

GBV 52

Communities, Equality and Local Government Committee

Gender-based Violence, Domestic Abuse and Sexual Violence (Wales) Bill:Stage

1

Response from: Bawso



**Submission on the Gender-based Violence, Domestic Abuse and Sexual Violence (Wales) Bill
to The Communities, Equality and Local Government Committee
September, 2014**

1. About Bawso

Established in 1995, Bawso is an All Wales organisation delivering specialist services to Black and Minority Ethnic (BME) Communities. It is an Accredited Support Provider for the Welsh Government with an excellent track record of managing complex and diverse services across Wales through provision of our purpose built refuges, safe houses, and an extensive Outreach, Resettlement and Floating Support, Human Trafficking, Forced Marriage and FGM Health & Safeguarding Projects. Bawso holds Investors in People award and received the Quality Mark at General Advice Level by the Legal Services Commission.

Bawso currently supports more than **4000** women, men, children and young people annually.

2. The general principles of the Gender-based Violence, Domestic Abuse and Sexual Violence (Wales) Bill and the need for legislation to improve the Public Sector response in Wales to domestic abuse, gender-based violence and sexual violence

Bawso warmly welcomed the announcement by Welsh government to legislate to tackle violence against women. The action shown recognition and commitment to prevent violence from occurring, protect all women in Wales from violence and ensuring the provision of adequate services for those fleeing or at risk of violence. However, we are concerned that the draft Bill will not be able to achieve the intended purposes because it is gender neutral and almost silent on prevention and early intervention to challenge

entrenched attitudes violence against women. In addition, the Bill has a narrow focus not integrated nor cross-departmental which will make it difficult to be effective.

2.1 Why it is important to have gender-specific legislation

We strongly believe that legislation which is not gender-specific is a missed opportunity to effect real changes for the individuals who are disproportionately affected by gender-based violence. The vast majority of these crimes are perpetrated by men and boys against women and girls. Whilst we recognise that some men also experience rape, domestic violence and forced marriage – these are still gendered in that the majority of perpetrators are male. The Welsh Government’s own report commissioned to inform the legislative process showed disaggregated figures for Wales, that women experienced twice the levels of any domestic abuse (**11.1% women 5.1% men**) with rates of sexual assault also substantially higher than those for men (**3.2% women 0.7% men**). Stalking was also more prevalent for women (**7.8% women 3.5% men**)¹. Much confusion about the extent of male victims stems from a misunderstanding of Crime Survey data. The headline figures suggest roughly equal numbers of men and women experience domestic violence. However, this figure counts ‘any incident’ which can amount to a single push or slap. Other research evidence shows that women experience significantly higher rates of repeat victimisation, the violence and abuse that they experience is more severe and results in higher rates of physical injury, they experience violence and abuse over a longer period of time, and are significantly more likely to be murdered by the [male] perpetrator².

The need to take a gendered approach is recognized internationally. The UN recognises VAWG as a human rights abuse, both a cause and consequence of inequality. There are numerous obligations on the UK (including Beijing, CEDAW, and Istanbul Convention) to develop integrated approaches and action plans across all VAWG which recognise the gendered nature of this abuse³.

2.2 Definitions

It is important that the Bill provides definitions for the terminology used including; gender-based violence, domestic abuse and sexual violence. These definitions are likely to be used much more widely and become the standard definitions. It is therefore essential that they are fit for purpose.

However, we are concerned that definitions used in the Bill move away from existing ones which are very explicit and effective. The Council of Europe articulates an explicit definition

¹ Robinson et al., the Welsh Government’s proposed ‘*Ending Violence Against Women and Domestic Abuse (Wales) Bill*’: Recommendations from the Task and Finish Group, August 2012

² For example see Hester, Marianne (2009) *Who does what to whom? Gender and domestic violence perpetrators* (Bristol: University of Bristol VAWRG).

³ http://www.coe.int/t/dghl/standardsetting/convention-violence/default_en.asp accessed 01/09/2014

in its 2011 *Convention on preventing and combating violence against women and domestic violence*, stating that:

*“Gender-based violence refers to any harm that is perpetrated against a woman and that is both the cause and the result of unequal power relations based on perceived differences between women and men that lead to women’s subordinate status in both the private and public spheres. This type of violence is deeply rooted in the social and cultural structures, norms and values that govern society, and is often perpetuated by a culture of denial and silence.”*⁴

The Home Office definition of domestic abuse is more encompassing and explicitly mentions coercive control and the particular pattern of controlling behaviour that occurs in domestic abuse.

The change, from accepted use is of such definitions is a huge backwards step at a time when the UK Government is consulting on specific Violence Against Women Strategies and legislation. It is a real pity because when the Bill was announced, Wales was helmed by other nations in the UK as leading the way.

2.3 Prevention in Education

We are greatly concerned about the lack of emphasis on prevention, particularly in schools and other educational settings as we regard this as of the highest priority. It would be a great opportunity lost not to generate real changes in schools through access to advice and specialist knowledge. It is a known fact that exposure to domestic abuse is linked to a wide range of trauma-related symptoms in children, which can affect their physical, psychological and social health and well-being. There is also an established link between children's exposure to domestic violence and emotional and behavioural problems as well as poor peer relationships, low academic attainment and engagement in risky health behaviours.⁵ A recent study commissioned by National Assembly for Wales found that many children were angry about having to live in a sexist peer culture and society. They were also despairing at the futility of their own individual attempts of managing and/or challenging gender and sexual stereotype.⁶

It is imperative that in order to reduce the prevalence of violence, we must focus on prevention, and that begins with informing and educating young people about healthy relationships and challenging the attitudes and behaviors that are persistent in society regarding the violence against women. Focus on school provision will also directly enhance

⁴ Ibid

⁵ Kitzmann, K.M., Gaylord, N.K., Holt, A.R., & Kenny, E.D. (2003). Child Witnesses to Domestic Violence: A meta-analytic review. *Journal of Consulting and Clinical Psychology, 71*, 339–352.

⁶ Renold, e. (2014) *Boys and Girls Speak Out: A Qualitative Study of Children’s Gender and Sexual Cultures* (age 10 – 12), National Assembly for Wales, Cardiff

the support available of young people who may have suffered from or are at risk of violence.

Mandatory lessons in healthy relationships would be one way to ensure that young people have access to the information they need. The current classes delivered are insufficient, patchy and focuses solely on domestic abuse, whilst teachers remain untrained in dealing with any disclosures made by pupils following the sessions. Though the Welsh Government has said that it will consider this as part of a future curriculum review, we remain concerned that this might not ultimately occur.

The Department for Children, Schools and Families recommends that schools should tackle violence against women and girls through a whole school approach, by developing practice on VAWG that includes creating a strong ethos of respect exemplified by staff behaviour and leadership, and is made clear throughout relevant policy and procedure⁷

We would specifically like to ensure that the following elements are included on the face of the Bill as minimum statutory requirements.

- Ensure that there is one fully-trained ‘go-to’ staff member in each school with expertise in violence against women and girls and the knowledge and confidence to assist pupils in seeking assistance and information;
- Include education on violence against women and girls and healthy relationships mandatory on the school curriculum in Wales; this should be taught from a perspective of gender equality and human rights;
- Ensure that schools regularly collect data on all forms of violence against women and girls, including sexual harassment and bullying;
- Ensure that education on violence against women and girls and healthy relationships is available to children and young people not engaged in formal education system or ‘NEETS’;
- Appoint a violence against women and girls champion amongst school governors and the student council;
- Ensure that Estyn inspects on school responses to violence against women and girls.
- Ensure provision of comprehensive violence against women and girls and healthy relationships training for all related professionals

2.4 National Strategies

We welcome national strategy to tackle gender-based violence. It is likely that it will replace the Right to be Safe Strategy which is stronger, and more gender specific. However we are

⁷ Department for Children, Schools and Families, (2009) ‘ Violence against Women and Girls Advisory Group final report and recommendations’

concerned that as proposed in the Bill it will lack a gender focus and align to an ongoing conflation by public bodies of domestic violence with VAWG. It can be argued that gender neutral policies are ineffective as evidenced by successive domestic homicide reviews and reports by the IPCC.

In addition, this will lead to an interpretation of commissioning and open tendering which enables large scale providers with no track record, to take over services which have devastating impact on the specialist sector.

2.5 Local strategies

We strongly support the duty on local authority and Local Health Board to jointly prepare strategies specifying objectives, the periods as well as identifying actions. We are concerned however that the provision in the Bill permitting local authorities not to follow guidance in particular categories if they believe there is good reason will result in worsening the post code lottery of services across Wales. Such provision creates risk of LAs breaching the Public Sector Equality Duty to not take a gendered approach and to not integrate appropriately forms of gender-based violence disproportionately experienced by minority women such as FGM, forced marriage and honour based violence, on the premise that there are no people in the locality from affected backgrounds despite 2011 census statistics showing that there are no LAs in Wales which do not have people who describe themselves as BME.⁸ BME groups have always argued that these forms of violence should be part of an overarching VAWG strategy.

Our own experience has shown that LAs are quick to 'opt out' of their duties when there are no clear guidelines compelling them to take action. For example, it is always a challenge to secure LA support for vulnerable women fleeing domestic violence with no recourse to public funds (NRPF) that fall outside the DDV rule. Last year we supported **50** women with NRPF in refuge out of **165** referrals. **23** out of the 50 were supported under the DDV rule, **13** were funded by Bawso, **12** by Social services whilst **2** were self funded. Sometimes these women are left with the stark choice of having their children removed from them or returning to the abusive relationship. It would be more effective if the Bill required LAs to conduct assessments and put in place guidelines in case need arises.

2.6 Ministerial Advisor

The comparatively narrow remit and lack of independence from the government in the Bill will prevent the Ministerial Advisor from freely monitoring the impact of relevant law and policy, and the availability of support and assistance, on the human rights of the victims of the offences contained in the Bill. This is a missed opportunity, which fails to protect and

⁸ www.wales.gov.uk/statistics Accessed- 02.09.2014

promote the rights of GBV, DA & SV, and fails to institute a robust monitoring body to uphold protection standards for those who have suffered serious human rights abuses.

Whereas we recognize the financial constraints as advanced in the Bill's explanatory memorandum, we would argue that it still remains important that instead of a Ministerial Advisor an External/Independent Advisor is, appointed as they will have capability not only to advise the Welsh Government but to in order to scrutinise the activity of the Welsh Government and the public sector. The role of the appointed individual would be to:

- Ensure all relevant government departments are part of the integrated strategy and that the government is compliant with all EU Directives and UN treaties and obligations⁹.
- Develop minimum standards of provision across the regions and at local levels and targets for funding. These should apply to public bodies and statutory services. One of these standards should be about measurement and data collection to increase comparability. Experts in the NGO sector could be used as advisers to Commissioners to ensure that commissioning is based on needs.
- Ensure local authorities and other key public bodies develop, publish and implement GBV, DA & SV strategies in consultation with local specialists.
- To guarantee that the different experiences and needs of marginalised groups of women are understood and attended to: black and minority women; refugees and asylum seekers; younger and older women; disabled women; women with learning disabilities and mental health problems, lesbians; women living in remote areas.
- To act as a scrutiny body with the power to take evidence from Ministers, public bodies and other witnesses, publish reports, hold inquiries and thematic reviews, make policy recommendations and issue guidance.
- To have power to undertake site visits, in conjunction with other scrutiny bodies when specific concerns are raised.
- To have a clear route for regular consultation with and feedback to experts and stakeholders.
- To have the potential to take and investigate complaints from survivors about how their case has been dealt with.
- To work with the Office of National Statistics to develop a framework for a yearly digests of statistics that track prevalence, policy and practice over time.
- To address the breadth of issues around GBV, DA & SV including interventions and policies relating to perpetrators and potential perpetrators – both within specialist agencies and public sector responses.

3. Any potential barriers to the implementation of these provisions and whether the Bill takes account of them

⁹ Including CEDAW and Istanbul Convention, the EU Victims' Directive,

There will remain a continued postcode lottery of specialist services. There is no public funding to provide support for women from BME backgrounds affected by forced marriage, honour based violence and female genital mutilation. Funding for BME VAWG services is patchy and adhoc. There is only one FGM service in Wales despite estimates that there are at least 66,000 women and girls in England and Wales who have undergone FGM, in the main prior to arrival in the UK, with a further 33,000 girls and young women at risk.¹⁰ Women sometimes have to travel outside Wales to access support.

Em is an 18 year old A level student of African Origin. She came to the UK with her family to seek asylum when she was 10 years old. Em was circumcised at the age of 8 years in her country of origin.

When Em attained puberty, she started experiencing difficulty with menstruation and disclosed to her teacher that she required support when she could no longer cope.

Bawso was contacted by the teacher to provide support and during the process it emerged that Em had the most severe form of FGM and required health intervention. She did not want her parents to know about her intentions because she felt that she would be dishonouring them. The only option was for her to access a walk in clinic where she could see a doctor to discuss condition.

Unfortunately, in Wales there is no walk-in clinic so the closest clinic for her to access was in Bristol. The school had to make arrangements for the visit to take place during school hours so that Em's parents were not suspicious of her whereabouts.

The Bill might compel LAs to compile Gender-based Violence, Domestic abuse and Sexual violence strategies that are gender-neutral irrespective of the fact that VAW specific strategy may be required. It would be more effective if the Bill did not specifically name strategies to give LAs and future governments opportunity to determine whether VAW strategies are most appropriate based on obtaining trends and patterns at any given time.

4. Any unintended consequences arising from the Bill,

Further cuts to specialist services as by the Public Sector despite growing demand for the services.

LAs not paying due regard to the legislation because there are no clear sanctions for breaching stipulated provisions in the Bill.

¹⁰ BAWSO (2009). Female Genital Mutilation: Examining the Practice in Wales. Research Report.

5. The financial implications of the Bill (as set out in Part 2 of the Explanatory Memorandum)

Increasing reporting as a result of such planned aspects of the Bill as 'Ask and Act' and public sector training will lead to increased pressure on these services without doing anything to address the geographical gaps in provision of services. Provision should be made within the Bill to address any increase in reporting to ensure victims and specialist services are protected and supported to allow a holistic approach to implementation.

The loss of preventative aspects within the Bill as published, such as education on healthy relationships in schools and public behavior change campaigns will also likely lead to a lost opportunity to address the huge cost of violence against women and girls to the economy in Wales, of around .

The comparators for the position of commissioner are based on England. It would be more realistic if they were based on Commissioners in Wales.

Cost and benefit analyses from Wales should also be included to give a more accurate picture – the Pathfinder report posits data domestic abuse that would benefit the legislative process.

6. The appropriateness of the powers in the Bill for Welsh Ministers to make subordinate legislation (as set out in Chapter 5 of Part 1 of the Explanatory Memorandum).

We believe it would be more effective if key areas were addressed on the face of the Bill (primary legislation). Allowing Ministers to make subordinate legislation will further already existing inconsistencies across the board.