain new commitments in terms of resources to specifically address the issue of forced marriage. Without specialist services we do not believe that women affected by forced marriage will be adequately informed of or supported in pursuing their legal rights and remedies.

During February and March 2009 we held a series of seminars in London, Birmingham, Manchester and Cardiff on forced marriage entitled Forced Marriage – is legislation the answer? These events were attended by representatives from the statutory, community and voluntary sectors.³³ Participants at those events told us that legislation was important but not the sole answer to addressing the issue of forced marriage. They identified a number of key actions which they believed were necessary to work alongside legislation. These were:

- Early intervention where forced marriage is suspected.
- Awareness-raising and support for those working in relevant sectors and mandatory training on forced marriage and the remedies available.
- A multi-agency approach to address the issue.
- Financial resources to be made available to adequately support provision.
- Ongoing care and protection of victims after court proceedings including housing and support.
- Specialist advisers for forced marriage to offer advice, information and support to individuals and professionals.

³⁰ More information about these organisations and their services can be found at <http://www.ashiana.org.uk/>, <http://www.ikwro.org.uk/> and <http://www.karmanirvana.org.uk/>.

³¹ *End Violence Against Women Campaign and the Equality and Human Rights Commission, Map of Gaps 2, 2009.*

³² *Imkaan, A Right to Exist, 2008.*

³³ See Annex A for a list of participating organisations.

Measuring up: Preventing and responding to forced marriage in England and Wales

In our view the law and policy that applies to forced marriage provides a good framework for protecting women from forced marriage and responding to individual cases. The Action Plan, statutory guidance and national strategy seek to address all of the priority areas identified at our seminars which are outlined on the previous page. We warmly welcome and support the efforts of the FMU which is the lead agency working in this area and which has shown a real openness to learning from the expertise of representatives from the voluntary and community sector and applying this learning to the development of their response to forced marriage.

Despite this progress, we remain concerned about a number of issues in relation to the implementation of the law and policy on forced marriage, in particular in respect of FMPOs.

Our concern is that many women are not able to access this remedy because there is not sufficient specialist support available to enable them to be aware of, or understand, the law and policy around forced marriage. We are also concerned that where women affected by forced marriage are aware of remedies available to them, they may not be able to access them owing to a lack of legal advice and representation.

We have identified the following areas for improvement in the response to forced marriage in England and Wales:

- There is a need for a greater understanding of the prevalence of forced marriage in England and Wales and the way it affects different groups of women. We would like to see improvements in the collection of data by agencies such as the Forced Marriage Unit, Police and CPS as well as specialist, community and voluntary sector organisations in order to provide effective strategies to prevent and respond to forced marriage.

- We would like to see the rolling out of forced marriage protection orders to all courts to ensure their availability to all women and not just those in the pilot areas.
- In order to increase women's access to forced marriage protection orders we would like to see the Legal Services Commission apply the same waiver in respect of income and capital limits applied to victims of forced marriage as apply to women seeking domestic violence injunctions.
- There needs to be improvements in the response of local authorities and education authorities to ensure that it is not only the police who are leading in the response to forced marriage, in order to protect those who have not come to the attention of the police.
- The continuing loss of specialist provision for BMER women affected is a real concern and a strategy for funding specialist organisations with the expertise and experience to work with women affected by forced marriage is urgently needed.
- We are concerned about the focus of the UKBA's response to forced marriage and would like to see the reversal of recent policy decisions in relation to overseas marriages in order to adequately protect those at risk.

3.4 Sexual violence

Sexual violence is part of a continuum of violence against women and is one of the most publicised forms of violence against women, both nationally and internationally. Sexual violence is experienced disproportionately by women¹ and is a product of discriminatory attitudes and actions towards women and girls.

It is interesting, therefore, to note that there is no commonly used definition of sexual violence.

Law and policy in the UK to prevent and prohibit sexual violence against women has focused on prosecuting perpetrators through the criminal justice system. Indeed in the England strategy it is very clear that the criminal offences of sexual assault and rape are seen as integral to what constitutes 'sexual violence'.² One way of defining what sexual violence includes, therefore, is to use the definition of sexual assault in the **Sexual Offences Act 2003** which is any kind of forced and unwanted sexual touching. In this definition, sexual violence clearly covers a spectrum of forced touching that culminates in rape and other forced penetrative activity.

However, sexual violence could also commonly be thought to include a wider spectrum of acts of violence involving violation of a woman's genitalia and sexual autonomy such as prostitution, trafficking of women for sexual exploitation, forced marriage and female genital mutilation. These forms of violence are considered in this Section separately.

This Chapter examines the law and policy in relation to rape and sexual assault of women in England and Wales.

3.4.1 Prevalence

Under the BPfA the Government must study the causes and consequences of violence against women.

Statistics from the **British Crime Survey 2005-6** revealed that 24% of women surveyed had suffered some form of sexual violence since the age of 16. Research has also shown that around 10,000 women are sexually assaulted and 2,000 women are raped every week.³

These statistics demonstrate that sexual violence against women is a significant and current problem in society. However, statistics are unlikely to reveal the full extent of sexual violence perpetrated against women because of the small number of survivors willing to alert the authorities and assist surveys monitoring levels of sexual violence. For instance, it has been reported that only 15% of adults affected by rape report the crime to the police.⁴ It is well documented that the offence of rape is underreported due to what has been referred to as a 'culture of scepticism'⁵ that sometimes meets victims of sexual violence when reporting rape.

Identifying the prevalence of sexual violence against particularly vulnerable or marginalised women is also an issue when considering statistical evidence of sexual violence against women in the UK. It is often pointed out that women who have physical or mental disabilities are more likely to suffer sexual violence.⁶ Although the Government does commission crime reports, and sexual offences are included in these,

¹ According to the Crown Prosecution Service, 88% of victims in court cases for rape in 2008/09 were women.

² HM Government, *Together We Can End Violence Against Women and Girls: A Strategy*, November 2009, page 15.

³ *British Crime Survey self-completion questionnaire*, July 2008.

⁴ *British Crime Survey*, 2005-6.

⁵ L. Kelly, J. Lovett and L. Regan, *A Gap or a Chasm? Attrition in reported rape cases*, 2005.

⁶ Home Office. *Cross Government Action Plan on Sexual Violence and Abuse 2007*, Paras 2.8 and 2.25. Referred to as 'the Action Plan'.

there has been very little detailed research widely disseminated regarding how many of those women who are known to have experienced sexual violence would identify as one or more of the protected characteristics in the **Equality Act 2010**. There has also been no widely disseminated research regarding the prevalence of sexual violence against women who have an insecure immigration status.

For example, although the Crown Prosecution Service (CPS) monitors sexual violence cases in relation to victim's sex (and potentially also ethnicity), data is patchy, having not always been recorded when it should have been and monitoring does not include all the protected characteristics.⁷ The CPS is in the process of developing their data monitoring capacity.

It has been suggested by Baroness Stern in The Stern Review⁸ that more needs to be done to explain published statistics on rape conviction rates (discussed below). It is also clear that more could be done to gather information about the prevalence of sexual violence against women in the UK and to analyse and disseminate information already gathered, so that it can be used to direct and influence law and policy in this area.

3.4.2 Sexual violence, human rights and violence against women

Under the BPfA the Government must define and respond to violence against women as set out in international law – addressing it through the framework of equality and non-discrimination and as a human rights issue.

The BPfA clearly outlines sexual violence as a form of violence against women and specifically refers to State obligations to prevent and respond to rape (explicitly including marital rape), sexual abuse and sexual abuse of female children in the household.⁹

Sexual violence raises a number of human rights concerns and in particular can engage State responsibility in respect of the right to be free from torture or cruel, inhuman or degrading treatment, the right to an effective remedy, the right to non-discrimination and equal protection of the law. Sexual violence can also impair the enjoyment of a range of other human rights such as the right to health.

Rape and other forms of sexual violence represent a grave attack on the physical and mental integrity and sexual autonomy of an individual.

Under international human rights law, rape and other forms of sexual violence, as with all forms of violence against women that may entail severe pain or suffering (whether physical or mental) violates the right to be free from torture or cruel, inhuman or degrading treatment.¹⁰ International law and mechanisms have been slow to address State responsibility for sexual violence perpetrated by non-State actors (such as members of the public). However, there is firm case-law which establishes that if a State fails to act with due diligence to prevent, investigate and punish rape and sexual violence, it can be found to be in breach of the prohibition of torture and other forms of cruel, inhuman or degrading treatment.¹¹

Rape and sexual violence often raise concerns related to the right to an effective remedy which is provided in all human rights treaties.¹² This is because of the obstacles and discrimination that

⁷ Crown Prosecution Service, *Violence Against Women Crime Report, 2007-2008*.

⁸ Government Equalities Office, *The Stern Review, A report by Baroness Vivien Stern CBE of an independent review into how rape complaints are handled by public authorities in England and Wales, March 2010*.

⁹ BPfA, Chapter IV (D) Paragraph 113.

¹⁰ The European Court of Human Rights, interpreting Article 3 of the European Convention on Human Rights has for example held that rape is an "specially grave and abhorrent form of ill-treatment" and that the "specially cruel act of rape the victim was subjected to amounted to torture". See, *Aydin v. Turkey*, European Court of Human Rights, Application No.29289/95, judgment of 25 September 1997.

¹¹ The European Court of Human Rights, interpreting the European Convention on Human Rights to which the UK is a State party, found Turkey to be in violation of Article 3 (torture or inhuman or degrading treatment or punishment) owing to of the deficiency of its criminal law in effectively protecting women from sexual violence. This case held that lack of consent and not the use of physical force, threats or resistance of the victim is the critical factor in establishing whether rape had occurred. The European Court of Human Rights also addresses sexual violence through Article 8(1) (Right to Private Life). See, *M.C V Bulgaria*, European Court of Human Rights, Application No. 39272/98, judgment of 3 December 2003.

¹² For example, Article 2(3) of the International Convention on Civil and Political Rights 1966 and Article 13 of the European Convention on Human Rights.

women often face, related to social, economic and cultural disadvantage, to obtaining effective legal remedies when they are at risk of, or have experienced violence.

The CEDAW Committee addresses sexual violence, and all forms of violence against women, as a form of discrimination. In its **General Recommendation No. 19** (Violence against Women), it stated that “States parties should ensure that laws against family violence and abuse, rape, sexual assault and other gender-based violence give adequate protection to all women, and respect their integrity and dignity. Appropriate protective and support services should be provided for victims. Gender-sensitive training of judicial and law enforcement officers and other public officials is essential for the effective implementation of the [CEDAW] Convention.”¹³

3.4.3 The law

Under the BPfA the Government must adopt and implement legislation providing adequate redress for women victims of violence through criminal and civil law remedies.

The Government has created legal remedies to prevent and prohibit sexual violence through the **Sexual Offences Act 2003 (SOA 2003)**. This piece of legislation aimed to expand upon and clarify the existing **Sexual Offences Act 1956** (SOA 1956) and supporting legislation, but also aimed to change the focus of the SOA 1956 to provide protection for vulnerable victims¹⁴ rather than the concern being one of protecting public decency.

As such, the SOA 2003 expanded the offence of rape (section 1 SOA 2003) to include forced penetration of the mouth with a penis as well as the vagina and anus and created the new offence of assault by penetration which carries a maximum life sentence, meaning that penetration

of the vagina or anus of the victim with an object other than a penis can be punished to the same degree as rape.

The two other main sexual offences are sexual assault and causing a person to engage in sexual activity.¹⁵ Sexual assault covers any forced sexual touching and carries a maximum sentence of 10 years imprisonment. Causing a person to engage in sexual activity makes it illegal to coerce someone to perform a sexual act upon themselves or upon someone else. If the activity involves penetration then the perpetrator can be sentenced to life imprisonment and, if not, then the maximum sentence is 10 years.

All the four main sexual offences above must contain the element that the victim is not consenting to the sexual activity and that the defendant (perpetrator) does not reasonably believe that the victim is consenting. This creates the legal defence that someone who does reasonably believe in all the circumstances that the victim is consenting is not guilty of the relevant offence.

Consent and reasonable belief in consent are difficult concepts, and in the SOA 2003 there was a concerted attempt to codify definitions for these concepts. Consent is defined in the Act as “a person consents if she agrees by choice and has the freedom and capacity to make that choice”.¹⁶ There are also situations created by the SOA 2003 which, if proved by the prosecution, make it harder for the defendant to argue that he had a reasonable belief in the victim’s consent, for example, when the victim was unconscious or had a physical disability.

Before the SOA 2003 the concepts of consent and reasonable belief in consent had evolved through case law. The fact that the SOA 2003 attempts to legislate on these concepts, and creates a more comprehensive regime of offences, demonstrates Government efforts to offer more legislative protection to victims of sexual violence and as such fulfil obligations under the BPfA.

¹³ UN Committee on the Elimination of Discrimination against Women, *General Recommendation No. 19, Violence against women, Eleventh Session, 1992, Paragraph 24(b)*.

¹⁴ Richard Card, *Sexual Offences: The New Law*, Jordans publishers, 2004, page 4.

¹⁵ Sections 3 and 4 of SOA 2003 respectively.

¹⁶ Section 74 SOA 2003.

However, the concepts of consent and reasonable belief have not succeeded in completely clarifying the law, and, for example, issues around “drunken consent” still emerge for the Court of Appeal to consider.¹⁷ Reliance on judges giving set directions to clarify matters to a jury in Crown Court trials may not be ideal in terms of creating consistency in the law for victims and perpetrators of sexual violence.

There is also the lack of support for victims taking civil remedies instead of using the criminal justice system. It is possible to sue a perpetrator of sexual violence for damages under civil law but this is potentially expensive and relatively rare. No particular assistance is given to victims of sexual violence who want to pursue this option, for example, legal aid would be extremely difficult to obtain, whereas victims in the criminal justice system need to meet very few costs. Non-molestation orders are only available where the victim of sexual violence is ‘associated’¹⁸ to the perpetrator. Furthermore, non-molestation orders are designed for protection against further violence, rather than punishment for sexual violence that has occurred.

This situation has arisen because violence against women has been divided into different forms that have historically been dealt with very differently in law. We call on the Government to examine and consider whether there is a need to increase accessibility of civil measures for victims of sexual violence and to offer these measures in partnership with criminal prosecutions for sexual offences.

3.4.4 The policy

Under the BpFA the Government must;

Develop strategic policies and action plans that address all forms of violence against women, mainstream a gender perspective in all policies and action plans; and

Adopt and implement gender-sensitive policies to prevent and respond to violence against women at all levels.

The legal system as a whole is still rife with misogyny, belief in rape myths, women-blaming and minimalising the extent to which male sexual violence against women and girls is committed

Respondent to our survey

Home Office

In response to well publicised low conviction rates for rape and studies criticising the UK authorities’ response to victims of rape¹⁹ the Government issued **The Cross Government Action Plan on Sexual Violence and Abuse 2007** (the Action Plan), capitalising and expanding upon previous reports and policies already instigated by the police, CPS and other agencies.

Grouped around three core aims²⁰ the Action Plan set out a list of actions to be achieved by local authorities, the police, the CPS and others. Actions involved the management and treatment of sex offenders, increasing the Victim’s Fund²¹ to £1.25m, expanding the network of Sexual Assault Referral Centres (SARCs) to 40 by 2008 and

¹⁷ *R v Bree* [2007] EWCA Crim 256.

¹⁸ Creation of non-molestation orders and definition of ‘associated’ contained in *The Family Law Act 1996*, as amended by the *Domestic Violence Crime and Victims Act 2004*.

¹⁹ For example, the “culture of scepticism” found in *A Gap or a Chasm? Attrition in reported rape cases*, L. Kelly, J. Lovett and L. Regan, 2005, mentioned above.

²⁰ *Aims of the Action Plan 2007: to prevent sexual violence and abuse; to increase access to support and health services for victims of sexual violence and abuse; to improve the criminal justice system response to sexual violence and abuse.*

²¹ *The Victim’s Fund is a Government fund to be accessed by third sector organisations including those that support survivors of sexual violence.*

evaluating the Independent Sexual Violence Advisor (ISVA) scheme launched in 2006.²²

Key actions on improving the response of the criminal justice system focused on:

- **training** for rape specially trained officers (STOs)²³, specialist rape prosecutors and rape co-ordinators in the CPS and for all barristers who prosecuted serious sexual offence cases; and
- expansion of the use of **special measures**.²⁴

The specific actions for police and CPS will be considered below.

The Action Plan also highlighted the developments made in provision of services for witnesses at court, primarily increased funding for Witness Support ensuring that witnesses get separate waiting facilities and information about court processes should they require it. These provisions have now been in place for a number of years, along with availability of special measures, and are welcomed.

In November 2009 the Home Office launched the England strategy which, in terms of sexual violence policy, appeared to expand on the actions listed in the Action Plan.

Key commitments in the England strategy relating to the police, CPS and awareness raising are examined below.

Other notable commitments made in the England strategy in relation to sexual violence include the distribution of Rights of Women's **From Report to Court: a handbook for adult survivors of sexual violence** to all victims of rape reporting to the police, and the management of sex offenders. The wide distribution of From Report to Court is an important step, but distribution targets need to be monitored to guarantee they are met and thought given to making the publication accessible to women who do not speak English.

The management of sex offenders is an important part of protecting against violence against women and funding should be protected for relevant programmes. Multi-agency working is welcomed, and an increased input from victims should also be considered.

Police

Many women have little confidence in the police or the legal system.

Respondent to our survey

Baroness Stern highlighted in The Stern Review that "the way the police work with rape complaints is crucial to the outcome and to the way the victim feels the system has responded".²⁵ Numerous independent reports have criticised the police for their insensitive and dismissive approach to victims of sexual violence. The Sara Payne report featured some heavily critical comments of the police and the way in which rape complaints were handled and prosecuted. In our view, in light of this, police policy in relation to rape needs to be examined as a crucial component in the Government's response to sexual violence.

Following previous police policy such as the Rape Action Plan 2002 which created priorities for initial investigation, the provision of medical services, the training of officers and the importance of a named person the victim could rely on for information and support, the Action Plan specified actions for the police in relation to rape and sexual assault investigations:

²² Sexual Assault Referral Centres are joint police/NHS/voluntary sector managed centres. They provide medical services and forensic medical examinations for women who have suffered sexual violence, access to the police should a woman want to report and access to counselling and other services. The first SARC was established in 1986. Independent Sexual Violence Advocates provide practical support and advocacy to victims of sexual violence, the pilot scheme was launched in 2006 and there are now 43 across England and Wales.

²³ Also mentioned in the Government Rape Action Plan 2002, see below.

²⁴ Special measures are applied for in court to improve the quality of witness evidence; sexual violence victims are classified as vulnerable victims under the Youth Criminal Justice and Evidence Act 1999 and therefore are automatically eligible to apply.

²⁵ Government Equalities Office, *The Stern Review, A report by Baroness Vivien Stern CBE of an independent review into how rape complaints are handled by public authorities in England and Wales, March 2010, page 14; the link between treatment of victims and withdrawal for rape cases was also recognised in the Cross Government Action Plan on Sexual Violence and Abuse 2007.*

- Participating in local Sexual Violence Forums and Sexual Violence Action Plans and establishing in partnership with NHS and other agencies a SARC in the police force area.
- Sharing information and intelligence on sex offenders and managing sex offenders released into the community.
- Providing victims with a copy of From Report to Court.
- Complying with the statutory Code of Practice for Victims of Crime.²⁶
- Training for first response officers.
- Establishing review processes and auditing of rape cases which are “no crimed”.
- Ensuring maximum use made of the SOA 2003.

The England strategy creates some specific actions for the police in relation to training of officers by:

- Asking all chief constables to report on the adequacy of their training on rape.
- Ensuring that all force areas are following new ACPO/CPS guidance on rape investigation and prosecution.
- Joint ACPO/CPS support team to visit every area by March 2010 and a Rape Monitoring Group to scrutinise local performance.

Alongside the Action Plan ACPO guidance was issued for police officers investigating rape complaints.²⁷ Joint guidance between ACPO/CPS was issued in 2009.²⁸ For the police, this guidance focuses on:

- Training for all first response officers responding to reports of rape on how to present a supportive attitude and take an initial account from the victim.
- Including a Specially Trained Officer (STO) (or alternative equivalent), trained in sexual offence investigation techniques, on each

investigation team from start to finish of the case. STOs will take the witness statements from the victim.

- Consideration in all cases of video recording victim statements (ABE videos).
- Providing accurate explanations of special measures to each victim including disadvantages and advantages.
- Early and thorough consultation between the police and CPS, with police providing evidential reports where requested.
- Ensuring victims are referred to local specialist support services and provided with a single point of contact.

The guidance issued represents the best of investigative standards for the police with a proper approach to victim care.²⁹ The problem is that whilst guidance is excellent and senior levels of police create policies, train specialist police officers and fulfil community liaison roles as they are required to do by the various strategies, the lower ranks of police officers are not necessarily receiving or taking on board the policies and training in place. There is a vast amount of anecdotal evidence from callers to Rights of Women’s sexual violence advice line which suggests, together with contents of the Sara Payne report and The Stern Review, that women who have experienced sexual violence are not always being met with best practice from the police, and it is practice, rather than the policies, that needs to change.

To this end, Rights of Women welcomes the proposed actions in the England strategy to compel the police to review and potentially scrutinise local performance in each police area. As The Stern Review states,³⁰ implementation of policies is patchy (in rank and geographical areas) and so, until training is consistent and, very importantly, monitored for results, work still needs

²⁶ *The Code of Practice for Victims of Crime sets out guidelines for agencies within the criminal justice system in relation to how victims should be treated, including keeping victims of sexual violence informed of developments in their case within 24 hours.*

²⁷ *Association of Chief Police Officers, Guidance on Investigating Serious Sexual Offences, published by Centrex.*

²⁸ *A Protocol between the Police and Crown Prosecution Service in the investigation and prosecution of allegations of rape; available to download from the CPS website.*

²⁹ *Government Equalities Office, The Stern Review: A report by Baroness Vivien Stern CBE of an independent review into how rape complaints are handled by public authorities in England and Wales, 2010, page 73.*

³⁰ *Government Equalities Office, The Stern Review, A report by Baroness Vivien Stern CBE of an independent review into how rape complaints are handled by public authorities in England and Wales, March 2010, page 8.*

to be done by police to fulfil international obligations to implement gender sensitive policies in relation to sexual violence and ensure legislation is used effectively by having an effective criminal justice system.

Crown Prosecution Service (CPS)

There is still a lack of trust that the CPS specifically will take the case to court.

Respondent to our survey

The Crown Prosecution Service (CPS) has been quick to adapt to violence against women issues, strategies and actions in relation specifically to rape. It has been noted by The Stern Review that conviction rates for rape, whilst very low for all offences reported (around 6%) is actually 58% once a case of rape is charged.³¹ Therefore, it could be said that the CPS are performing well and once a case gets to court there is an over 50% chance of a conviction. The Stern Review states that more 'positive' statistics like this should be published and any statistic should be published in conjunction with explanatory information for the public to encourage more reporting of rape and sexual assault. It is unclear, but likely, that the 58% conviction rate includes not just findings of guilty from juries after a rape trial but also findings of guilt, or pleas of guilt, for other sexual offences e.g. sexual assault, when the original charge has been rape, or indeed potentially also cautions for sexual assaults. The issue of whether the 6% conviction rate should be publicised or not is discussed in the concluding paragraphs, but it is certainly echoed by this report that statistics around rape should be published with thorough and clear explanations of what they involve so that there is no confusion around the performance of the police and CPS.

The Action Plan proposed that the CPS:

- Participate in local Sexual Violence Forums and multi-agency training.
- Comply with the **Code of Practice for Victims of Crime**.
- Deliver the rape policy issued by the CPS itself including the completion of an essential steps rape checklist for each file.
- Undertake case conferences with police for all serious sexual assault cases and provide pro-active advice to police before the charging stage.
- Disseminate good practice to Prosecutors.

The CPS published a policy document for **Prosecuting Cases of Rape** in March 2009, and this is summarised in the joint guidance issued with ACPO (mentioned above). Guidance focuses on:

- The training and creation of Specialist Rape Prosecutors and Rape Co-Ordinators who are to ensure rape policy is adhered to both in trial and by CPS as a whole.
- Prompt referral of cases for charging decisions to a specialist rape Prosecutor.
- Consideration of, and application for, special measures in each case.
- Notifying the victim within 24 hours and offering to meet with the victim if a decision is made not to charge (and there has not been a face-to-face meeting with the police officer) or where a decision has been made to discontinue a case once charged.
- At trial, selecting an advocate (prosecutor) with necessary skills and expertise and ensuring the advocate introduces themselves to the victim at court, that the advocate challenges offensive and seemingly irrelevant questioning of the victim and that the victim's views are considered when accepting a plea to a lesser offence, or when offering no evidence.

The England strategy sets out that the CPS must ensure that all rape specialist prosecutors

³¹ Government Equalities Office, *The Stern Review: A report by Baroness Vivien Stern CBE of an independent review into how rape complaints are handled by public authorities in England and Wales, 2010, page 43.*

complete revised training³² and that all Chief Crown Prosecutors were to have received training in prosecuting and managing rape cases by January 2010. The CPS also must meet specific actions of improving the way in which victims are notified by CPS if their case does not go to court and adhering to the Rape Monitoring Group, to be set up. To this end, it seems that the England strategy does not suggest anything that the CPS does not try to achieve already, although the setting up of a monitoring group to scrutinise implementation is welcomed.

Whilst we welcome the CPS policies in relation to rape and related sexual offences, the problem appears to be in their implementation. The Government has aimed to train all Chief Crown Prosecutors and this is most certainly welcomed, but it is suggested that training and guidance be disseminated to all case workers and prosecutors within the CPS so that all staff (including those who may not be legally trained) know the minimum standards for how to approach a case of rape and approach a victim of sexual violence. Training should also look at particular problems faced by particular groups of sexual violence victims in trial e.g. those that do not speak the language or have insecure immigration status, those that are disabled. This is not particularly mentioned in the Action Plan, Joint Guidance or the England strategy in relation to CPS.

We suggest that CPS policies in relation to meeting and corresponding with victims do not go far enough and that all victims should be offered a personal explanation of the charging decision by the CPS Prosecutor irrespective of whether a meeting between police and prosecutor has occurred, and that all victims should be able to participate in a case conference beforehand. Case conferences are supposed to be held before rape cases to discuss special measures but anecdotal evidence from our service users suggests that in practice this option is used rarely.

3.4.5 Raising awareness and challenging stereotypes

Under the BPfA the Government must raise awareness of violence against women and challenge discriminatory attitudes and stereotypes including harmful traditional or social practices through education and the media.

The England strategy recognises the link between the sexualisation of women and girls in the media and sexual violence against women and girls and aimed to publish the outcomes of a report on this subject by Dr Linda Papadopoulos.³³ There is also a commitment to include gender equality and violence against women and girls in school curriculum as well as measures to tackle sexual bullying in schools.³⁴

Dr Papadopoulos' report made a number of recommendations including the need for educational programmes to inform young people about healthy relationships and gender stereotyping.³⁵ Whilst the Government has disseminated the report this has not yet led on to the creation of particular Government actions, although some of the key recommendations, that of awareness raising campaigns on violence and education in schools, is already part of the England strategy and as such should be being delivered.

The Stern Review focused on the need to launch publicity campaigns in relation to rape which highlight the role of the perpetrator and tackle their responsibility rather than placing responsibility on the victims to keep themselves safe in a dangerous world.³⁶ Although mentioned in the England strategy, together with some shocking statistics about public opinion in relation to victims of rape,³⁷ there is no specific commitment to review Government campaigns.

³² *The Rape and Serious Sexual Offences (RASSO) course.*

³³ *HM Government, Together We Can End Violence Against Women and Girls: A Strategy, November 2009, page 21.*

³⁴ *HM Government, Together We Can End Violence Against Women and Girls: A Strategy, November 2009, pages 21 and 28.*

³⁵ *Sexualisation of Young People: Review by Dr Linda Papadopoulos, February 2010.*

³⁶ *Government Equalities Office, The Stern Review, A report by Baroness Vivien Stern CBE of an independent review into how rape complaints are handled by public authorities in England and Wales, March 2010, pages 50-55.*

³⁷ *Government Equalities Office, The Stern Review: A report by Baroness Vivien Stern CBE of an independent review into how rape complaints are handled by public authorities in England and Wales, 2010, page 18, Para 24.*

A more specific response to this issue would be welcomed by Rights of Women.

It is beyond the scope of this chapter to analyse whether measures taken in schools and by the NHS have been effective, suffice to say that Government actions in this area are welcomed.

3.4.6 Availability and accessibility of services

Under the BPfA the Government must:

Allocate adequate resources within its budget including resources for the implementation of plans of action at all appropriate levels; and

Ensure access to and availability of services for all women including by giving vigorous support to the efforts of women's organisations and other non-governmental and community organisations.

There are few resources in our area for victims of sexual violence.

Respondent to our survey

The Home Office has acknowledged the findings of the Government commissioned Sara Payne report³⁸ that a victim needs a voice, support, information and protection. This means, according to the England strategy, easily accessible advice available 24 hours a day, trained frontline staff, acute care in the immediate aftermath of violence, independent, personalised advocacy, follow-up and support for the longer term and safe emergency accommodation.³⁹

These commitments made in the England strategy have resulted in specific actions in relation to sexual violence:

- The introduction of a 24 hour sexual violence helpline.
- Creation of a directory of services online.
- Protecting funding in 2010/11 to help fund ISVAs with a view to expanding the numbers of ISVAs, revising the definition of the role and providing minimum standards and training for ISVAs.
- Doubling central investment in SARCS in 2010/11 to ensure that there is one SARC for every police force area by 2011 and providing key standards for each SARC to work towards.
- A focus on data sharing from statistics gathered by NHS on victims of violence (including sexual violence).

The sexual violence advice line and comprehensive online directory of services have not, at the time of writing, been set up. It is hoped that these actions will be taken shortly and adequate funding made available for them to be properly set up and front line staff on the advice line adequately trained and monitored.

The increase of data collection and service provision encouraging a more victim centred approach to sexual violence is welcomed. SARCs and ISVAs provide information and advice and, importantly, provide women who have experienced sexual violence with a choice about what, if any, redress they want to seek from authorities.

In relation to the provision of SARCs both the England strategy and The Stern Review place emphasis on increasing the number of SARCs available.⁴⁰ However, the Government does need to make sure that SARCs operate on a consistent basis and that targets for SARCs are met. It is interesting to note that under the Action Plan there was a target of 40 SARCs by 2008. According to the England strategy there are currently 29 SARCs with a further 16 in development. The current target is one for each

³⁸ *Redefining Justice, Addressing the individual needs of victims and witnesses, Sara Payne, Victim's Champion, November 2009.*

³⁹ *HM Government, Together We Can End Violence Against Women and Girls: A Strategy, November 2009, pages 39-40, Para 10.*

⁴⁰ *Government Equalities Office, The Stern Review, A report by Baroness Vivien Stern CBE of an independent review into how rape complaints are handled by public authorities in England and Wales, March 2010, page 120.*

police force area by 2011 (which would mean 43 by 2011), so therefore the target for number of SARCs to be developed has effectively been pushed back from 2008 to 2011. There is little explanation for this, and so, although the increase in provision for and development of SARCs is welcomed, it is important that review mechanisms are not only created, but active, to ensure that targets are met rather than postponed. As mentioned in The Stern Review, SARC targets should also ideally be exceeded "since some police force areas are very large, the need for additional centres should be considered once the initial phase of development is complete".⁴¹ Implementation of SARCs should be consistent and comply with national standards, as being posited, to guarantee that there is not a 'postcode lottery' of services.

The Government has committed to protecting funds already available for the ISVA scheme, but it is argued that more should be done in this area. As The Stern Review points out "we have heard nothing but support for the work of ISVAs. They have had a substantial impact on the experience of victims they have supported to date".⁴² Yet in the Interim Government Response to the Stern Review⁴³ no commitment was made in relation to targets set for numbers of ISVAs to be increased. The cost / benefit of ISVAs is fairly clear, even on an anecdotal basis, because it frees other agencies such as the police to focus on their roles rather than have to also provide practical and emotional support to victims. Targets to increase the numbers of ISVAs and to ensure that ISVA roles are created around the country are needed to ensure that support for victims is not inconsistent.

Increasing ISVAs would also create better support availability for women who experience multiple discrimination. There is very little mention in Government policy of service provision tailored specifically for women who may identify as having a protected characteristic and therefore who may

have specific needs that prevent them from accessing services. Supporting third sector organisations may be the only way to provide specialist services for the most disadvantaged women (including those women who have insecure immigration status and therefore have no recourse to public funds) who suffer from sexual violence and who cannot access mainstream services without additional assistance, and therefore help fulfil the obligation under the BPfA to support the most vulnerable women.

The England Strategy appreciates the work done by third sector organisations and seeks "where appropriate to committing to three year grant arrangements with specialist third sector organisations (NGOs) operating in the VAWG area".⁴⁴ Pledges to increase funds accessible to third sector organisations have been made in the Action Plan and in the Interim Government Response to the Stern Review, although an increase in a central fund means third sector organisations bidding against each other for money, and with the case of the most recent pledge, bidding against provision for SARCs too.

We are concerned there are no commitments by Government for sustainable funding of specific Rape Crisis Centres, The Survivor's Trust⁴⁵ or the other many small and specialised organisations in this area of work. Many of these organisations face huge financial struggles, but offer vital support and advice to women who have suffered sexual violence.

⁴¹ Government Equalities Office, *The Stern Review: A report by Baroness Vivien Stern CBE of an independent review into how rape complaints are handled by public authorities in England and Wales*, 2010, page 66.

⁴² Government Equalities Office, *The Stern Review: A report by Baroness Vivien Stern CBE of an independent review into how rape complaints are handled by public authorities in England and Wales*, 2010, page 106.

⁴³ Government Equalities Office, *Interim Government Response to the Stern Review*, March 2010.

⁴⁴ HM Government, *Together We Can End Violence Against Women and Girls: A Strategy*, November 2009, page 48.

⁴⁵ The Survivor's Trust is an organisation that offers support predominantly to victims of childhood sexual abuse. For more information visit <http://www.thesurvivorstrust.org/>.

There is no sustainable funding available either directly through central government, or indirectly through local government... for Rape Crisis Centres. Year on year my own centre has the same fight to stay open and functioning, and yet we have many years of experience in the specialist field of sexual violence.

Respondent to our survey

In relation to the provision of compensation for victims of sexual violence, compensation should be sought through the Criminal Injuries Compensation Authority. However, there is no legal aid available for solicitors to assist victims with applications. Furthermore, The Stern Review suggests that misconceptions about, and the practice of, discretionary reductions in compensation awards for certain types of victim behaviour be clarified as bad practice in relation to rape victims.⁴⁶ The Interim Government Response to The Stern Review states an examination of this issue will occur. We urge that a commitment be made to ensure fair financial redress.

Measuring up: Preventing and responding to sexual violence in England and Wales

Alongside domestic violence, law and policy to address sexual violence has seen significant advancements in recent years. There has been a thorough overhaul of the criminal law in relation to sexual offences and there have been significant improvements in the response of the police and CPS. Yet still women are not reporting to the police and feel let down by the criminal justice process. Although civil law remedies may be available to some women affected by sexual violence, there is an absence of any response to sexual violence in the civil courts.

The Government and other agencies are working hard to address problems within the criminal justice system and to increase service provision for women who have experienced sexual violence. The police and CPS have good guidance for their staff and the Government has committed to the increase of SARC's and other service provision including a 24 hour helpline for victims.

We welcome the Government's commitment in the England strategy to continuing and increasing these measures and initiatives developed to provide women affected by sexual violence with support and protection.

However, we are concerned about a number of issues in relation to the implementation of the law and policy on sexual violence and have identified the following areas for improvement in the Government's response to sexual violence in England and Wales:

⁴⁶ Government Equalities Office, *The Stern Review: A report by Baroness Vivien Stern CBE of an independent review into how rape complaints are handled by public authorities in England and Wales, 2010*, page 129.

- The complex nature of the law on sexual offences continues to be a problem. We would like to see a review of the law on consent and its application and effectiveness. We support the Stern Review's recommendations that work be done to demystify the language of the law around sex offences for public consumption and would also call for standard guidance to be available to Magistrates and jurors on consent in all relevant cases.
- There has been a particular focus on the offence of rape in the Government and other agencies policy development but there is also a need to examine the legal and policy response to other endemic areas of sexual violence such as sexual assault.
- The criminal justice system still poses problems for women victims of sexual violence, and much of this is to do with the slow process, insensitive treatment of victims by police, CPS and courts and lack of availability of support and information. We believe that further legislative measures such as the introduction of victim advocates present in court at some stages of rape proceedings (which have proved effective in other jurisdictions⁴⁷) should be considered.
- There is a need for consideration to be given to expanding the civil remedies available to address sexual violence and increasing their accessibility through the provision of legal aid for those women who would prefer to take civil actions against perpetrators.

- We would like to see increased consistency in the implementation of the existing good policy, so that all front line workers are equipped with training on how to respond to victims of sexual violence, and training of key agencies and service provision is distributed evenly throughout the country. To this end we welcome the Government's proposal to implement more monitoring and feedback schemes.
- Funding to tackle sexual violence must be consistent and set aside for basic service provision such as SARCs and ISVAs and we call on the Government to set targets for increasing the number of ISVAs. Funding must also be secured for the continuation of specialist voluntary sector organisations.
- Particular attention needs to be paid to the funding of service provision for particular groups of women who may face additional barriers, such as BME, disabled, transgender women and women with an insecure immigration status, together with the development of consistent and accurate data collection in relation to the protected characteristics of victims.

⁴⁷ For example, France and Ireland.

3.5 Sexual exploitation

Sexual exploitation, in the form of trafficking and the exploitation of prostitution, poses a significant threat to women's equality in the UK.

Article 4 of **The Council of Europe Convention on Action against Trafficking in Human Beings 2005** (the Trafficking Convention) defines trafficking as:

"the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs".

In this chapter we will be focussing on sexual exploitation. However, trafficking for other forms of exploitation, such as domestic servitude, labour exploitation and for the purposes of obtaining welfare benefits have all been identified in the UK.

Article 2 of the **UN Declaration on the Elimination of Violence against Women 1993** (the Declaration)¹ defines trafficking as a form of violence against women. The use of the term "forced prostitution" in Article 2 of the Declaration has been used by some to argue that it is possible to differentiate between women in prostitution who have 'chosen' this form of 'work'

and those who are forced into prostitution by traffickers or organised crime networks. However, the definition of violence against women in the Declaration (which is adopted by the BpFA) is focussed on the effects of the conduct or behaviour in question on the woman concerned. Therefore, any conduct that results in "physical, sexual or psychological harm" is, as a matter of law, violence against women.

Prostitution is normalised by those who seek to legalise the sex industry as a form of entertainment like any other, with sexual acts exchanged for payment with both the prostituted woman² and the purchaser able to make free and meaningful choices. However, the evidence is clear that for the vast majority of prostituted women, whether trafficked or not, the experience is one that involves physical, mental and sexual violence which traumatises and de-humanises causing significant and long-lasting physical and emotional harm³. A similar conclusion was reached by Sigma Huda, the former **UN Special Rapporteur on Trafficking**:

"Prostitution as it is actually practised in the world does satisfy the elements of trafficking. It is rare that one finds a case in which the path to prostitution and/or a person's experience does not involve, at the very least an abuse of power and/or an abuse of vulnerability. Power and vulnerability in this context must be understood to include power disparities based on gender, race, ethnicity and poverty."⁴

Consequently, in this chapter we will be analysing prostitution alongside trafficking as forms of sexual exploitation and violence against women

¹ *UN Declaration on the Elimination of Violence Against Women, General Assembly resolution 48/104, UN Doc. A/RES/48/104, 20 December 1993.*

² *We are using the term "prostituted woman" to indicate that what is actually being done is the prostitution of one person (usually a woman) by another person (usually a man) for financial or other gain.*

³ *Farley, M (2003) Prostitution and Trafficking in Nine Countries: An update on Violence and Posttraumatic Stress Disorder in the Journal of Trauma Practice.*

⁴ *Special Rapporteur on Trafficking from 2004 to 2008 in Integration of the human rights of women and a gender perspective, United Nations. E/CN.4/2006/62.*

that engage the UK's responsibility under international law.

3.5.1 Prevalence

Under the BPfA the Government must study the causes and consequences of violence against women.

It is estimated that 80,000 women are involved in prostitution in the UK, with the domestic prostitution 'market' calculated to be worth up to £1bn⁵. According to *Paying the Price*⁶ the vast majority of those involved in prostitution are women and girls. The average age of first involvement in prostitution in the UK is at just 15 years old,⁷ and the average age of women in prostitution is 27. Research has been done on the life experiences of those who are prostituted but little research has been done on women in prostitution who may experience multiple forms of discrimination. For example, according to *Paying the Price* the ethnic composition of prostituted women reflected the geographical areas where they lived. However, since BME communities are disproportionately represented among those experiencing the risk factors associated with prostitution (for example, spending time in local authority care or being excluded from school) it is anticipated that women from these backgrounds are actually overrepresented in the population of prostituted women. Little is known about women in prostitution who may be discriminated against for other reasons, such as disability, pregnancy or maternity.

Given the nature of organised crime, it is impossible to know how many women, children and men are trafficked into the UK. Home Office research in 2003 into organised crime markets estimates that up to 4,000 women are trafficked

in the UK for the purposes of sexual exploitation every year. Given the growth in people trafficking since 2003, this figure is now believed to be a "significant underestimate".⁸ Research carried out in London indicates that between 70-80% of women involved in prostitution were foreign, coming from Eastern Europe, South Africa and South East Asia,⁹ a finding endorsed by research carried out more recently by The POPPY Project.¹⁰

Following the creation of the **UK Human Trafficking Centre** (the UKHTC), there has been an improvement in the information collected on trafficked women in the UK. Whilst this information is limited to those who come to the attention of the UKHTC (which must be a small proportion of those who are actually trafficked into the UK), information has been collected about the types of exploitation that individuals are trafficked for as well as the nationality, age and sex of the individuals concerned.¹¹ However, information is not collected that relates to disability, marriage, pregnancy and maternity, race, religion or belief, or sexual orientation.

The government has no way of knowing how many women are trafficked, or how. Until greater information is known, any policy and provision can only be limited.

Respondent to our survey

Even with the problems associated with collating information that relates to criminal activity, there is insufficient information available about those who are known to the relevant authorities as being trafficked or involved in prostitution. While we welcome the collection and publishing of information by the UKHTC, this is not matched by

⁵ Home Office, *A Coordinated Prostitution Strategy and a summary of responses to Paying the Price*, January 2006.

⁶ Home Office, *Paying the Price: a consultation paper on prostitution*, July 2004.

⁷ Home Office, *Paying the Price: a consultation paper on prostitution*, July 2004, page 16.

⁸ Home Office, *Tackling the Demand for Prostitution: A Review*, 2008.

⁹ Ward L and Gillan A, *Sex Slaves Trafficked to the UK*, *The Guardian*, 30 May 2006.

¹⁰ Bindel J and Atkins H, *Big Brothel: A survey of the off-street sex industry in London*, 2008.

¹¹ The collected data can be viewed on the Serious Organised Crime Agency website www.soca.gov.uk/about-soca/about-the-ukhtc/statistical-data, last visited May 2010.

the collection of information about those who are involved in prostitution. Improved, disaggregated data will be essential to underpin effective strategies to prevent and respond to sexual exploitation.

3.5.2 Sexual exploitation, human rights and violence against women

Under the BPfA the Government must define and respond to violence against women as set out in international law – addressing it through the framework of equality and non-discrimination and as a human rights issue.

Sexual exploitation in the form of trafficking and the exploitation of prostitution falls under the definition of violence against women outlined in the BPfA because it results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty.¹²

The BPfA requires states to take a number of specific actions in relation to sexual exploitation.

Strategic Objective D.3 of the BPfA, which requires States to eliminate trafficking in women and assist victims of violence due to prostitution and trafficking, outlines the following “actions to be taken by Governments of countries of origin, transit and destination, regional and international organizations, as appropriate:

- (a) Consider the ratification and enforcement of international conventions on trafficking in persons and on slavery;
- (b) Take appropriate measures to address the root factors, including external factors, that encourage trafficking in women and girls for prostitution and other forms of commercialized sex, forced marriages and forced labour in order to eliminate trafficking in women, including by strengthening existing legislation with a view to providing better protection of the rights of women and girls and to punishing the perpetrators, through both criminal and civil measures;

- (c) Step up cooperation and concerted action by all relevant law enforcement authorities and institutions with a view to dismantling national, regional and international networks in trafficking;

- (d) Allocate resources to provide comprehensive programmes designed to heal and rehabilitate into society victims of trafficking including through job training, legal assistance and confidential health care and take measures to cooperate with non-governmental organizations to provide for the social, medical and psychological care of the victims of trafficking;

- (e) Develop educational and training programmes and policies and consider enacting legislation aimed at preventing sex tourism and trafficking, giving special emphasis to the protection of young women and children.”¹³

CEDAW Article 6 requires States to take “all appropriate legislative and other measures” to deal with trafficking and the “exploitation of the prostitution of women”.

The **Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (1949)** recognises that both prostitution and trafficking are “incompatible with the dignity and worth of the human person”. The Convention goes further still in recognising the link between the sex industry and trafficking by requiring States to:

- criminalise those who groom or coerce anyone into prostitution or exploit the prostitution of others (regardless of the purported consent of the prostituted person); and
- criminalise those who are involved in brothel keeping.

The recognition that it is not possible to separate trafficking from the sex industry and that in order to discourage trafficking, States need to take action against the sex industry, is reiterated in Article 9(5) of the **UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children 2000** which

¹² BPfA, Chapter IV (D) Paragraph 113.

¹³ BPfA, Chapter IV, Strategic Objective D.3 Paragraphs 130 (a)-(e).

requires States to “discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking”. The Trafficking Convention also requires States to analyse and respond to the factors that result in women being trafficked and suppress them, including the demand to sexually exploit women.

3.5.3 The law

Under the BPfA the Government must adopt and implement legislation providing adequate redress for women victims of violence through criminal and civil law remedies.

The Government’s legal response to trafficking has been problematic, as trafficking is consistently viewed as an immigration problem rather than a human rights violation. This can be seen in an analysis of the political debate leading up to the UK’s ratification of the Trafficking Convention. The UK was not initially a signatory to the Trafficking Convention, the Government arguing that granting reflection periods and residence permits to victims would act as a “pull factor” for migration into the UK. This position was criticised by women’s organisations and the Joint Committee on Human Rights which reviewed the situation in the UK and comparative jurisdictions and found “...the twin concepts of reflection periods and residence permits to be highly attractive as guarantors of the protection of the human rights of trafficking victims...”¹⁴ The Government finally reversed its position and on 23 March 2007 signed the Trafficking Convention.

Following the coming into force of the Trafficking Convention on 1 April 2009, a National Referral Mechanism (the NRM) was put in place to identify and protect victims of trafficking. Under the NRM, certain front line professionals, ‘first responders’, should refer individuals who they think may be a victim of trafficking to designated ‘Competent Authorities’ who are responsible for assessing the case. There is:

- A central, multi-agency Competent Authority in the UKHTC to assess cases where there are no immigration issues. The UKHTC is now based in the Serious Organised Crime Agency (SOCA).¹⁵
- Linked but separate Competent Authorities in the UK Border Agency (the UKBA) to assess cases where trafficking may be linked to other immigration issues.

Once the referral to the relevant Competent Authority is made, they should decide within 5 working days (which can be extended where necessary) whether or not there are ‘reasonable grounds’ for believing that the person has been trafficked. Where the Competent Authority finds that there are ‘reasonable grounds’ for believing that the person is a victim of trafficking she will be granted a 45 day recovery and reflection period. At this point she will be entitled to access safe accommodation and support. Before the end of the recovery period the Competent Authority will make a ‘conclusive’ decision about whether or not she is a victim of trafficking. The legal test at this stage is whether, on the balance of probabilities, the person referred is a victim of trafficking. At the end of the 45 days a decision may be made to extend the recovery period or grant a 1 year renewable residence permit.

There are no appeals against negative ‘reasonable’ or ‘conclusive’ grounds decisions and there is no legal representation through this process. The NRM operates alongside existing refugee and human rights law, so women who consent to be referred to the NRM may make other applications to remain in the UK. For further information about refugee and human rights protection in the UK see Rights of Women’s **Seeking Refuge? A handbook for asylum-seeking women.**

The **Sexual Offences Act 2003** (the SOA 2003) made it a criminal offence to:

- Traffic a person into the UK for sexual exploitation (section 57).
- Traffic a person out of the UK for sexual exploitation (section 59).

¹⁴ Joint Committee on Human Rights, *Twenty-Sixth Report, Human Trafficking, October 2006.*

¹⁵ See *Serious Organised Crime Agency website for more information.*

- Traffic a person within the UK for the purposes of sexual exploitation (section 58).

The maximum sentence for these offences is 14 years imprisonment. The offences enable a prosecution to be brought against a person who is involved in any part of the trafficking operation. 'Sexual exploitation' is defined in the legislation by reference to the non-consensual sexual offences (for example, rape) as well as offences that relate to child sex abuse, prostitution and pornography. The consent or purported consent of the trafficked woman is irrelevant, as is whether it can be shown that the person concerned was trafficked for financial or other gain. The age of the woman or girl trafficked does not affect the criminal responsibility given to the perpetrator.

Compensation for trafficked women has been given under the **Criminal Injuries Compensation Scheme 2001** and should be available under the 2009 Scheme. A civil action has also been brought against a trafficker. Orders for compensation can also be made by criminal courts following the conviction of a trafficker.

Prostitution is not itself illegal in the UK, however, activities associated with it, such as soliciting and advertising using cards in telephone boxes, are. The exploitation of the prostitution of others is also criminalised through offences that deal with brothel-keeping and controlling prostitution. Other offences deal with abuse of children.

The law on prostitution has recently been overhauled with the **Policing and Crime Act 2009** (the PCA 2009) which made a number of significant changes:

- Section 14 creates a new criminal offence in England and Wales of paying for the sexual acts of a prostitute who is, or has been, subject to force. Similar provisions relate to Northern Ireland (Scotland has a different legal framework). Further information on this offence can be found in briefings that are available on the Rights of Women website.

- Section 19 creates a new offence of soliciting a person in a street or public place for the purpose of obtaining sexual acts from them as a prostitute. This replaces the offences of kerb-crawling and persistent soliciting which were repealed (similar provisions relate to Northern Ireland).
- Section 21 and Schedule 2 introduce powers allowing the police to seek a court order prohibiting access to premises associated with certain prostitution or pornography-related offences.
- Section 16 removes the term 'common prostitute' from the legislation.
- Section 17 introduces a new 'Engagement and Support Order', which will be an alternative penalty to a fine for people convicted of loitering or soliciting.

Compensation is available to women involved in prostitution who are victims of crime under the Criminal Injuries Compensation Scheme 2009 and orders for compensation can be made by criminal courts following trials (for example, following the a trial for a 'pimp' of controlling prostitution for gain, an order for compensation can be made for the benefit of the prostituted woman).

For further information on sexual offences relevant to both prostituted and trafficked women see Section 3 Chapter 4 on sexual violence and Rights of Women's From Report to Court: A handbook for adult survivors of sexual violence.

The introduction of the NRM is welcomed by Rights of Women as a positive development that should enable the identification, protection and support of trafficked women. However, the establishment of Competent Authorities in the UKBA is a matter of serious concern as it illustrates that trafficking across international borders is still viewed as an immigration, rather than a human rights, issue. The lack of an appeal process against negative decisions taken under the NRM raises concerns about the transparency and fairness of the decision making process, particularly as legal representatives cannot be 'first responders' or make arguments on behalf of those who are referred. These issues will mean

that many trafficked women will not consent to be referred to the NRM and may continue to seek protection under other international law.

The criminal law on trafficking for the purposes of sexual exploitation has been drafted to reflect the relevant international law and ensure that prosecutions can be brought against all those involved in a trafficking operation. The developments in the PCA 2009 are welcomed by Rights of Women as a significant step in addressing the demand for sexual exploitation. Although the developments described go a long way towards focusing attention on those who purchase sexual acts and deterring them from doing so, Rights of Women would like to see this as part of a process that results in the complete decriminalisation of those exploited in prostitution and the criminalisation of all those who purchase sexual acts.

Although compensation is available to trafficked women under the Criminal Injuries Compensation Scheme, very few trafficked women have been able to apply for, or receive compensation because legal aid is not available, even in these complex cases. Prostituted women who are victims of crime can also apply under the Scheme; however, their compensation will be reduced because of their involvement in prostitution. Finally, although compensation orders can be made by criminal courts, Anti-Slavery International's review of 41 criminal court cases, which resulted in 95 convictions, revealed that there had not been a single compensation order made for the benefit of a trafficked woman, even in cases where assets had been confiscated from the trafficker.¹⁶ It is also thought that no orders have been made for the benefit of prostituted women. Whilst there has been a successful civil action against traffickers and civil actions have been brought by survivors of sexual violence against their perpetrators, it is clear that knowledge about these remedies and limited access to legal aid result in these remedies being significantly under used.

3.5.4 The policy

Under the BPfA the Government must:

Develop strategic policies and action plans that address all forms of violence against women and mainstream a gender perspective in all policies and action plans; and

Adopt and implement gender-sensitive policies to prevent and respond to violence against women at all levels.

The Government

The UK Human Trafficking Action Plan (the Plan) is designed to pull together policy from across Government and present a coherent approach to trafficking. The purpose of the plan is to:

- draw together all the work that is currently underway across government and other agencies on human trafficking.
- identify gaps in existing work.
- increase transparency and enable the Government to be held to account on the delivery of their objectives.
- provide a platform for developing a more strategic and holistic approach to tackling human trafficking.

The plan was initially produced following the signing of the Trafficking Convention. It is significant because it represents a co-ordinated approach to trafficking. However, the Plan does have weaknesses which are reflected in the legal response to trafficking outlined above, the most significant of which relates to immigration law and policy. The Plan refers to the strengthening of border controls and the need to enforce immigration law, significantly less is said about the need to offer protection to survivors of trafficking in the UK (rather than returning them to their country of origin). It is a matter of concern that the needs and rights of victims in the immigration system receive such scant attention.

¹⁶ *Anti-Slavery International, Opportunities and Obstacles: Ensuring access to compensation for trafficked persons in the UK, October 2008.*

Due to immigration issues around trafficked women the Government are not set on protecting them but sending them home, often to be re-trafficked.

Respondent to our survey

The Government developed a **Coordinated Prostitution Strategy**¹⁷ in 2005 following the *Paying the Price* consultation. The strategy aimed to help communities deal with prostitution and sexual exploitation, focusing on tackling demand and challenging the existence of street-based 'sex markets'. This was built on in January 2008 when the Home Office launched a six-month review to explore what further action could be taken to reduce the demand for prostitution. The findings of this review were published in November 2008 in **Tackling the demand for prostitution**.¹⁸ Both the strategy and the findings of the review resulted in the measures adopted in the PCA 2009 that Rights of Women welcome as a crucial step towards ending commercial sexual exploitation.

The England strategy reiterates a number of the policy developments described above and is welcomed by Rights of Women as adopting a holistic approach to violence against women.

The UK Human Trafficking Centre

The UK Human Trafficking Centre (UKHTC) was designed to provide a multi-agency response to trafficking. Rights of Women believes that the development of effective multi-agency working, that combines the knowledge and expertise of the statutory and voluntary sector is vital if victims are to be properly identified and supported and perpetrators brought to justice.

However, Rights of Women has concerns about the UKHTC's move into the SOCA, an agency that has a track record in combating serious and organised crime, not providing victim centred

services. Rights of Women also has concerns about the way that the UKHTC has worked with voluntary sector organisations. Voluntary sector organisations have a crucial role to play alongside the UKHTC in identifying and supporting victims of trafficking and being 'first responders' in the NRM. However, despite the increased burden placed on these organisations, no additional funding has been provided to enable them to discharge their new functions. While the funding of the POPPY Project to provide support and accommodation to victims is to be welcomed, much of the work done by POPPY and other voluntary organisations who work with the UKHTC to ensure its and the NRM's success remains unfunded.

The Police

In London, a new specialist crime unit has been developed to deal with trafficking and prostitution: SCDC9 Human Exploitation and Organised Crime. The creation of this new unit, in place from 1 April 2010, is welcomed by Rights of Women because it takes an integrated approach to trafficking, prostitution and other forms of sexual exploitation. Outside of London the policing of trafficking and prostitution is organised by local police forces who respond to both local and national priorities. This raises concerns about the consistency of police response to trafficking and prostitution across England and Wales and in particular, whether forces outside of London have the relevant specialist knowledge or expertise. For example, police officers responsible for the investigation of sexual offences who attended a Rights of Women training course in north Wales did not know that trafficking someone within the UK was a criminal offence.

Home Office policy in relation to the policing of prostitution can be found in **Home Office circular 006/2010**.¹⁹ The circular starts by explaining that prostitution is a form of violence against women and linking the need to reduce the demand for sexual exploitation with the UK's obligations under international law. The guidance that relates to section 14 of the PCA 2009

¹⁷ Home Office, *A Coordinated Prostitution Strategy and a summary of responses to Paying the Price*, January 2006.

¹⁸ Home Office, *Tackling the Demand for Prostitution: A Review*, November 2008.

¹⁹ Home Office Circular, HOC 006 / 2010, *Provisions in the Policing and Crime Act 2009 that relate to prostitution (sections 14 to 21)*.

explains in detail the forms of violence, coercion and deception that may be used to force someone into providing sexual acts. The sections of the circular that relate to those involved in prostitution make it clear that the use of the criminal justice system should be considered a last resort and emphasise the important role of specialist victim-centred exiting services. For all these reasons the circular is to be welcomed as representing a coherent approach that identifies, and seeks to address, the harm caused by sexual exploitation.

The Crown Prosecution Service (CPS)

Trafficking and prostitution are included within the CPS' Violence Against Women Strategy but they also have specific guidance in relation to trafficking and prostitution.

The CPS' **Human Trafficking and Smuggling**²⁰ guidance outlines how trafficking offences should be prosecuted; it links to other relevant guidance such as that on Achieving Best Evidence in Criminal Proceedings. The most significant CPS guidance in relation to trafficking is The Prosecution of Defendants charged with offences who might be trafficking victims which was developed to ensure that victims of trafficking were not prosecuted for immigration offences. The guidance states where a Prosecutor suspects that a person is a 'credible' trafficking victim he or she should then consider whether the public interest is best served in continuing to prosecute them. The guidance goes on to set out how the CPS should work with specialist voluntary sector organisations and the UKHTC.

Rights of Women is concerned that although this guidance was re-circulated²¹ following the case of *R v O*²² there remains a lack of awareness in the criminal justice system about trafficking and how victims should be identified and protected. Rights of Women also believes that the guidance itself offers inadequate safeguards to trafficked women at risk of prosecution for immigration offences.

The guidance is unhelpful in taking as its test whether the person concerned is a 'credible'

victim of trafficking, rather than using the 'reasonable grounds' test. The adoption of different legal tests can result in contradictory decisions being made about the same individual. A linked concern is the fact that the judgement as to whether or not a person is a 'credible' victim of trafficking is made by the investigating officer, rather than the CPS prosecutor. The danger of this approach is that errors made in a police investigation that wrongly identify a woman as an immigration offender rather than a victim of trafficking, are likely to be replicated, rather than identified and challenged, by the CPS Prosecutor. The guidance would offer significantly greater protection to trafficked women if, in every case where an individual was prosecuted for a relevant immigration offence, the Prosecutor was instructed to consider and record on the file whether, on the basis of the evidence available to them (which could come from the trafficked woman's account to the police and/or from defence representations), there were reasonable grounds for believing that she had been trafficked. Finally, the guidance specifically relates only to immigration offences, it will not prevent a trafficked woman for being prosecuted for a prostitution related offence.

The CPS has also developed guidance on **Prostitution and the Exploitation of Prostitution**; this gives prosecutors information of the relevant criminal offences in relation to both prostitution and trafficking. Under this guidance and following the CPS' Violence against Women Strategy, prostitution is addressed as sexual exploitation which requires a multi-agency approach. Links are made with other forms of violence against women, such as domestic and sexual violence and the policy makes clear that those who exploit those involved in prostitution should be "rigorously investigated and prosecuted". Whilst Rights of Women welcomes the development of this guidance as representing a coherent response to sexual exploitation, we are concerned by the language used and in particular, the references to "prostitutes" and "sex workers"

²⁰ Crown Prosecution Service, *Human Trafficking and Smuggling Guidance*, November 2009.

²¹ See the memo of the Chief Crown Prosecutor for Kent, *Criminal Casework - Immigration Offences and Victims of Human Trafficking*, Legal 05/08, 3 November 2008.

²² *R v O*, Court of Appeal Judgment delivered 2nd September 2008 (Laws L.J., Jack J., Sir Charles Gray). The case involved the prosecution for an immigration offence of a Nigerian girl who had been trafficked for sexual exploitation in an adult criminal court.

rather than “people involved in prostitution” as such language can normalise what the CPS recognises is a pernicious form of violence against women.

The UK Border Agency

There are a number of relevant UK Border Agency (UKBA) policies that relate to trafficking²³ including:

- **Enforcement Instructions and Guidance: Chapter 9 - Identifying Victims of Trafficking, 2009:** this guidance is relevant to all those who may come into contact with victims of trafficking and is designed to ensure a consistent response.
- **Asylum Process Guidance: Victims of Trafficking:** the first part of this guidance is for staff in asylum screening units, regional asylum teams and the Case Resolution Directorate to help them identify potential victims of trafficking, to ensure that they are dealt with sensitively, their circumstances taken into account and that they know what services are available. The second part of this guidance is for staff acting in the role of a Competent Authority to provide them with guidance on receiving referrals and making decisions.
- **Asylum Process Guidance: Supplementary guidance for deciding if an individual is eligible for the provisions of the Council of Europe Convention on Action against Trafficking in Human Beings:** this provides further guidance on how to make the ‘reasonable’ and ‘conclusive’ grounds decisions.
- **Asylum Process Guidance: Detained fast track and detained non-suspensive appeals- intake selection:** this sets out which cases for asylum can be decided while the applicant is in detention. For further information about which cases may be decided in detention and how decisions are made, see **Rights of Women’s Seeking Refuge? A handbook for asylum seeking women.**

- **Asylum Policy Instruction: Gender issues in the asylum claim:** this instruction gives guidance on the additional considerations decision makers should have in mind when considering gender-based asylum claims (see Section 3 Chapter 7 on women with an insecure immigration status for further information about asylum-seeking women).

These policies raise a number of issues in relation to the identification and protection of trafficking victims whose cases raise immigration issues.

Rights of Women is particularly concerned about the detention of trafficking victims while their asylum claim is processed. Whilst the **Asylum Process Guidance: Detained fast track and detained non-suspensive appeals - intake selection** states at paragraph 2.3 that “those for whom there has been a reasonable grounds decision taken [and maintained] by a competent authority stating that the applicant is a potential victim of trafficking or where there has been a conclusive decision taken by a competent authority stating that the applicant is a victim of trafficking” are “unlikely to be suitable for entry or continued management in detention”, research done by Eaves²⁴ shows that trafficked women are being routinely detained while their claim for asylum is processed.²⁵ The speed at which decisions are taken in the detained fast track and the limited ability that legal representatives have to prepare and present cases all contribute to a situation where women who have been trafficked are extremely unlikely to be identified. Even where a woman is identified as a victim, the guidance still permits detention asserting that detention is only “unlikely to be suitable”. The UKBA also detains trafficked women in relation to immigration offences. The detention of trafficked women by the UKBA illustrates that trafficked women are still not understood and responded to as victims. As the Eaves report concludes:

“Information about the detainees’ past trafficking history was made available to Home Office officials when making applications for release, yet

²³ These can all be accessed from the Anti Trafficking Legal Project’s website www.ein.org.uk/resources/printfriendly2.shtml?x=233509#HomeOffice, last visited May 2010.

²⁴ Eaves is a London-based charity that provides high quality housing and support to vulnerable women. More information about their services can be found on their website www.eaves4women.co.uk/.

²⁵ Sarah Stephen-Smith, *The POPPY Project, Detained: Prisoners with no crime, Detention of trafficked women in the UK, 2008.*

detention was maintained. The Home Office already had information from interviews and asylum statements that these women were victims of trafficking. Criminal justice issues, for example women entering the country by deceptive means (irrespective of the fact that such an act was likely to have been under duress), were seen as overriding factors, thereby neglecting the paramount status of victims' human rights".²⁶

Rights of Women is also concerned about the quality of decision making in trafficking cases, in some cases this is because guidance is not followed and in others it is because we believe that the content of the guidance itself is incorrect.

In relation to the quality of decision making, the UKBA has developed specific guidance on gender and trafficking to assist decision makers. Some sections of this guidance gives women certain procedural protections, for example, the provision of female interviewers and interpreters where possible, while other sections provides information on persecution and trafficking that should assist case workers to make decisions on whether or not there are reasonable grounds for believing that a woman has been trafficked or is entitled to Refugee Leave. However, research done by Asylum Aid and Eaves on the quality of decision making in trafficked women's asylum claims, found that despite these policies and other improvements made in relation to the asylum determination process, no improvements in decision making were identified and women were routinely refused protection by the UKBA only to be recognised as needing it on appeal.

The final concern Rights of Women has in relation to UKBA policies on trafficking relates to the content of guidance given to decision makers who are acting as Competent Authorities. Thus the Supplementary guidance for deciding if an individual is eligible for the provisions of the Council of Europe Convention on Action against Trafficking in Human Beings appears to try and limit the provision of support to women who are in, or have in the immediate past been in a trafficking situation. This guidance refers throughout to whether a person "is" rather than "has been" trafficked and at paragraph 9 states:

"Based on an assessment of the individual circumstances of the case it may be reasonable to conclude that where a person's circumstances do not require protection or assistance at the time of that assessment, the person is unlikely to be a victim for the purposes of the Convention..."

Rights of Women takes the view that there is nothing in the Trafficking Convention or its explanatory report that supports such a conclusion. The recognition of a person as a victim of trafficking gives that individual important rights, not just to access a recovery and reflection period, but also to enable them to remain in the UK for the longer term to access services or support a prosecution. The denial of victim status to someone who does not appear to the UKBA to be in need of protection or assistance at the time of their assessment will have profound consequences, particularly in relation to an asylum claim that is based on assessing whether the person is at a future risk of persecution.

Rights of Women believes that the above analysis shows that while considerable progress has been made in relation to sexual exploitation, this area is dominated by a misplaced emphasis on immigration concerns. For example, while criminal justice responses to sexual exploitation appear to focus on sexually exploited women as victims, UKBA policies, while adopting the language of protection and human rights, fail to protect trafficked women. This may be because their content seeks to limit or deny protection to those who need it, or because policies that do offer assistance are not followed. This tension is exemplified by an examination of the relevant CPS policies. While the guidance that relates to trafficking and prostitution adopts a violence against women based approach, the guidance that deals with immigration offences fails to offer meaningful protection to trafficked women suspected of immigration offences.

²⁶ Sarah Stephen-Smith, *The POPPY Project, Detained: Prisoners with no crime, Detention of trafficked women in the UK, 2008, page 7.*

3.5.5 Raising awareness and challenging stereotypes

Under the BPfA the Government must raise awareness of violence against women and challenge discriminatory attitudes and stereotypes including harmful traditional or social practices through education and the media.

The Home Office has developed a website on the implementation of the Trafficking Convention which contains information on the NRM, the referrals process and relevant forms as well as information on support for those who have been trafficked. The website is a useful tool in raising awareness about trafficking and the Government's response to it.²⁷

The Home Office has also developed a Crime Reduction Toolkit²⁸ for those who have responsibility for addressing: sexual offences, prostitution and violence against women; child protection; and, labour exploitation. The Toolkit is directed at police, immigration officials, the CPS, victim support, social services departments, local authorities, NGOs and other agencies throughout the UK. Whilst it focuses on trafficking, it links trafficking to prostitution and violence against women to try and ensure that a consistent approach is taken to these forms of sexual exploitation. For example, the Toolkit states that:

"Given the links between trafficking in women and children and crimes related to sexual assault, there should also be consideration of these overlaps by relevant multi-agency groups (including Area Child Protection Committees (ACPCs) and any violence against women strategy groups)".

The Office for Criminal Justice Reform has also created a Trafficking Toolkit²⁹ for agencies in the criminal justice system. This toolkit, launched in 2009, provides advice and support to frontline practitioners who may come into contact with victims and perpetrators of human trafficking.

Generic information and guidance is combined with specific guidance for certain professionals, including the police, health professionals, local authorities and voluntary sector organisations. Whilst the information and advice given in this Toolkit should be useful to practitioners, it is disappointing that it is only concerned with responding to trafficking in isolation from other forms of sexual exploitation.

Tackling the sexualisation of women in the media and popular culture in order to help create a cultural shift in which sexism & violence against women is seen as out of date and old fashioned.

Respondent to our survey

Publicity campaigns have been developed by the Home Office to raise awareness of trafficking and prostitution, for example, with the implementation of section 14 of the PCA 2009 the Home Office ran a poster-based publicity campaign with the heading 'Walk in a punter, walk out a criminal'. This builds on a previous campaign that was designed to reduce kerb crawling. Both of these publicity campaigns emerged as a result of the Coordinated Prostitution Strategy and recognised the harmful effects of sexual exploitation.

Whilst a plethora of resources have been developed to assist professionals who have or may come into contact with trafficked women, it is disappointing that a similar level of energy has not been devoted to developing resources to improve the support given to women involved in prostitution who have not been trafficked. Whilst the Crime Reduction Toolkit does adopt a more holistic approach to sexual exploitation, the Toolkit developed by the Office for Criminal Justice Reform responds to trafficking in isolation, an approach that will leave many professionals dealing with women who are sexually exploited

²⁷ www.crimereduction.homeoffice.gov.uk/humantrafficking005.htm, last visited May 2010.

²⁸ Home Office, *The Crime Reduction Toolkit, trafficking of people, 2004*.

²⁹ Office for Criminal Justice Reform, *Trafficking Toolkit, 2009*.

without the information and resources they need. Rights of Women welcomes the use of publicity campaigns to raise awareness of the harm caused by sexual exploitation. However, the materials developed have not done enough to challenge discriminatory stereotypes, based on race and gender, that fuel demand.

3.5.6 Availability and accessibility of services

Under the BPfA the Government must:

Allocate adequate resources within its budget including resources for the implementation of plans of action at all appropriate levels; and

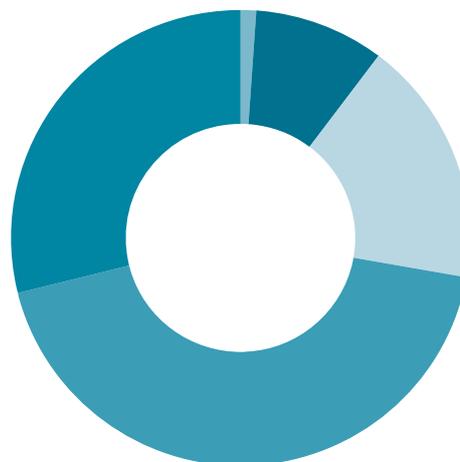
Ensure access to and availability of services for all women including by giving vigorous support to the efforts of women’s organisations and other non-governmental and community organisations.

Voluntary organisations play a crucial role in responding to the complex needs of women who have been sexually exploited.

The POPPY Project, part of Eaves³⁰ was set up in 2003. It is funded by the Office for Criminal Justice Reform to provide accommodation and support to women who have been trafficked into prostitution or domestic servitude. It has 54 bed spaces in houses nationally. Accommodation and support is also offered by organisations including the Salvation Army³¹ and the Medaille Trust.³² Given the estimated numbers of trafficked women in the UK, this provision, while welcome, cannot be considered adequate, as one respondent to our survey observed: “The government's stance on trafficking of women into sexual slavery is abysmal. There is only one funded organisation working with women survivors of sexual slavery and this is The Poppy Project.”

Where a woman has been referred to the NRM and receives a positive ‘reasonable grounds’ decision, she becomes entitled to accommodation

Respondents to our survey were asked: “How effective do you think the Government’s provision of protection and assistance to women survivors of trafficking is?”



Answer Options	Response Percent	Response Count
Very effective	1.0%	1
Effective	9.3%	9
Quite effective	17.5%	17
Not effective	43.3%	42
Not sure	28.9%	28

**answered question 97
skipped question 3**

and support during her ‘recovery and reflection period’. However, such funded support is not available to those who are not referred into the NRM or those who receive negative decisions.³³ In addition to providing accommodation and support to trafficked women, voluntary sector organisations may also be involved in the NRM as designated ‘first responders’, however, they receive no additional funding to enable them to fulfil this challenging role.

Little is known about the provision of services to women involved in prostitution as these services are organised at a local level, may be funded through the criminal justice system or by the NHS, may have different projects to deal with on and off street prostitution, may be run by generic services or specialist violence against women organisations and may carry out a range of

³⁰ For more information about the Poppy Project visit www.eaves4women.co.uk/POPPY_Project/POPPY_Project.php.

³¹ For more information about the Salvation Army visit <http://www1.salvationarmy.org.uk>

³² For more information about the Medaille Trust visit www.medaille.co.uk.

³³ Trafficked women who claim asylum are supported by the UKBA, see Section 3 Chapter 7.

activities, from drug and alcohol services to assistance claiming welfare benefits and accessing housing.

What is known is that organisations that respond to violence against women in the UK experience considerable difficulties in accessing sustainable funding. As The Map of Gaps 2³⁴ shows, service provision across the UK, particularly in relation to sexual violence, is patchy and in some areas, non-existent. A POPPY Project report on the provision of services to women in prostitution in London found considerable gaps in service provision and concluded that:

“Governments everywhere deprioritise the provision of services for women, and men, in the sex industry, despite the fact that they are one of the most vulnerable groups in society. The cost of prostitution is staggering, both in terms of those exploited within it, and communities that live with the problems it brings into neighbourhoods. Long term strategies to tackle this issue are costly, but not as costly as ignoring it. Additional funding should be available for existing projects in London to expand their services and therefore benefit more women in the sex industry. There is also an urgent need to fund additional projects with a focus on both primary prevention and exiting.”³⁵

One recent development that may improve the services offered to prostituted women is the creation of ‘Engagement and Support Orders’ under section 17 of the PCA 2009. These new orders are available to courts as an alternative penalty to a fine for women convicted of prostitution related offences. It is hoped that specialist violence against women organisations will become involved in the delivery of these orders following the model that has been developed by TRUST.³⁶

Rights of Women believes that women who have experienced sexual exploitation require specialist accommodation and support. Whilst some trafficked women may be able to access

accommodation and support through the NRM, current levels of provision are inadequate. Voluntary sector organisations whose work is vital to the success of the NRM are taking on increasingly demanding roles for which they are not funded. The funding of victim centred, specialist, exiting services are a vital tool in reducing the numbers of women who are sexually exploited in the UK. More research should be done on the availability of such services and to disseminate examples of best practice.

Where services exist, they are effective. However, the government needs to provide and invest in more specialist trafficking services.

Respondent to our survey

³⁴ End Violence against Women Coalition and Equality and Human Rights Commission, *Map of Gaps 2*, 2009.

³⁵ Julie Bindel, *Poppy Project, No Escape? An Investigation into London's Service Provision for Women Involved in the Commercial Sex Industry*, page 39.

³⁶ TRUST has developed a Court Diversion Scheme to support women in prostitution who are involved in the criminal justice system. The Scheme involves TRUST workers being based in courts where they offer support to women who have been charged with soliciting, it was highlighted as an example of best practice in *Paying the Price*.

Measuring up: Preventing and responding to sexual exploitation in the England and Wales

Recent progress has clearly been made in the Government's response to tackling sexual exploitation. The ratification of the Trafficking Convention means that the UK has met its obligations under paragraph 130(a) of the BPfA to ratify and enforce relevant international law on trafficking and slavery. We also welcome the definitions of trafficking used in the SOA 2003, alongside the development of policies that identify and seek to respond to the harm caused by sexual exploitation. Section 14 of the PCA 2009 is a significant development in the law on sexual exploitation as it addresses the "root factors" that encourage trafficking and prostitution, the demand to sexually exploit vulnerable women and girls in the UK.

Rights of Women believes that these positive developments need to be built upon by the recognition that the next step in this process is the complete criminalisation of the purchase of all sexual acts and the decriminalisation of those who are sexually exploited.

We have identified a number of issues in relation to the implementation of the law and policy on sexual exploitation and have identified the following areas for improvement in the Government's response in England and Wales:

- Whilst welcoming the NRM as a positive development in the identification, protection and support of trafficked women we believe that this would be improved by enabling the legal representatives of trafficked women to become 'first responders' and enabling trafficked women who receive negative 'reasonable' or 'conclusive' grounds decisions to appeal against that decision to an impartial tribunal.
- We are concerned that the use of the UKBA as the Competent Authority in cases that raise immigration issues will result in the development of a 'two tier' NRM, where women whose cases are decided by the UKBA receive less favourable decisions than those whose cases are decided by the UKHTC. We therefore advocate the adoption of a single Competent Authority in the UKHTC to ensure that all victims of trafficking are treated in the same way, regardless of immigration status.
- If the UKBA remains the Competent Authority then we call for the development of new guidance for the UKBA to ensure that trafficked women are not detained while their claim for asylum is decided or in relation to immigration offences, the amendment of the UKBA guidance to individuals acting as Competent Authorities to ensure that the approach taken to victims is purposive, rather than seeking, through interpretation, to limit the types of cases where women are recognised as victims.
- There needs to be more information made available to women who have been sexually exploited about the civil remedies available to them to secure compensation, and legal aid made available for the preparation of applications for criminal injuries compensation. The Criminal Injuries Compensation Scheme 2009 should also be amended to ensure that women involved in prostitution who are also victims of crime are not discriminated against in the calculation of any compensation that they are entitled to.
- Specialist knowledge and expertise that has been developed by the Metropolitan Police needs to be disseminated nationally if the UK is to become an unattractive and hostile environment for the organised crime networks that profit from sexual exploitation.

- The funding of the POPPY Project to offer accommodation and support to women who have been trafficked is insufficient and we call for appropriate and sustainable funding for voluntary sector organisations whose work (for example, as 'first responders' in the NRM) enables the UK to meet its obligations under the Trafficking Convention.
- Considerable investment is also required in specialist services for all women involved in prostitution. The development and funding of services for trafficked women must be matched by the funding of specialist, victim centred, exiting services for all those involved in prostitution.
- We believe that measures set out in the England strategy to provide education in schools and publicity campaigns designed to discourage the demand for sexual exploitation should be seen as part of a continuous awareness raising and prevention process and that campaigns should go further in addressing harmful, discriminatory stereotypes.

3.6 Female genital mutilation

Female genital mutilation (FGM) is “all procedures that involve partial or total removal of the external female genitalia, or other injury to the female genital organs for non-medical reasons.”¹ FGM is sometimes referred to as female genital cutting or female circumcision. Rights of Women uses the term FGM because that is the language used in national and international law and because it is important that FGM is not equated with male circumcision.

This chapter examines the law and policy in relation to FGM in England and Wales.

3.6.1 Prevalence

Under the BPfA the Government must study the causes and consequences of violence against women.

The World Health Organisation estimates that the number of girls and women who have undergone FGM around the world is between 100 and 140 million and that each year 3 million girls are at risk of undergoing FGM. FGM is practised in more than 28 countries in Africa and in some countries in Asia and the Middle East. The countries which have the highest prevalence of FGM are Burkina Faso, Djibouti, Egypt, Eritrea, Ethiopia, The Gambia, Guinea-Conakry, Mali, Sierra Leone, Somalia and Sudan.² In their 2007 research, **A Statistical Study to Estimate the Prevalence of Female Genital Mutilation in England and Wales**,³ FORWARD⁴ estimates that 20,000 girls

under the age of 16 are at risk of FGM in the UK each year and that nearly 280,000 women living in the UK have undergone FGM.

However, the paucity of statistical evidence of the extent of FGM in the UK together with a lack of prosecutions under existing legislation indicate a real need for improvements in the way in which FGM is addressed by the UK.

3.6.2 Female genital mutilation, human rights and violence against women

Under the BPfA the Government must define and respond to violence against women as set out in international law – addressing it through the framework of equality and non-discrimination and as a human rights issue.

The BPfA specifically identifies FGM as a form of violence against women.⁵

FGM raises a number of human rights concerns and in particular can engage State responsibility in respect of the right to be free from torture or cruel; inhuman or degrading treatment; the right to health; the right to an effective remedy; and the right to non-discrimination and equal protection of the law. It can also raise concerns related to the right to life where the procedure results in death.

FGM, as with all forms of violence against women that may entail severe pain or suffering, violates the right to be free from torture or cruel, inhuman

¹ World Health Organisation, Fact sheet No. 241, Female Genital Mutilation, February 2010.

² Haseena Lockhart, *Female Genital Mutilation: Treating the Tears*, Middlesex University Press, 2004.

³ FORWARD, *A Statistical Study to Estimate the Prevalence of Female Genital Mutilation in England and Wales*, October 2007.

⁴ The Foundation for Women's Health, Research and Development. For more information about their work visit <http://www.forwarduk.org.uk/about>.

⁵ BPfA, Chapter IV (D), Paragraph 113 (a).

or degrading treatment.⁶ A State violates this right if it fails to act with due diligence to prevent, investigate and punish acts of FGM.

FGM is a form of violence which can have far reaching physical and mental health consequences and raises serious concerns related to the right to health. In its **General Recommendation No. 14** (Female Circumcision),⁷ the CEDAW Committee highlighted the serious health and other consequences for women and children. It recommended that to meet obligations under CEDAW, States should take appropriate and effective measures with a view to eradicating the practice of FGM by working with a range of actors from the voluntary and statutory sectors at local and national levels to collect and disseminate data on FGM; and educate, raise awareness and influence attitudes on FGM through women's organisations, politicians, professionals, religious and community leaders at all levels, including the media and the arts. The CEDAW Committee placed particular emphasis also on the role of strategic intervention through public health care policies and the special responsibility of health personnel.

Because FGM disproportionately affects children, it raises a number of concerns under the **UN Convention on the Rights of the Child** (CRC), including Article 2 (gender equality); Article 19(1) (prohibition of all forms of mental and physical violence and maltreatment); Article 24(1) (right to the highest attainable standard of health) and Article 37(1) (States must take effective and appropriate measures to abolish traditional practices prejudicial to the health of children).

The former UN Special Rapporteur on violence against women, its causes and consequences, has highlighted how in some cases, merely suppressing a harmful practice such as FGM may only shift the problem, unless the root causes are thoroughly addressed.⁸ She has stressed the

importance of empowerment of women in the fight against FGM and has underscored how "the State must include not only legislative, investigative and judicial reform to end impunity, but also empowerment approaches to build women's capacities and to facilitate the questioning of hegemony within cultures by women."⁹

3.6.3 The law

Under the BPfA the Government must adopt and implement legislation providing adequate redress for women victims of violence through criminal and civil law remedies.

Female Genital Mutilation Act 2003: FGM has been a criminal offence in England and Wales since 1985 but the law was strengthened by the Female Genital Mutilation Act 2003 (FGM Act). It is a criminal offence to perform, or to aid and abet another person to perform, FGM on a girl or woman within England and Wales or to take her abroad for FGM to be performed. The important prohibition on taking a girl abroad increased the protection available under the law as previously the criminal law only prohibited FGM being carried out in this country. However, the law only protects British nationals or those who have permanent residence and therefore, unlike legislation to protect women from forced marriage (Section 3 Chapter 3), does not provide protection for non-permanent residents such as those on spousal or student visas.

The new legislation also increased the punishment for this criminal offence to 14 years imprisonment and/or a fine. However, to date there have been no prosecutions under this legislation and it is clear that much work needs to be done to ensure that women and girls are adequately protected.

⁶ Article 7 of the International Convention on Civil and Political Rights 1966 (ICCPR) prohibits torture or cruel, inhuman or degrading treatment or punishment. The Human Rights Committee which monitors the ICCPR has confirmed that FGM violates Article 7. See for example, Concluding Observations of the Human Rights Committee: The Gambia, UN Doc. CCPR/CO/75/GMB, 12 August 2004, Paragraph 10.

⁷ UN Committee on the Elimination of Discrimination against Women, General Recommendation No. 19, Violence against women, Eleventh Session, 1992.

⁸ UN Human Rights Council, Report of the Special Rapporteur on violence against women, its causes and consequences, Yakin Ertürk, Intersections between culture and violence against women, UN Doc. AI/HRC/4/34, 17 January 2007, Para 34.

⁹ UN Human Rights Council, Fifteen Years of the UN Special Rapporteur on Violence Against Women, its Causes and Consequences (1994-2009) – a Critical Review, UN Doc. AI/HRC/11/6/Add.5, 27 May 2009.

Children Act 1989: FGM is a form of child abuse and as such is included within the Government's **Working Together to Safeguard Children: a guide to inter-agency working to safeguard and promote the welfare of children.**¹⁰ Under the Children Act local authorities have an obligation to promote and safeguard the welfare of children in their area. If a local authority becomes aware that a child is at risk of FGM they may apply for orders, such as an emergency protection order or care order, in order to make decisions about the child's future, such as what medical treatment she receives. Similarly if one parent becomes concerned that the other parent is making arrangements for FGM to be performed on a child, she or he can apply to the court under the Children Act for orders, such as a prohibited steps order or specific issue order, such as forbidding the other parent from removing the child from her or his care, taking the child abroad or handing over the child's passport.

Rights of Women welcomed the improved criminal sanctions to address FGM implemented in 2004. We are, however, extremely disappointed that these have not yet been used to bring perpetrators to justice and to protect women and girls. We believe this is again evidence that legislation to address violence against women cannot work in isolation but rather requires a sustained and far-reaching campaign of awareness raising and training to ensure that all who come into contact with a girl or woman at risk of FGM know how to provide her with the right advice and support.

3.6.4 The policy

Under the BPfA the Government must:

Develop strategic policies and action plans that address all forms of violence against women and mainstream a gender perspective in all policies and action plans; and

Adopt and implement gender-sensitive policies to prevent and respond to violence against women at all levels.

Home Office

The issue of FGM receives only a very brief mention in the England strategy. An FGM Coordinator was appointed by the Home Office in September 2009 to coordinate work on FGM by statutory, community and voluntary sector organisations and to develop guidance and training for professionals. The strategy for Wales makes no new or specific commitments to addressing FGM.

Department of Health

The issue of FGM has recently been addressed by the Department of Health's **Taskforce on the Health Aspects of Violence Against Women and Girls**. The Harmful Traditional Practices and Human Trafficking sub group, whose remit includes FGM as well as forced marriage and honour-based violence, published a report in March 2010¹¹ making recommendations to:

- challenge attitudes and increase awareness through a public health campaign;
- ensure that frontline health professionals are aware of key guidance to support prevention and early identification and that Primary Care Trusts engage with specialist voluntary sector organisations for advice and support;
- increase the effectiveness of recording of information about FGM;

¹⁰ Department for Children, Schools and Families, *Working Together to Safeguard Children: a guide to inter-agency working to safeguard and promote the welfare of children*, March 2010.

¹¹ Department of Health, *Taskforce on the Health Aspects of Violence Against Women and Girls, Report from the Harmful Traditional Practices and Human Trafficking sub-group, Responding to violence against women and children – the role of the NHS*, March 2010.

- develop training for health professionals to identify mothers from communities in which FGM is practised and the action required to respond to their needs;
- ensure that all pregnant women from communities in which FGM is practised are asked about FGM and provided with relevant information and advice about the risks and harm associated with FGM; and,
- promote compliance in the health service with local safeguarding children procedures.

Police

The Metropolitan Police Service (MPS) have produced guidance for officers in dealing with cases of FGM¹² and, although there are very limited references specifically to addressing FGM, it is included in the **Association of Chief Police Officers Honour-based Violence Strategy**.¹³

Rights of Women welcomes the appointment of the Home Office Coordinator and their objective to coordinate a multi agency approach to addressing FGM. We believe that only in this way will we start to see an increase in the use of the existing criminal sanctions to protect women and girls and bring perpetrators to justice, sending a clear message that FGM will not be tolerated.

Crown Prosecution Service (CPS)

Whilst we have warmly welcomed the CPS' Violence Against Women strategy, it is disappointing that although FGM is included within its remit the accompanying action plan does not contain any specific actions to address FGM. A coordinated approach by the police and CPS is essential to the effective investigation and prosecution of cases and is vital if we are to see the effective use of the criminal sanctions available.

3.6.5 Raising awareness and challenging stereotypes

Under the BPfA the Government must raise awareness of violence against women and challenge discriminatory attitudes and stereotypes including harmful traditional or social practices through education and the media.

In a welcome move to address the lack of convictions under the new legislation, and in partnership with FORWARD and other Government departments including the Department of Health, the MPS Child Abuse Investigation Command has set up Project Azure to raise awareness of the health and legal implications of FGM.¹⁴

The London Safeguarding Children Board's **Safeguarding children at risk of female genital mutilation**¹⁵ guidance for professionals sets out a procedure to be followed if there are concerns that a child is at risk of FGM or has had FGM performed as well as measures to prevent and eliminate FGM.

There is therefore evidence of momentum in London to address FGM and we hope that the appointment of the Home Office's FGM Coordinator will see this work rolled about throughout England and Wales.

¹² For a copy of the Metropolitan Police's guidance, *Female Genital Mutilation, Aid to Investigators*, visit www.met.police.uk/scd/specialist_units/fgm_sop.doc (last visited May 2010).

¹³ *Association of Chief Police Officers, Honour-based Violence strategy, August 2008.*

¹⁴ More information about Project Azure is available on the Metropolitan Police website at http://www.met.police.uk/scd/specialist_units/fgm_reward.htm, last visited May 2010.

¹⁵ *London Safeguarding Children Board, Safeguarding children at risk of abuse through female genital mutilation*, available on the London Safeguarding Children Board website.

3.6.6 Availability and accessibility of services

Under the BPfA the Government must:

Allocate adequate resources within its budget including resources for the implementation of plans of action at all appropriate levels; and

Ensure access to and availability of services for all women including by giving vigorous support to the efforts of women's organisations and other non-governmental and community organisations.

According to Map of Gaps 2 there are only 15 FGM projects in England, three quarters of which are based in London.¹⁶ Most of these are health focused and within the statutory sector such as the African Well Women's Service in Waltham Forest.¹⁷ They identified no FGM services in Wales.

The Department of Health's Taskforce (see above) also identified a lack of good quality evaluation as to the effectiveness of these services.¹⁸

It is extremely disappointing that neither the England strategy nor the Welsh Assembly Government's strategy contain any commitments in terms of resources to specifically address the issue of FGM. Without specialist services working to raise awareness and to support and advise women we do not believe that FGM will be adequately addressed and the legislation will remain largely unused.

Measuring up: Preventing and responding to female genital mutilation in England and Wales

In our view FGM is an issue that has only started to be addressed in England and Wales. Despite the existence of criminal sanctions since 1985 no progress has been made in bringing perpetrators to justice and women and girls continue to be at risk.

We welcome the appointment of the Home Office's FGM Coordinator and look forward to progress in respect of the response to FGM as a result. However, we are concerned that law and policy in this area is failing women and have identified the following areas for improvement in the response to domestic violence in England and Wales:

There is a very clear need for increased awareness and understanding of the criminal law sanctions for FGM amongst the community as well as the professionals most likely to come into contact with women and girls at risk.

We believe that clearer protocols for the identification and reporting of suspected cases of FGM are vital to ensure that they are appropriately investigated and ultimately prosecuted. Good practice developed by specialist services needs to be rolled out and resources allocated to ensure that women and girls are provided with the appropriate support to meet their needs.

There is very real evidence of a lack of specialist services available to respond to the needs of women and girls despite the estimated numbers of women at risk. Funding for specialist and community based services in this area must be a priority.

¹⁶ End Violence Against Women Coalition and Equality and Human Rights Commission, *Map of Gaps 2*, 2009, page 48.

¹⁷ For more information about the African Well Women's Service visit <http://nrif.homeoffice.gov.uk/Health/General/docs/033261AfWellwomenWaltham.pdf>, last visited May 2010.

¹⁸ Department of Health, *Taskforce on the Health Aspects of Violence Against Women and Girls, Report from the Harmful Traditional Practices and Human Trafficking sub-group, Responding to violence against women and children – the role of the NHS*, March 2010, page 17.

3.7 Violence against women with an insecure immigration status

Rights of Women believes that women who have an insecure immigration status face multiple forms of discrimination that places them at greater risk of experiencing violence and which may prevent them from accessing life-saving services. For example, a literature review carried out by the Refugee Council which analysed the vulnerabilities of refugee women to sexual violence, found that they were vulnerable to different types of violence at all stages of the “refugee cycle”.¹

Whether or not the violence the woman concerned has experienced was in the UK or abroad, women with an insecure immigration status often face additional barriers accessing services or support in the UK. This may be because language barriers prevent her from getting information about her rights or because she is unable to access services because of her immigration status.

This chapter examines the law and policy in relation to women with insecure immigration status in England and Wales. Focus is given to this issue because it is an area of law for which we have a particular expertise and on which we are currently campaigning. This chapter addresses the position of:

- asylum-seeking women
- women experiencing violence in the UK who face barriers accessing welfare benefits or community care services because of their immigration status.

3.7.1 Prevalence

Under the BPfA the Government must study the causes and consequences of violence against women.

The Research, Development and Statistics (the RDS) section of the Home Office collates and publishes information about asylum and immigration issues and violence against women.² However, the information published in relation to asylum and immigration is either not sufficiently, or not at all, gender disaggregated. In relation to asylum statistics, it does not appear that information is collated either in relation to the asylum applicant or to the content of asylum claims. This means that there is no information available about factors that may make asylum seeking women particularly vulnerable to experiencing further violence, for example, their age, sexuality or whether or not they have a disability. We also have no information on the number of women who claim asylum in the UK who have experienced rape, domestic violence or some other form of violence against women. Consequently, it is not possible to ascertain whether a woman seeking asylum because she has experienced gender-based violence in her country of origin, is more or less likely to be granted protection in the UK than a man from the same country whose case falls within the ‘traditional’ definition of a refugee. In terms of other applications, in 2008 the Home Office reported that on average 1,000 applications are made under the domestic violence rule every year,

¹ Refugee Council, *The Vulnerable Women’s Project, Refugee and Asylum Seeking Women Affected by Rape or Sexual Violence*, February 2009, page 15.

² See the Home Office Research Development Statistics (RDS) website: <http://rds.homeoffice.gov.uk>, last visited May 2010.

of which 35-50% are successful.³ There is no information currently available about the number of women who make other applications (for example, on human rights grounds or outside of the Immigration Rules) because they have experienced or are at risk of violence.

The RDS does not publish information that relates to violence against women as defined in international law; instead information is collected and published that relates to certain thematic types of criminal activity. For example, their report on 'intimate partner violence' covers offences that relate to domestic violence and sexual assault.⁴ This information is disaggregated by gender, age, ethnic background, relationship status, family background, housing and income. However, immigration status is not analysed despite the fact that those with an insecure immigration status are disproportionately represented among those suffering the risk factors associated with being a victim of intimate partner violence, for example, living in poverty, living in rented accommodation, living in areas identified as having high levels of disorder.

While useful information has been collated in relation to women who have experienced violence in the UK, this does not address the vulnerable position of women with an insecure immigration status. Information that is collected in relation to immigration issues, such as on the number of asylum claims or on positive asylum decisions, fails to deal with gender or violence against women at all. The absence of adequate, gender-disaggregated data and statistics on the position of women with an insecure immigration status in the UK makes the development of appropriate laws or intervention strategies impossible.

3.7.2 Women with an insecure immigration status, human rights and violence against women

Under the BPfA the Government must define and respond to violence against women as set out in international law – addressing it through the framework of equality and non-discrimination and as a human rights issue.

The BPfA requires that States address the needs of the most disadvantaged women and respond to multiple discrimination. It recognises the particular vulnerabilities of women with an insecure immigration status and states that:

“Some groups of women, such as refugee women, women migrants, including women migrant workers, destitute women, women in institutions are also particularly vulnerable to violence.”⁵

The BPfA requires States to:

“(a) Provide well-funded shelters and relief support for girls and women subjected to violence, as well as medical, psychological and other counselling services and free or low-cost legal aid, where it is needed, as well as appropriate assistance to enable them to find a means of subsistence;

(b) Establish linguistically and culturally accessible services for migrant women and girls, including women migrant workers, who are victims of gender-based violence;

(c) Recognize the vulnerability to violence and other forms of abuse of women migrants, including women migrant workers, whose legal status in the host country depends on employers who may exploit their situation.”⁶

International human rights law requires that all persons within the jurisdiction of the State should

³ Memo from Harriet Wilkins Community Safety Partnerships Unit, Islington Council and Olivia Fellas, Refugee and Migrant Service to the Home Office 11 March 2008. Research published by Southall Black Sisters indicates that there are 600 women in the UK who have an insecure immigration status and are experiencing domestic violence. See Southall Black Sisters and the Women's' Resource Centre, *How Can I Support Her? Domestic Violence, immigration and women with no recourse to public funds*, April 2008.

⁴ Home Office Statistical Bulletin, *Homicides, Firearm Offences and Intimate Violence 2007/08 (Supplementary Volume 2 to Crime in England and Wales 2007/08)*, David Povey (Ed.), Kathryn Coleman, Peter Kaiza and Stephen Roe, Third Edition, 22 January 2009.

⁵ BPfA, Chapter IV (D) Paragraph 116.

⁶ BPfA, Strategic Objective D.1, Paragraph 125(a).

have the equal protection of the law, regardless of their nationality or immigration status. There are a number of international laws that prohibit discrimination, including the **International Covenant of Civil and Political Rights 1966** (the ICCPR) and the **International Covenant on Economic, Social and Cultural Rights 1966** (ICESCR). Article 2(1) of the ICCPR states:

“Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status”.⁷

The UN Committee on Economic, Social and Cultural Rights, in its **General Comment No. 20** (Non-Discrimination in Economic, Social and Cultural Rights), stated:

“The ground of nationality should not bar access to Covenant rights,⁸ e.g., all children within a State, including those with an undocumented status, have a right to receive education and access to adequate food and affordable health care. The Covenant rights apply to everyone including non-nationals, such as refugees, asylum-seekers, stateless persons, migrant workers and victims of international trafficking, regardless of legal status and documentation.”⁹

Whilst this comment refers specifically to State obligations under the ICESCR, Rights of Women believes that this underscores a general principle of international law, that human rights apply to all persons, regardless of immigration status. We consider that the positive obligations of States to act with due diligence to prevent, investigate and

punish acts of violence against women applies to all women equally, regardless of immigration status.

CEDAW does not make any specific provisions in relation to women with an insecure immigration status other than Article 9, which deals with women’s right to acquire, change or retain her nationality and Article 15(4) which gives men and women the same rights relating to the movement of people and the freedom to choose their residence and domicile. However, the UK has entered a reservation to CEDAW that impacts on the rights of women with an insecure immigration status, the reservation states:

“The United Kingdom reserves the right to continue to apply such immigration legislation governing entry into, stay in, and departure from, the United Kingdom as it may deem necessary from time to time and, accordingly, its acceptance of Article 15 (4) and of the other provisions of the Convention is subject to the provisions of any such legislation as regards persons not at the time having the right under the law of the United Kingdom to enter and remain in the United Kingdom”.

Following the decision of the Human Rights Committee in the case of *Trinidad and Tobago*, the legality of this reservation is open to question.¹⁰ Rights of Women considers that it runs counter to the objects and purposes of CEDAW and that it should be withdrawn with immediate effect.

Despite the prohibition of discrimination and right to equal protection of the law, it is clear that individuals with an insecure immigration status are treated differently to individuals who are British or settled in¹¹ the UK. Certain rights, those which are

⁷ *Emphasis added.*

⁸ *This paragraph is without prejudice to the application of article 2(3) of the Covenant, which states: “Developing countries, with due regard to human rights and their national economy, may determine to what extent they would guarantee the economic rights recognized in the present Covenant to non-nationals.”*

⁹ *UN Committee on Economic, Social and Cultural Rights, General Comment No. 20, Non-Discrimination in Economic, Social and Cultural Rights, Paragraph 30. See also UN Committee on the Elimination of All Forms of Racial Discrimination, General Comment No. 30, discrimination against non-citizens, 2004.*

¹⁰ *This was case considered under the ICCPR. See UN Human Rights Committee, Communication No. 845/1999, Trinidad and Tobago, 31 December 1999. Paragraph 6.7 states: “The Committee cannot accept a reservation which singles out a certain group of individuals for lesser procedural protection that which is enjoyed by the rest of the population... this constitutes a discrimination which runs counter to some of the basic principles embodied in the Covenant and its Protocols, and for this reason the reservation cannot be deemed compatible with the object and purpose of the Optional Protocol.”*

¹¹ *Throughout this chapter, the phrase “settled in the UK” refers to those who have Indefinite Leave to Remain (ILR), the right to live permanently in the UK.*

'non derogable', such as the right to life and the right to be free from torture, cannot be limited under any circumstances. With other rights, such as the right to private and family life, a difference in treatment is contrary to the prohibition on discrimination if:

- it has no objective or reasonable justification;
- it does not pursue a legitimate aim; and,
- there is not a reasonable relationship of proportionality between the means employed and the aim sought to be realised.

This view is endorsed by the UN Expert on the Rights of Non-citizens who, when analysing the position of those with an insecure immigration status, concluded that "all persons should by virtue of their essential humanity enjoy all human rights unless exceptional distinctions, for example, between citizens and non-citizens, serve a legitimate State objective and are proportional to the achievement of that objective."¹²

Although the maintenance of immigration control is a legitimate aim, a difference in treatment of women with an insecure immigration status will be unlawful unless it can be objectively justified and is reasonably proportionate.

Under international law, States must pay special attention to the particular disadvantage and vulnerability that women with an insecure immigration status face when weighing up the proportionality of restricting any of their human rights, such as the right to health and housing.¹³

3.7.3 The law

Under the BPfA the Government must adopt and implement legislation providing adequate redress for women victims of violence through criminal and civil law remedies.

Women experiencing violence in the UK: family and criminal law

If a woman has experienced violence in the UK, then, regardless of her immigration status (whether she is an asylum seeker, European Economic Area national or overstayer) the law that applies to her is UK law and she should be treated in the same way as someone who is British or is settled here by the criminal and family justice systems. A woman who has sought asylum in the UK and who is experiencing domestic violence has the same rights as a British woman to report that violence to the police or apply to the family courts for an injunction. The following legislation is therefore relevant to women with an insecure immigration status: **The Protection from Harassment Act 1997; The Youth Justice and Criminal Evidence Act 1999; The Sexual Offences Act 2003; The Female Genital Mutilation Act of 2003; Domestic Violence Crime And Victims Act 2004; and, The Forced Marriage (Civil Protection) Act 2007.**¹⁴

Women experiencing violence in the UK: accessing welfare benefits or community care services

Although women with an insecure immigration status will not be treated differently to British women or women who are settled here by the family or criminal justice systems, women with an insecure immigration status are restricted from accessing welfare benefits or certain community care services.

¹² UN Commission on Human Rights, Sub-Commission on the Promotion and Protection of Human Rights, Fifty-fifth session, The rights of non-citizens: Final report of the Special Rapporteur, Mr. David Weissbrodt, UN Doc. E/CN.4/Sub.2/2003/23, 26 May 2003.

¹³ In the 2009 case of *Andrejeva v. Latvia* the European Court of Human Rights held that whilst a wide margin of appreciation is usually allowed to the State when it comes to general measures of economic or social strategy, restrictions on the pension rights of a stateless resident in Latvia constituted a breach of Article 14 (right to non-discrimination) in conjunction with Article 1 of Protocol No.1 (right to property). This was because there was not a reasonable relationship of proportionality between the legitimate aim of protecting the economy and the restriction on the applicant's rights. In making this decision, the Court paid particular attention to the specific situation – and vulnerability – of the applicant. See European Court of Human Rights, *Andrejeva v. Latvia*, application no. 55707/00, judgment of 18 February 2009.

¹⁴ Further information on these can be found in Section 3 Chapter 2 on domestic violence, Section 3 Chapter 4 on sexual violence, Section 3 Chapter 3 on forced marriage and Section 3 Chapter 5 on sexual exploitation.

While women from other European Economic Area (EEA)¹⁵ countries are able to come to the UK to work, study or join family members, some EEA nationals, particularly from the A2 or A8 countries who joined the EEA more recently,¹⁶ face restrictions working, claiming welfare benefits or accessing community care services. Women may be prevented from accessing certain welfare benefits because they do not pass the Habitual Residence Test and may have to register their employment or only work in certain areas of the economy. Adults who are EEA nationals or who have been granted refugee status by other EEA countries are excluded from almost all community care services by section 54 and Schedule 3 of **The Nationality Immigration and Asylum Act 2002** unless the provision is necessary to prevent a breach of her human rights or her rights under European Union (EU) law.

While these provisions were designed to protect the UK's labour market and welfare benefits system, the consequences of them for women experiencing violence can be devastating. Thus in the case of *Zalewska*¹⁷ Z, a Polish woman, was denied welfare benefits because she had failed to complete 12 months uninterrupted employment on the Workers Registration Scheme. She had lost her job when she left her violent partner with her child. Z was therefore unable to go into a refuge or access other forms of safe accommodation and support.

People who are subject to immigration control (who are not from other EEA countries) face even greater barriers in accessing services. They are generally excluded from accessing welfare benefits by section 115 of the Immigration and Asylum Act 1995. People from abroad whose need for services has arisen solely because they are destitute are also excluded from receiving community care services; this affects women who

are on current visas, for example, as spouses or migrant domestic workers. Women who have overstayed their visa are excluded from almost all community care services by section 54 and Schedule 3 of The Nationality Immigration and Asylum Act 2002 unless the provision is necessary to prevent a breach of their human rights. Women who face these restrictions are often referred to as having "no recourse to public funds".

Whilst these restrictions are designed to maintain the integrity of the UK's system for immigration control, they serve to place women at risk of violence and abuse, contrary to the UK's obligations under international law as **No Recourse, No Safety**, a report produced by Amnesty International and Southall Black Sisters, shows.¹⁸

Domestic violence survivors and other survivors of gender based violence should be exempt from the no recourse to public funds rules.

Respondent to our survey

Although asylum-seekers are supported by the UKBA¹⁹ they are also prevented from accessing welfare benefits or certain community care services. This causes significant hardship for refused asylum-seekers whose support ends but who cannot return to their country of origin. Whilst some refused asylum-seekers may be able to receive support under section 4 of the **Immigration and Asylum Act 1999**; the restrictive grounds that support is given on combined with maladministration, results in large

¹⁵ The European Economic Area is the EU (Austria, Belgium, Bulgaria, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Greece, Germany, Hungary, the Irish Republic, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden and the UK) and three other states that while not being members of the EU, are treated in the same way, these states are Iceland, Norway and Liechtenstein. Switzerland which is not a member of the EU or EEA is treated as if it were.

¹⁶ The A2 countries are Bulgaria and Romania. The A8 countries are The Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia, Slovenia.

¹⁷ *Zalewska v Department for Social Development (Northern Ireland)* [2008] UKHL 67.

¹⁸ Amnesty International UK and Southall Black Sisters, *No Recourse, No Safety: The Government's failure to protect women from violence*, March 2008.

¹⁹ Through the provision of financial support set at 30% below the amount given in income support alongside housing offered on a no choice basis anywhere in the UK. See the UKBA website for further information: www.ukba.homeoffice.gov.uk/asylum/support/ (last visited May 2010).

numbers of asylum-seekers becoming destitute, a situation that places women at considerable risk of experiencing violence. As a report produced by the Asylum Support Appeals Project concluded:

“Our research shows that UKBA’s asylum decision-making on the destitution issue does not clearly and properly adhere to the governing legal framework...

This systematic failure within UKBA’s asylum support decision-making process is unnecessarily prolonging the destitution of individuals who are lawfully entitled to support. In addition it is a waste of public resources requiring appeals to be lodged and heard in order to arrive at decisions which should have been made promptly at the outset. ASAP believes that an underlying problem is that UKBA treats section 4 support as if it is a discretionary form of support rather than a legal entitlement”.²⁰

Women experiencing violence in the UK: remaining in the UK

Women from other EEA countries who are experiencing violence in the UK may be able to remain in the UK if they wish, using their free movement rights. The non-EEA family members of EEA nationals (for example, the Somali wife of a German) may also be able to retain their rights of residence in the UK under the **EEA regulations** that implemented the **Citizen’s Directive** in the UK.²¹

Under the Immigration Rules women who have experienced domestic violence may be able to apply for ILR under the domestic violence rule. The domestic violence rule states that women who were admitted to the UK as spouses, civil partners or partners can apply for ILR if they can provide evidence that their relationship broke down before the end of their period of limited leave because of domestic violence.²² This protection does not apply to women who have

leave other than spouses, such as migrant domestic workers, students or workers.

Women who are at risk of, or who have experienced, violence in the their country of origin

If a woman has experienced, or is at risk of, violence in her country or origin and she is in the UK, the law that determines her rights to remain in the UK is:

- the **United Nations Convention Relating to the Status of Refugees 1951** and its **1967 Protocol** (the Refugee Convention);
- the **Convention for the Protection of Human Rights and Fundamental Freedoms 1950** (the ECHR); and,
- relevant European Economic Area (EEA) or European Union (EU) law.

Art 1(A)2 of the Refugee Convention states that a refugee is someone who:

1. has a well founded fear of being persecuted for one of the Convention reasons: race, religion, nationality, political opinion, or membership of a “particular social group”; and,
2. is outside her country of origin; and,
3. her country is either unwilling or unable to protect her from the persecution.

The absolute prohibition of torture in Article 3 ECHR offers protection to those who fall out of the Refugee Convention.²³ While other limited rights, such as Article 8 (which protects private and family life) offers protection in cases where the violation would be caused by removing an individual (and therefore separating them from family members in the UK)²⁴, or in cases where the right in question would be nullified if the person was to be returned to a country which is not a contracting ECHR State.²⁵ European law also offers protection to those who are in the UK and

²⁰ Gerry Hickey, *Asylum Support Appeals Project, Not Destitute Enough*, December 2008.

²¹ *Immigration (European Economic Area) Regulations 2006 (the 2006 Regulations) implementing Directive 2004/38/EC*.

²² *The domestic violence rule is 289 of the Immigration Rules*.

²³ *European Court of Human Rights, Chahal v. The United Kingdom, Application No. 70/1995/576/662, judgment of 11 November 1996; Saadi v Italy, Application No. 37201/06, judgment of 28 February 2008*.

²⁴ *Chikwamba (FC) (Appellant) v Secretary of State for the Home Department [2008] UKHL 40*.

²⁵ *EM (Lebanon) [2008] UKHL 64*.

have experienced, or are at risk of experiencing, violence. Articles 2(e) and 15(c) of the **EU Qualification Directive**²⁶ offer protection to people at risk of a serious and individual threat posed because of indiscriminate violence occurring in a conflict, while the **EU Temporary Protection Directive**²⁷ offers protection in situations where that mass movement of people is caused by a humanitarian crisis.

While women with an insecure immigration status are given protection in the family and criminal justice systems, they face considerable barriers accessing financial or other support which places them at risk of experiencing further violence and abuse. Rights of Women believes that the law and policies discussed in this section that make women destitute breach the UK's obligations under international law because they are discriminatory and cause inhuman and degrading treatment contrary to Article 3 ECHR.

The myriad of international and domestic laws outlined above have created a situation where women and service providers are uncertain as to whether they are entitled to remain in the UK or access financial or other support. Rights of Women believes information should be made available to women and service providers about the relevant legal rights and remedies.

Finally, Rights of Women believes that the narrow scope of the domestic violence rule causes considerable injustice by offering protection in the UK to some women but not to others who may be equally vulnerable.

3.7.4 The policy

Under the BPfA the Government must:

Develop strategic policies and action plans that address all forms of violence against women and mainstream a gender perspective in all policies and action plans; and

Adopt and implement gender-sensitive policies to prevent and respond to violence against women at all levels.

The England strategy is designed to take a cross-Government approach to violence against women. Although Rights of Women welcomes the strategy as taking a holistic approach to all forms of violence against women, the position of women with an insecure immigration status is largely ignored by the strategy which devotes just six paragraphs to their needs and merely reiterates policies and procedures already in place.

Asylum-seeking women

The BPfA encourages "the dissemination and implementation of the UNHCR Guidelines on the Protection of Refugee Women and the UNHCR Guidelines on the Prevention of and Response to Sexual Violence against Refugees".

Strategic Objective D.1, paragraph 128 of the BPfA

There are only two policies that are relevant to asylum-seeking women in the UK:

- **Asylum Policy Instruction: Gender Issues in the Asylum Claim** (the Gender Guidelines);²⁸ and,
- **Policy Bulletin 70 'Domestic Violence'**.²⁹

The Gender Guidelines give decision-makers in the UK Border Agency (the UKBA) instructions on

²⁶ Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted.

²⁷ Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof.

²⁸ Home Office, *Asylum Policy Instruction: Gender Issues in the Asylum Claim*.

²⁹ UK Border Agency, *Policy Bulletin 70*.

the additional considerations they should have in mind when considering gender-based asylum claims. It also stresses the importance of gender-sensitive procedures such as providing female interviewers and interpreters. While the UK's Gender Guidelines do not go as far as those produced by the UNHCR, they are in the process of being revised. Rights of Women welcomes the development and revision of the Gender Guidelines and hopes that the Government will take the opportunity of this current revision process to implement the UNHCR's guidelines in full.

The UKBA has a domestic violence policy, **Policy Bulletin 70 'Domestic Violence'**, which should be followed by all those who are responsible for administering asylum support. Policy Bulletin 70 puts in place a number of protections for asylum-seeking women who are experiencing domestic violence. As well as setting out how women should be responded to and accommodated safely, the guidance states that the UKBA should pay the reasonable costs of alternative accommodation, including in a refuge, for a victim of domestic violence and her children.

While Policy Bulletin 70 offers some protection to asylum-seeking women who are experiencing domestic violence, its limitations, both in scope and application, are a cause for concern. Through our training across England and Wales, Rights of Women has become aware of numerous cases where the Policy was either not known about by decision-makers in the UKBA, or was simply not followed. Similarly, we are aware of cases where private sector accommodation providers have had no knowledge of their obligations under the policy. Additionally, the fact that the policy deals with domestic violence, rather than violence against women, is damaging as it means that no guidance exists to deal with other prevalent forms of violence in the UK, such as harassment.

In **Every Single Woman**³⁰ Asylum Aid concludes that: "A culture change in the asylum system is urgently needed to ensure that women asylum

seekers receive a comparable standard of treatment to women settled in the UK in similar situations".³¹

Rights of Women has signed Asylum Aid's **Charter of Asylum Seeking Women**, and alongside over 200 other organisations, calls on the Government to ensure that asylum seeking women are guaranteed a comparable standard of treatment to women in similar situations who are British or settled here. In particular this means:

- Women asylum seekers who have experienced rape or domestic violence etc, in their country of origin, should receive a comparable standard of treatment throughout the UK asylum system to women victims of rape or domestic violence in the criminal justice system.
- Women asylum seekers detained in Immigration Removal Centres should receive, at a minimum, a comparable standard of treatment and facilities to women in prisons in the UK.
- Women asylum seekers who are pregnant should receive a comparable standard of ante and post-natal provision and benefits to women settled in the UK.

Rights of Women is also a member of the **Still Human Still Here**³² campaign, consequently we are also calling on the Government to:

- End the threat and use of destitution as a tool of Government policy against refused asylum seekers.
- Continue financial support and accommodation to refused asylum seekers as provided during the asylum process and grant permission to work until such a time as they have left the UK or have been granted leave to remain.
- Continue to provide full access to health care and education throughout the same period.

³⁰ *Asylum Aid, Every single woman: a comparison of standards for women in the asylum system with standards for women in the criminal justice, prison and maternity systems in the UK, 2009.*

³¹ *Asylum Aid, Every single woman: a comparison of standards for women in the asylum system with standards for women in the criminal justice, prison and maternity systems in the UK, 2009, page 1.*

³² For more information about the Still Human Still Here campaign visit: <http://stillhumanstillhere.wordpress.com/>, last visited May 2010.

Women who are from other EEA countries

The UKBA has no policies in place which respond to the needs of women from other EEA countries who are experiencing, or at risk of violence. The England strategy makes no reference to women from EEA countries, despite the fact that they face similar barriers to women from outside of the EEA who are experiencing violence in the UK.

Women from outside of the EEA

The UKBA has developed guidance for decision makers who consider applications under the domestic violence rule; this guidance is currently in the process of being revised.³³

The **Sojourner Project** is a Home Office funded pilot to accommodate and support women with no recourse to public funds who entered the UK on a spousal/partner visa and are eligible to apply for ILR under the domestic violence rule. The pilot will run until the end of August 2010 and referrals can be taken until 2nd July 2010; at the time of writing it is not known whether this pilot will be extended.³⁴ Rights of Women has welcomed the pilot but is concerned about the narrowness of referral criteria which have been designed around the domestic violence rule and therefore do not offer protection to other equally vulnerable groups, such as migrant domestic workers.

Rights of Women believes that insufficient attention has been given to the development of policies that offer meaningful protection to women with an insecure immigration status who are at risk of, or are experiencing violence. The fact that there are no policies to respond to the needs of women from other EEA countries who are experiencing violence is a serious omission which requires immediate action.

Rights of Women welcomes the development of the Gender Guidelines and hopes that the current revision process results in a strengthening of the protections given to asylum-seeking women. However, this needs to be matched by a revision of Policy Bulletin 70 to ensure that it deals with all forms of violence against women. The Sojourner

Project is welcomed by Rights of Women, however, this needs to be built on to ensure that a permanent solution is reached that enables all women experiencing violence to access accommodation and support.

3.7.5 Raising awareness and challenging stereotypes

Under the BPfA the Government must raise awareness of violence against women and challenge discriminatory attitudes and stereotypes including harmful traditional or social practices through education and the media.

Despite the particular vulnerabilities of women with an insecure immigration status, the Government has failed to take action that raises awareness about violence against them, or which challenges discriminatory attitudes, stereotypes and practices that negatively affect their lives.

Rights of Women believes that the Government should take immediate steps to raise awareness about violence against women with an insecure immigration status and to ensure that these women are not further victimised by policies and processes that fail to respond to them appropriately or meet their needs.

3.7.6 Availability and accessibility of services

Under the BPfA the Government must:

Allocate adequate resources within its budget including resources for the implementation of plans of action at all appropriate levels; and

Ensure access to and availability of services for all women including by giving vigorous support to the efforts of women's organisations and other non-governmental and community organisations.

³³ See the UKBA website for more details.

³⁴ For queries and to make a referral contact the Sojourner Project Duty Worker on 020 7840 7147 or sojourner@eaveshousing.co.uk

Women with “no recourse to public funds” or who have no immigration status have nowhere at all to go so stay in violent relationships or live on the streets.

Respondent to our survey

- Safeguard and guarantee the rights of women with an insecure immigration status who are at risk of, or are experiencing, violence by enabling them to access appropriate accommodation and support. This will involve changing the Habitual Residence Test (for women from other EEA countries) and exempting women fleeing violence from the ‘no recourse’ rules.
- Put in place immediate funding for specialist women’s organisations, particularly BMER women’s organisations, to ensure that they can continue to provide their life-saving services.

While it may be possible to secure funding from a local authority for a woman experiencing violence under section 21 of the **National Assistance Act 1948**, or if she has children, under section 17 of the **Children Act 1989**, it is clear that these sources of support fail to meet the needs of women with an insecure immigration status.

The rules that prevent women with an insecure immigration status (whether asylum-seeking women, EEA nationals or women from outside of the EEA) from accessing community care services or welfare benefits have particularly serious implications for women who are experiencing violence as they are unable, as a consequence of these, to access refuges or seek homelessness assistance. As Margaret O’Mara, Director of Crime Reduction at the Home Office has stated:

“However... their existing immigration status means they have no access to housing provision. In addition, as the majority of these women are from BME communities, there are often additional barriers such as language... Without a place of safety or any means of support, these women are often forced to return to their home to face further abuse and in some extreme cases, homicide.”³⁵

Rights of Women believes that laws and policies that create destitution and prevent women from accessing life-saving services, such as safe accommodation and support, place women at risk of violence, are discriminatory and breach the UK’s obligations under international law. Rights of Women therefore calls on the Government to:

³⁵ Letter from Margaret O’Mara, Home Office, Director, Crime Reduction sent to all local authorities on 16 February 2006.

Measuring up: Preventing and responding to violence against women with an insecure immigration status in England and Wales

Unless immigration law is flexible to take into consideration cases of women who are more vulnerable to violence I don't think that any measures are of any effectiveness to help migrant women.

Respondent to our survey

Immigration and asylum law and policy is one of the areas in which we are most concerned that the Government does not measure up to its obligations under the BPfA. We do not believe that the immigration or asylum processes provide a sufficiently gender sensitive approach to women who have experienced or are at risk of experiencing violence.

The complexities of the law, the discriminatory ways in which women affected by violence are treated, and the real challenges in their ability to access legal advice and information, need urgent attention in order to provide adequate protection for this vulnerable and disadvantaged group of women.

We have identified the following areas for improvement in the Government's response to violence against women with an insecure immigration status in England and Wales:

- Given the concerns raised about the legality of the UK's immigration reservation to CEDAW and Strategic Objective D.1, paragraphs 124(f) of the BPfA, which calls on

States to implement CEDAW, Rights of Women calls on the Government to withdraw the immigration reservation forthwith. The Government has recently removed similar reservations³⁶ to the UN Convention on the Rights of the Child and it is illogical, discriminatory and inhumane that women with an insecure immigration status should be treated less favourably than their children.

- We also call on the Government to sign and ratify Protocol 12 of the ECHR³⁷ which creates a 'freestanding' non-discrimination provision. We believe that this is important because many of the areas in which women with an insecure immigration status are treated less favourably than British women or women who are settled here (for example, in terms of access to community care services) do not explicitly fall under rights that are protected by the ECHR and so cannot be challenged using Article 14 ECHR.
- We believe that the UK should sign up to the First Optional Protocol of the ICCPR for the same reason; it is only through legal mechanisms that allow discriminatory laws and policies to be challenged that the position of women with an insecure immigration status in the UK can be improved.
- We call on the Government to ensure that asylum seeking women are guaranteed a comparable standard of treatment to women in similar situations who are British or settled here as set out in Asylum Aid's Charter of Asylum Seeking Women.
- We believe that the fact that a woman's ability to access services which may protect her from violence depends on her immigration status is unlawful and unacceptable, that the Habitual Residence Test needs to be changed and that women fleeing violence should be exempted from the 'no recourse' rules.

³⁶ The UK Government lifted reservations to the UN Convention on the Rights of the Child the UK reservation on immigration and nationality matters in September 2008. For more information see The UK Committee for UNICEF, News Item, UK Government withdraws reservations to UNCRC, 22 September 2008.

³⁷ Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms.

Section 4

Measuring up?



4

Conclusion: the final measuring up

This report has applied the framework set out the Beijing Platform for Action (BPfA) to benchmark UK progress in preventing and responding to all forms of violence against women. Section 1 Chapter 2 of this report outlined 11 actions which the Government must undertake in order to comply with commitments made under the BPfA in respect of violence against women. Progress toward the full implementation of these actions has been assessed in relation to different areas of law and policy on violence against women throughout the report.

This section highlights key areas of progress made, and gaps remaining to be filled in each of the 11 actions required of Government. More detailed analysis and conclusions may be found in the “measuring up” sections at the end of each chapter of this report.

1. Define and respond to violence against women as set out in international law – addressing it through the framework of equality and non-discrimination and as a human rights issue

International human rights law and the framework set out by international policy documents on violence against women places violence against women firmly within a human rights framework and identifies violence against women as gender-based violence that must be seen as form, cause and consequence of discrimination based on sex.

Recent policy developments in England and Wales have significantly improved the framework within which violence against women is addressed. In November 2009, the Home Office published “Together we can end violence against women and girls, a strategy” which applies to England and non-devolved bodies in the UK (the England

strategy). In March 2010, the Welsh Assembly Government published its own strategy, The Right to be Safe, which aims to set out an integrated, cross-government strategy on all forms of violence against women. This is the first time that either government has set out an integrated strategy that attempts to address all forms of violence against women. We strongly welcome this new approach.

Both strategies recognise that violence against women is gender-based violence that affects women disproportionately and must be addressed with gender sensitive laws and policies.¹ Both place violence against women within a human rights context and cross-reference human rights treaties to which the UK is State party, as well as national human rights legislation. We welcome this approach.

In the past, there has been much criticism of Government because violence against women in England and Wales has been addressed almost exclusively as a criminal justice matter. The England strategy acknowledges this and commits to pursuing prevention and response strategies that recognise that violence against women is a human rights issue which has far wider consequences, engaging the responsibility of all Government departments. We welcome the stated commitment by Government and the Welsh Assembly Government to take an integrated approach to violence against women. This goes some way to recognising that different forms of violence do not occur in isolation, but along a “continuum” of discrimination and violence. We wait to see the effects of this commitment to mainstream violence against women as a priority issue throughout Government.

¹ We are concerned however that “Tackling Domestic Abuse: The All Wales National Strategy” which predates The Right to be Safe strategy and defines domestic violence in a gender neutral manner, continues to apply. Effective prevention and response mechanisms will be realised only when domestic violence is seen and addressed as a form of gender based violence which affects women disproportionately.

We stress, however, the emphasis in international law that violence against women is both a cause and a consequence of discrimination, and an intrinsic part of wider social, economic and cultural gender inequalities. Prevention and response mechanisms will only be effective when violence against women is understood as part of this broader picture. Rights of Women's expertise lies in analysing law and legal policy and so we have not attempted to assess Government policy which falls outside of this framework in any detail. We do however, stress that the relationship between violence against women and women's experience of discrimination and inequality is complex and mutually reinforcing. We believe that there is a clear relationship between women's access to legal remedies and long term rehabilitative support in respect of violence and their experiences of other manifestations of gender-based inequalities such as poverty and lack of empowerment.

Failing to ensure that every woman who is at risk of, or who has experienced violence, is able to access effective legal remedies and rehabilitative support exacerbates the structural, economic, social and cultural inequalities which perpetuate discrimination, including violence against women.

2. Ratify international human rights instruments and engage with international human rights mechanisms

The UK is State party to all human rights treaties relevant to violence against women and the Government in "Together we can end violence against women and girls, a strategy" clearly recognises and affirms its commitments under the BPfA.² This is significant because when the UK affirms its commitments under the BPfA, it recognises that it is a powerful and persuasive policy document and that the specific actions that it outlines must be implemented by Government.

However, in Section 3 Chapter 7 of this report we highlight that the UK has entered a reservation to the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) which purports to restrict the application of rights enshrined in CEDAW as they relate to women

with an insecure immigration status. In our opinion, this reservation is contrary to the objects and purposes of CEDAW and as such should be retracted with immediate effect.

The UK has also not ratified two very important international protocols which would improve significantly women's access to international human rights mechanisms and hold the State to account where it is failing to respect, protect and fulfil human rights. We call on the Government to ratify:

- Protocol 12 of the European Convention on Human Rights (ECHR) which provides a "freestanding" non-discrimination provision; and,
- the First Optional Protocol to the International Convention on Civil and Political Rights (ICCPR) which would provide individuals who believe that their rights have been violated and who have exhausted all domestic remedies the right to complain (submit a communication) to the UN Human Rights Committee – the Committee that monitors States' implementation of the International Covenant on Civil and Political Rights.

3. Develop strategic policies and action plans that address all forms of violence against women and mainstream a gender perspective in all policies and action plans

Section 2 of this report sets out our analysis of the main strategies adopted by Government and the Welsh Assembly Government to prevent and respond to violence against women in England and Wales. We broadly welcome the recently adopted strategies in England and Wales, and consider that both strategies mark a significant and progressive development in policy thinking on violence against women because they take an integrated approach and recognise that all forms of violence against women must be seen as part of the same problem of gender inequality, and do not occur in isolation. We are, however, concerned to ensure that the very broad commitments made to mainstream a gender perspective in all Government policy materialise into concrete action.

² Home Office, *Together we can end violence against women and girls, a strategy*, 2009, page 2.

Throughout this report, we raise concerns about patchy policy implementation and service provision related to violence against women. Whilst we do not comment in general terms on the desirability of local decision making, we feel that there needs to be much greater direction from Government so that strategic national policies result in concrete action on violence against women in every local area. It is clear, and has been highlighted by Government, that overall levels of violence against women are not sensitive to changes in demographics and place and thus every area needs to make provision.

In Section 2 Chapter 2 we have outlined the policy delivery framework for England and underscored concerns we have related to the current framework through which Government performance manages local authorities, including on their obligations to prevent and respond to violence against women. It is a serious concern that Local Authorities and Local Strategic Partnerships, when drafting Local Area Agreements, (which set out priorities for resource allocation in their area) have the option not to select targets related to violence against women. It is our position that the lack of mandatory targets related to violence against women is at odds with the statutory Gender Equality Duty and guidance from Equality and Human Rights Commission that Local Authorities must prioritise tackling the causes and consequences of violence against women and girls. There is a need for all Local Area Agreements to adopt comprehensive indicators on violence against women with take-up tied to performance and funding assessments by Government. This would require the immediate introduction of wide ranging indicators on violence against women to the National Indicator Set that address all forms of violence against women.

4. Address the needs of the most disadvantaged women and respond to multiple discrimination

Whilst broadly welcoming the recently adopted England and Wales strategies, in Section 2 Chapter 1 we have underscored that neither the England nor Wales strategies pay sufficient attention to tailoring policy responses and service provision to the needs of different groups of

women and ensuring that they receive the specialised responses required under the due diligence standard. Violence against women frequently occurs at the intersection of different types of discrimination and policy must respond to this reality. We are concerned that the needs of all women, particularly the most disadvantaged women and those who experience multiple forms of discrimination are not adequately addressed by current policy or its implementation. The current gender, race and disability duties are expected to be replaced in April 2011 by a single Public Sector Equality Duty when relevant sections of the Equality Act 2010 are scheduled to enter into force. This will require public authorities to pay due regard to the need to advance equality of opportunity between persons who share a protected characteristic, these include: race, sex, disability, age, gender reassignment, pregnancy and maternity, religion or belief and sexual orientation. National strategies must reflect and reinforce the current and upcoming statutory equality requirements and we would call for a much stronger focus in Government thinking on the specific needs of particular groups of women who share protected characteristics and are at risk of, or have experienced violence. The lack of a joined-up approach to these issues has had particularly devastating effects on voluntary and community sector organisations providing specialist services on violence against women.

In Section 3 Chapter 7 we have highlighted very serious concerns about the fact that a woman's ability to access services that may protect her from violence depends on her immigration status. Women fleeing violence must be exempted from the 'no recourse to public funds' rules and the habitual residence test must similarly be changed for women from the European Economic Area. By restricting the rights of women with an insecure immigration status, the UK is abrogating commitments made in the BPfA to protect all women from violence and pay particular attention to the needs of the most disadvantaged women. We also underscore serious concerns with the gender sensitivity of UK Border Agency (UKBA) policies, and call on Government to ensure that asylum-seeking women are guaranteed a comparable standard of treatment to women in similar situations who are British or settled here.

5. Adopt and implement gender-sensitive policies to prevent and respond to violence against women at all levels

There has been an unprecedented and prolific development in strategies, policies and action plans to address violence against women in England and Wales by our Government and statutory agencies over the past few years. Both England and Wales have recently developed gendered and integrated national strategies to tackle violence against women and the action plans and policies set out in this report demonstrate a very real commitment to improving the response to violence against women across Government departments and statutory agencies.

Police

Because they are often the first line of response to individual cases of violence against women, the response of the police is vital and has seen considerable improvements over recent years. The Association of Chief Police Officers (ACPO) has led in the development of action plans and guidance to address many forms of violence. Responses to domestic violence and rape in all police areas has undoubtedly improved, both in relation to the way in which crimes are investigated and the way that police forces respond to the needs of victims. However, our own experience and evidence from the Victims' Champion and Baroness Stern indicate clearly that women continue to feel let down by the police at the frontline. This affects women's confidence in pursuing criminal justice remedies against perpetrators of violence. We believe that considerable work still needs to be done to improve and monitor police performance and responses in relation to all forms of violence against women. In particular, we consider that there is a continuing need for specialised training for police officers, especially those at the frontline, to ensure that responses are appropriate and effective, from the point of first reporting. We are also concerned that the specialist guidance produced by ACPO is not compulsory. Rights of Women believes that in order for women to have confidence in the police and criminal justice system as a whole, all women reporting violence to the police must be guaranteed a consistent, high quality response, in line with current ACPO guidance.

CPS

Rights of Women has warmly welcomed significant developments and improvements in the response of the Crown Prosecution Service (CPS) to violence against women. The CPS Violence against Women Strategy, Action Plans and guidance for prosecutors set out a gendered framework for prosecuting many forms of violence. The CPS has been central to improvements in the responses of the criminal justice system to domestic violence and sexual violence. It has demonstrated a commitment to improving responses to forced marriage, honour-based violence, prostitution and trafficking as well as identification and monitoring of these forms of violence. However, in Section 3 of this report we have highlighted how the implementation of CPS policies remains a problem in some areas. In particular, improvements are needed to ensure that prosecution decisions are communicated to victims appropriately and consistently. Victim experience in criminal procedures remains a real concern and in relation to rape and sexual violence, we have recommended the Government examine the possibility of introducing victim advocates to support victims through certain stages of criminal cases.

We understand from our experience providing frontline services to individual women and their advocates that women's experiences of the criminal justice system are largely negative. Much needs to be done to improve victim experience in the criminal justice system. Much of the improvement relates to changing attitudes and ensuring consistent training across police force areas.

The UK Border Agency

Of all public authorities addressed in this report, we have greatest concern about the policies of the UK Border Agency (UKBA). It is our view that the UKBA has not adopted a gender sensitive approach in its responses to women at risk of or experiencing violence. UKBA policies do not adequately meet the needs of asylum-seeking women, women with an insecure immigration status experiencing violence, women who have been trafficked or women who are at risk of forced marriage. The BPfA requires States to

address the needs of the most disadvantaged women. Rather than adhere to this requirement, the UKBA's focus on immigration control and lack of consideration for the gender specific needs of women with an insecure immigration status places women at increased risk of violence. This is an unacceptable situation.

The BPfA also calls for specific action to eliminate trafficking and assist victims of violence due to prostitution and trafficking. Rights of Women has welcomed the work of the UK Human Trafficking Centre (UKHTC) in developing a multi-agency response to the needs of trafficked women. However, concerns we have with the National Referral Mechanism, coupled with a lack of adequate funding for specialist services for victims of trafficking fails to deliver a system which identifies victims and offers them the safety and support they are entitled to under international law.

Legal Services Commission

Finally, we are concerned that the current legal aid scheme does not provide a gender sensitive response to violence against women. We have welcomed the introduction of measures to increase access to legal aid in domestic violence cases, but do not think that measures introduced go far enough to ensure effective access to civil remedies in respect of violence against women. We are concerned that the current discretionary income waiver rule does not apply to women seeking representation for forced marriage protection orders, and advocate for a complete waiver of contribution payments for applicants seeking domestic violence and forced marriage injunctions.

The gradual disintegration of the legal aid scheme has meant that funding is available to fewer and fewer women. Furthermore, women who are eligible for legal aid and manage to find a solicitor in their area are still affected by financial contribution requirements and the statutory charge. In this report we call on the Government, which has recently taken back direct control of the Legal Services Commission, to review the current legal aid system and assess its impact on women affected by violence.

With the exception of the UKBA and Legal Services Commission, the key law enforcement agencies involved in tackling violence against women have

developed and adopted a range of policies, strategies and action plans against which their responses to violence against women can be monitored. This demonstrates a clear commitment to improving the services they provide to women. However, it is very often at the stage of implementation that policies fall down. Throughout this report we have called for improvements in the level of awareness and training for key professionals to ensure that policies adopted by agencies in response to violence against women are consistently followed by staff on the ground who encounter women who are at risk or, or who have experienced violence.

6. Adopt and implement legislation providing adequate redress for women victims of violence through criminal and civil law remedies

Over the last decade we have seen very significant developments in the law to protect women from violence and bring perpetrators to justice, with the creation and development of both civil and criminal remedies to address specific forms of violence.

Civil law remedies to protect women affected by domestic violence have been strengthened by the introduction of the **Family Law Act 1996** (Part IV) and the **Domestic Violence Crime and Victims Act 2004**. The creation of a specific new civil remedy to address forced marriage in the **Forced Marriage (Civil Protection) Act 2007** demonstrated a recognition of and commitment to action against this form of violence previously unrecognised in law. Most recently in the **Crime and Security Act 2010** we have seen action to reduce the gaps in protection with the introduction of domestic violence protection notices and orders.

Criminal law has also seen important developments to address violence against women. The **Female Genital Mutilation (FGM) Act 2003** extended the protection available to women in England and Wales at risk of FGM. We have also seen the strengthening of the criminal law response to sexual violence, trafficking and prostitution with an overhaul of the law in the **Sexual Offences Act 2003** and the more recent and important shift in focus towards prostitution in the **Policing and Crime Act 2009**.

These important legislative changes have undoubtedly increased the protection available to women affected by violence in England and Wales and demonstrated a clear commitment by Government to providing redress through the criminal and civil remedies. Rights of Women is, however, concerned about the implementation of the law in some areas. It is significant and troubling that there have been no prosecutions under the FGM Act 2003. The criminalisation of breach of a non-molestation order appears to under utilised also.

Despite the increase in the range of civil law remedies available to women seeking protection from violence, many women continue to face difficulties accessing civil remedies. We believe that the dwindling availability of civil legal aid is a significant contributing factor. But we also highlight other barriers which must be overcome if women are to have effective access to civil remedies. We specifically call for the introduction of special measures in civil law proceedings to provide protection and support in court for women seeking protection from violence, as have been adopted in criminal courts.

We remain concerned that statutory agencies continue to give disproportionate attention to criminal justice responses to violence against women. We believe that this undermines the ability of women to choose the remedy which they identify as the most appropriate in their own situation. We have welcomed the development of more proactive prosecution policies by the CPS, for example the CPS response to domestic violence, which was cited as good practice in the landmark decision of the European Court of Human Rights, *Opuz v Turkey*. We have however underlined concern about the policy to continue with a prosecution without the victim's cooperation. Whilst we understand and accept the reasoning behind this policy, we are concerned with how it is implemented and the effect that it can have on survivors. Witness summons need to be used alongside a tailored support package to ensure that women who are compelled to give evidence are not put at further risk or suffer unnecessary anxiety.

Finally, we think that much more needs to be done to improve women's understanding of the

legal remedies available to them in respect of all forms of violence. Our experience providing advice to women through our telephone helplines demonstrates that too many women do not have adequate access to legal information which is presented in a manner that they can understand. Much more needs to be done to raise awareness about the legal and non-legal options and remedies to protect women from violence. This concern ties in closely with our concerns outlined below related to the accessibility and availability of specialised services on violence against women. Initiatives such as the Victims Code and our publication *From Report to Court: A handbook for adult survivors of sexual violence* go only part of the way to providing this information.

7. Ensure access to and availability of services for all women including by giving vigorous support to the efforts of women's organisations and other non-governmental and community organisations

The positive obligations of the UK under international human rights law requires the Government to ensure provision of accessible services to protect all women from violence, facilitate their access to legal remedies and ensure their full rehabilitation.

Rights of Women firmly believes that all women must have unimpeded access to effective legal remedies to prevent violence and redress the harm caused by all forms of violence against women. We warmly welcome developments to improve the availability of statutory services which are geared to supporting women through the criminal justice system. Whilst welcoming expansion in the provision of statutory services over recent years, we believe that the provision of specialised voluntary and community services for violence against women is essential to facilitate women's access to legal remedies and ensure the effective functioning of the criminal justice system. This is backed up by the findings of our own consultations, and that of the Government in 2009.

Furthermore, our experience and that of others working on violence against women, demonstrates very clearly that access to legal remedies is just one part of a path towards rehabilitation for survivors of violence. Women have the right to choose their

route to rehabilitation and we underscore the urgent need for the expansion in provision of specialist support services which are not linked in any way to the enforcement of law and the criminal justice system.

It is against this backdrop that we are very concerned that the women's community and voluntary sector continues to face an unprecedented crisis owing to a lack of sustainable funding. Numerous reports published by our sister organisations over recent years underline this concern. Research published by the Women's Resource Centre suggests that one in five women's organisations in England closed down between 2004 and 2007. Small, specialist services are most at risk. In 2008, Imkaan published research indicating that 50% of specialist Black, Asian and minority ethnic violence against women organisations had closed in the past five years. Map of Gaps 2 published by the End Violence Against Women (EVAW) coalition and the Equality and Human Rights Commission (EHRC) in 2009 exposed the impact of this situation. Their research revealed that in large parts of Britain, provision of specialised services is scarce or non-existent with over one in four local authorities having no specialised support services at all.

We know, and the Government has acknowledged, that specialist services run by community and voluntary sector should form an essential component of any strategy to effectively prevent and respond to violence against women. We are very concerned that there has been a continuing decline in the availability of violence against women services run by the voluntary and community sector and that women who face multiple forms of discrimination, in particular BME women, do not have adequate access to support services.

Respondents to our survey underscored the importance of specialist, non statutory sector services to women who are at risk of or who have experienced violence. The sustainability and future of specialist support services is of great concern to us as we continue to see the impact of commissioning in local areas and the mainstreaming of local services.

8. Allocate adequate resources within the government budget including resources for the implementation of plans of action at all appropriate levels

Any national strategy to eliminate and respond to violence against women must outline a detailed timeline and specific sources of funding for its implementation. Under the BPfA, the UK has made clear commitments to "allocate adequate resources within the government budget for activities related to the elimination of violence against women, including resources for the implementation of plans of action at all appropriate levels".³

We are concerned that the absence of a strategic funding action plan to support and ensure the delivery of policy commitments on violence against women in England and Wales is a key causal factor leading to the decline in, and patchy provision of, specialised services.

Government spending and commitments made in the England strategy to allocate further funding to the violence against women sector focus almost exclusively on the provision of funding for services which predominantly fall to the statutory sector, and are geared up to support criminal justice processes. We have warmly welcomed the improvement and commitment to expand funding for statutory services such as MARACs and SARCs in recent years. These mechanisms now form an essential and invaluable part of the institutional landscape dealing with domestic and sexual violence. We underline, however, that this progress in the expansion of statutory services must not be made at the expense of voluntary and community sector organisations. These organisations provide specialist support and are strategically positioned to ensure that Government policy on prevention and response to violence against women is effective and reaches out to all women.

We are concerned that funding decisions which will determine the survival and sustainability of these essential services are almost entirely left to the local level, rendering them extremely vulnerable.

³ BPfA, *Strategic Objective D.1. Para 124 (p)*.

We have also outlined our urgent concerns related to the allocation of Government resources for civil legal aid. The Government committed to the provision of free or low-cost legal aid related to violence against women in 1995 under the BPfA⁴ but civil legal aid is an increasingly scarce resource. Spending on civil legal aid has fallen by 24% since 1997. Because available statistics show that more women than men apply for civil legal aid, we think that these changes are likely to have a disproportionate, and unacceptable, impact on women, particularly women experiencing violence.

Civil legal aid is vital to women's ability to access the law and legal remedies and their ability to protect themselves from violence. Without an effective system by which women can receive free legal advice and representation we believe that women will continue to be at risk of violence. Our experience shows that when women are unable to obtain the advice and representation they need and are presented with the stark option of representing themselves in proceedings without the necessary understanding of the law, they are too often unable or unwilling to access the legal remedies available to protect them from violence.

We believe that urgent research needs to be carried out to assess the impact of our current legal aid system on all women to enable the Government to address the current inequalities experienced by women within it.

9. Raise awareness of violence against women and challenge discriminatory attitudes and stereotypes including harmful traditional or social practices through education and the media

Rights of Women believes that improvements in law and policy need to be accompanied by an increase in awareness not only amongst the agencies and professionals working with women affected by violence, but also society as a whole. Whilst general awareness-raising is not the focus of our work, this is an issue that has been raised with us throughout the consultations that we held during the research phases of this project. We, and many other professionals we have spoken to, believe that efforts to improve the law, structures and support provided by the legal system are not

sufficient in isolation. Widespread campaigns to raise awareness of violence against women and challenge gender stereotypes which are entrenched within society are required.

We have welcomed the Government's commitment to challenging public attitudes and raising awareness through education initiatives and in the media. The Forced Marriage Unit, Home Office and police have all invested in awareness-raising campaigns to address the issues of forced marriage, prostitution and female genital mutilation. We are, however, concerned that women contacting our telephone helplines continue to report that they are faced with negative attitudes and stereotypes and a general lack of awareness amongst frontline professionals within the criminal and civil justice systems. We are particularly concerned that the Government is currently failing to address the discriminatory attitudes, stereotypes and practices faced by women with insecure immigration status and that these women face not only discrimination within society, but also deep seated institutional discrimination.

A huge investment of resources in this area will be required before we begin to see evidence of a shift in public attitudes and behaviour towards women.

10. Study the causes and consequences of violence against women; collect disaggregated data and statistics concerning all forms of violence against women; and monitor the effectiveness of law and policy related to violence against women

We have very warmly welcomed what we perceive to have been a new and concerted effort, led by the Home Office in 2008-2010, to inject new thinking and understanding on the causes and consequences of violence against women. Over the past two years the Government has commissioned numerous independent reviews which have provided invaluable insight and recommendations for law and policy on different forms and aspects of violence against women. The findings of some of those reviews are discussed in Section 3 of this report. We think that this represents a big step in the right direction, and call on the new Government to continue this

⁴ BPfA, Strategic Objective D.1, Para 125 (a).

commitment to studying the causes and consequences of violence against women.

Section 3 Chapters 2, 3, 4, 5 and 6 have provided an overview of available statistics related to the prevalence of domestic violence, forced marriage, sexual violence, sexual exploitation and female genital mutilation. In each chapter we underscore that whilst there have been recent improvements in efforts to improve the collection and analysis of statistics, we still do not have sufficient information on the extent and prevalence of all forms of violence against women in the UK. Improved, disaggregated data will be essential to underpin effective strategies to prevent and respond to all forms of violence against women and to monitor the effective implementation of legislation. We urge relevant authorities to develop and implement systems that will enable the tracking and identification of all cases of violence against women in such a way that accurate information is gathered not only on the prevalence of each form of violence, but also the way that each form of violence and Government policy affects different groups of women. We consider that disaggregated statistics should be collected and analysed at minimum for each of the listed protected characteristics listed in the Equality Act 2010 by all relevant public authorities including the police and Crown Prosecution Service.

We have very limited information on the prevalence of certain forms of violence against women outlined in the BPfA. Neither the England or Wales strategies recently adopted address dowry-related violence; forced pregnancy, sterilisation or abortion; pre-natal sex selection and female infanticide. This report also does not address these forms of violence against women but we are aware from anecdotal evidence that they are occurring in England and Wales. We would recommend efforts to research and document, with the view to adopting relevant responses, these forms of violence against women.

11. Eliminate trafficking in women and assist victims of violence due to prostitution and trafficking

The BPfA pays specific and detailed attention to the obligation of States to eliminate trafficking and assist victims of violence due to prostitution and trafficking.

In ratifying the Trafficking Convention the Government has met its obligations under paragraph 130(a) of the BPfA to ratify and enforce relevant international law on trafficking and slavery. This, alongside developments in respect of the criminal law response to trafficking in the Sexual Offences Act 2003 and the introduction of the UK Human Trafficking Centre (UKHTC) are evidence of positive steps by the Government in addressing the trafficking of women into and around England and Wales. We remain concerned, however, that systematic changes are required in respect of the National Referral Mechanism (NRM) to meet the needs of trafficked women. Specifically we are concerned about the role of the UKBA in the NRM and advocate the adoption of single Competent Authority in the UKHTC to ensure the equal treatment of all trafficked women. The human rights of trafficked women, not their immigration status, must be the priority. We also believe that the availability of specialist services to support trafficked women needs to be improved and call for appropriate and sustainable funding for voluntary sector organisations to work alongside the UKHTC in tackling trafficking. Work to address trafficking in England and Wales is in its infancy and is an area which good practice needs to be rolled out and built upon.

Measuring up?

In this report we have outlined that despite significant improvements in the gender sensitivity of law and policy related to violence against women in England and Wales, women continue to face significant barriers to accessing legal remedies when they are at risk of, or have experienced violence. We are particularly concerned that there is an acute lack of specialised services that provide protection, enable women to access legal remedies, and support their full rehabilitation. This problem arises in large part from an unprecedented funding crisis in the women's voluntary sector. Neither the recently adopted strategies for England or Wales are matched by an adequate funding strategy that would ensure that every woman who is at risk of or experiencing violence receives proper advice and support.

We have particular concern that national level policy has insufficient traction on local decision

making and that there is a general discord between national policy commitments on the one hand, and devolution of decision making to local areas on the other. Violence against women is intricately linked to women's experiences of poverty and the equality framework set out in the Beijing Platform for Action demands recognition of this. The problems that we have outlined for women accessing legal remedies related to violence against women serves to perpetuate inequality and discrimination.

Rights of Women is celebrating its 35th anniversary year in 2010. Law, policy and social attitudes have come great strides since Rights of Women's volunteer lawyers first started work in 1975. But much more must be done. This report is launched at a time when we are facing great political and economic uncertainty. It is a call to action to the new Government to capitalise on the real progress that has been made over the past decade – take stock of where we are now, and how far we have to travel before the rights of women in England and Wales are respected, protected and fulfilled.

Annex A

List of participants: Rights of Women roundtables and seminar events

The following is a list of participants to consultative seminars and roundtable events which Rights of Women held in the research phases of this project. We have sought to reflect the views presented and discussions held at these events in the discussion and recommendations contained in this report.

Below we list the organisations, rather than the individuals, which sent representatives to our consultations and events. Each participating organisation is listed once, although a number of organisations were represented by more than one individual according to their area of expertise at each event.

Abertawe Bro Morgannwg (AMB) University NHS Trust	City and County of Swansea
Advance	City Gate Solicitors
Anah Project	Communities First
AP Law Solicitors	Domestic Abuse Women's Employment Project (DAWES)
Ashiana Network	Coventry and Warwickshire NHS Partnership Trust
Ashram Housing Association	Cumbria Constabulary
Asian Family Counseling Service	Cymdeithas Tai Hafan
Association of Greater London BMER Older Women	Doncaster Metropolitan Borough Council
Association of Greater London Older Women (AGLOW)	Dyfed Powys Police
Birmingham and Solihull Women's Aid	Eagle Eye Organisation, formerly Ethnic Minority Women's Aid
Black Association of Women Step Out (BAWSO)	Eaves
Blake Laphorn Solicitors	Family Law Practice
Breathe	Gateway Family Services
Broad Chare Barristers Chambers	Gilgal
Bury Council	Gofal Cymru
Bury Council Asylum Seeker Team	Great Howarth Homeless Families Unit
Caerphilly Women's Aid	Greenwich Families Information Service
CAFCASS Cymru	Grimsby and Scunthorpe Rape Crisis
Cardiff and Vale NHS Trust	Gwent Association of Voluntary Organisations
Cardiff Schools Ethnic Minority Achievement Service (EMAS)	Gwent Probation Service
	Heart of Birmingham Primary Care Trust

Hestia Housing and Support
 Homeless Advice Centre Rochdale
 Homes for Islington
 Independent Choices (Women's Safety Service)
 International Organisation for Migration
 Iranian and Kurdish Women's Rights Organisation (IKWRO)
 Kensington Women's Aid, Hestia Housing and Support
 King's College London, Institute of Psychiatry
 Kiran project
 Knowsley Metropolitan Borough Council
 Latin American Women's Rights Service
 Liverpool City Council
 Liverpool Women's Hospital
 London Borough of Newham
 London Borough of Tower Hamlets
 London Borough of Waltham Forest Specialist Children's Services
 Manchester City Council
 Manchester Learning Disability Partnership
 Merseyside Police
 National Public Health Service for Wales
 New Start Drug Misuse Agency
 Newham Asian Women's Project
 NHS Islington
 NHS Manchester
 North Derbyshire Women's Aid
 Northamptonshire Police
 Pakistani Resource Centre
 Preston Women's Refuge
 Rape and Sexual Violence Project
 Refuge
 Rochdale Metropolitan Borough Council
 Rochdale Refuge
 Roshni Nottingham Asian Women's Aid
 Royal Borough of Kingston Upon Thames
 Safer Birmingham Partnership
 Safer Trafford Commissioning Team
 Salford City Council
 Scottish Women Against Pornography/Off Our Backs News Journal
 South Essex Rape and Incest Crisis Centre
 South Wales Police
 South Wales Probation Trust
 South Yorkshire Police
 Southampton City Council
 Southwark Homeless Information Project
 St Mary's Hospital London
 Staying Put
 Stonham
 Tower Hamlets Council
 Trafford Council
 UNISON
 University of Bristol
 Vale of Glamorgan Council
 Vale of Glamorgan Women's Aid
 Vale Youth Offending Team
 Victim Support
 Wales Women's National Coalition
 Welsh Refugee Council
 Welsh Women's Aid
 West Mercia Constabulary
 West Midlands Police
 Willow Park Housing Trust
 Women Asylum Seekers Together (WAST)
 Women's Domestic Abuse Helpline
 Women's Domestic Violence Helpline



Rights of Women works to attain justice and equality by informing, educating and empowering women on their legal rights.

Founded in 1975, we are a not for profit voluntary organisation. Our core services include two advice lines which offer free, confidential legal advice to women. We also specialise in providing high quality, practical and accredited legal training in the area of women's rights.