

**Gender-based Violence, Domestic Abuse and Sexual Violence (Wales) Bill:
Stage 1**

Response from: The Survivors Trust Cymru

**INQUIRY INTO THE GENERAL PRINCIPLES OF THE GENDER-BASED VIOLENCE,
DOMESTIC ABUSE AND SEXUAL VIOLENCE (WALES) BILL**

**SUBMISSION BY THE SURVIVORS TRUST CYMRU AND FULL MEMBERS IN
WALES**

The Survivors Trust is a confederation of over 130 voluntary and charitable organisations in the United Kingdom and EIRE, all of whom provide comprehensive counselling, emotional support/help, information and advice to victims/survivors of rape and sexual abuse, including childhood sexual abuse. It is the largest network of agencies delivering rape and sexual abuse support services within the UK.

The five specialist voluntary sector organisations in Wales who provide counselling, help and support to victims/survivors of rape and sexual abuse are full Members of The Survivors Trust. A sixth organisation which provides ISVA Services to victims/survivors in Torfaen is a guest member of The Survivors Trust.

These organisations are as follows:

Full Members: New Pathways, Mid Wales Rape Support Centre, North Wales RASASC, Stepping Stones and SEREN.

Guest Member: Torfaen Women's Aid.

The Survivors Trust operates in Wales as Survivors Trust Cymru.

In Wales, Survivors Trust Cymru is represented on the following:

- Wales Government SARC Planning Group
- Wales Government Content Development Group
- All Wales SARC Group
- pan Gwent Domestic/Sexual Violence Forum

- pan Gwent Sexual Violence Strategy Task and Finish Group
- pan West/Mid Wales Regional Domestic Violence Forum
- pan North Wales Domestic/Sexual Violence Forum
- Merthyr Tydfil Domestic/Sexual Violence Forum
- Swansea DV Forum
- Powys DV/SV Forum
- Merthyr/RCT Sexual Violence Strategy Working Group
- Gwent Police Rape Steering Group
- All Wales Violence against Women and Girls Action Group
- Community Justice Cymru
- South Wales Domestic Abuse and Sexual Violence Strategic Group and associated Working Groups

SECTION 1: MISCELLANEOUS MATTERS OF CONCERN TO SURVIVORS TRUST CYMRU

1. Definition of Sexual Violence

We feel that the definition “Sexual Violence” is confusing and could be improved.

We suggest that the existing definition is replaced with the following definition:

“Sexual violence” means rape and sexual assault, sexual abuse, sexual exploitation, sexual harassment, grooming or threats of violence of a sexual nature.

If our new definition of “Sexual Violence” is accepted, we further suggest that the following definitions are introduced/also amended:

“rape and sexual abuse” means something which is done to or in respect of a person which:

- (a) involves the commission of an offence under Part 1 of the Sexual Offences Act 2003 (c.42), as it has an effect in England and Wales, or
- (b) would involve the commission of such an offence if it were done in England and Wales

“Sexual exploitation” means any actual or attempted abuse of a position of vulnerability,

differential power, or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another.

“Sexual harassment” means any unwelcome physical, verbal or non-verbal conduct of a sexual nature (whether directly or by implication) and includes but is not limited to physical conduct and advances, a demand or request for sexual favours, sexually orientated remarks or showing or displaying pornography.

“Grooming” means actions deliberately undertaken with the aim of befriending and establishing an emotional connection with a child, to lower the child's inhibitions in order to sexually abuse the child.

Please note that the term “sexual harassment” and “grooming” whilst used in the current definition of “sexual violence” are not specifically defined in the Act.

2. Equal Consideration of Domestic Abuse, Gender Based Violence and Sexual Violence

We still have some concerns that the Bill and its functions remains too Domestic Abuse orientated and consider that there needs to be a clearer understanding and appreciation of the other categories covered by the Bill, Gender Based Violence and Sexual Violence in all its forms. Some of our concerns in this regard are detailed below.

In page 12 of the Explanatory Memorandum point 26 refers to the Single Integrated Plans and states “The consideration is usually confined to domestic abuse, with little consideration of wider issues of Gender Based Violence and Sexual Violence”.

When looking through examples throughout the supporting documentation to the Bill, such as pages 8, 9 and 10 of the Explanatory Memorandum, which refers to prevalence, costs and previous policies, they predominantly illustrates the situation for Domestic Abuse and excludes Gender Based Violence and Sexual Violence.

We hope that, particularly in terms of the National Strategy, Local/Regional Strategies, National Indicators, Training and “Ask and Act” that gender based violence and sexual violence will receive equal attention and prominence when viewed against and in relation to domestic abuse.

We would also ask that our concerns in relation to the appointment of a single, Ministerial Adviser (see 3. Below) are given due consideration.

3. Purpose and Intention of Bill (Section 33 of Explanatory Memorandum)

Section 33 of the Explanatory Memorandum states that *“The Welsh Government’s principal policy aim in this area is to reduce the rates of gender-based violence, domestic abuse and sexual violence in Wales”*.

We fully support this aim.

However, we believe that gender-based violence, domestic abuse and sexual violence will never be fully eradicated and it is likely that each form of violence will affect many thousands of women, men, girls and boys in Wales for the foreseeable future.

Our member agencies report that referrals have increased by 50% over the past 2 years and that there has been ~~in~~ a sustained increase in people seeking counselling, help and support. The Bill should support actions to ensure appropriate services are available to victims/survivors of sexual violence.

This being the case, it is fundamentally important that we strive to ensure that consistent, quality and joined-up services are available to all victims/survivors of gender-based violence, domestic abuse and sexual violence, when they need them and close to where they live.

We would therefore wish the aim to *“improve the availability, consistency and quality of services available throughout Wales for victims/survivors of gender-based violence, domestic abuse and sexual violence”* to be added as a second principal policy aim.

4. Joint Preparation and Publication of Strategies (Section 35 of Explanatory Memorandum) and Establishment of Forums and similar bodies to address gender based violence

The specialist voluntary sector in Wales plays a unique role in providing counselling, help and support to victims/survivors of rape and sexual abuse. In fact, it is fair to say that victims/survivors of rape and sexual abuse, as a matter of course, look to the specialist voluntary sector in Wales to provide the counselling, help and support that they need.

The unique role that the specialist voluntary sector in Wales plays in providing services to victims/survivors of rape and sexual abuse is arguably not properly understood by the Public Sector in Wales. It follows that the availability of services and the detailed needs of victims/survivors of rape and sexual abuse is also not properly understood by the Public Sector in Wales. We believe this situation is compounded by the poor reporting rate amongst survivors of sexual violence which results in a misleading problem profile for service provision.

We believe that it is fundamentally important to ensure that the specialist sexual violence voluntary sector operating in Wales is consulted by the Wales Government, Local Authorities and Health Boards to enable an appropriate understanding to be gained of the prevalence of rape and sexual abuse in Wales, the type of services that are available and where services are provided. This will help ensure that an appropriate level of knowledge and awareness of prevalence and need is gained which can then be used when developing national, regional and local strategies.

In our view, it is fundamentally important:

- When local/regional strategies which, in whole or in part, deal with matters relating to rape and sexual abuse are initially discussed, planned and then introduced that the specialist sexual violence voluntary sector in Wales is fully consulted and involved and invited to be a full member of any forums or groups established for that purpose;
- When Local and Regional Forums are established to consider and plan responses to rape and sexual abuse that the specialist sexual violence voluntary sector in Wales should be afforded full membership of and be allowed to play a full part in the Local/Regional Forum or similar body established. More effective outcomes will be achieved if membership of Local/Regional Forums is extended to include specialist sector services who have detailed and specific information about the prevalence of rape and sexual abuse and the service needs of victims/survivors in the area to work alongside senior public officials.

The National Strategy to be created pursuant to the Bill should impose clear and appropriate mandatory duties on the Public Sector to, as outlined above:

- Fully involve the specialist rape and sexual abuse voluntary sector in Wales in the planning and implementation of local/regional strategies; and
- Ensure that members of the specialist rape and sexual abuse voluntary sector in Wales are included as full Members of local and regional Forum and similar groups/bodies established.

5. National Indicators

We very much welcome the plans to introduce National Indicators.

We hope that the National Indicators introduced will afford equal priority to gender based violence, domestic abuse and sexual violence.

We also hope that when the National Indicators are considered, planned and drafted, that the specialist rape and sexual abuse voluntary sector in Wales will be fully consulted and allowed to be fully involved.

It is very important that Local Authorities and Local Health Boards can be scrutinised in their achievement or otherwise of the national indicators. The independence and authority of the Ministerial Advisor is key to this.

6. **Children** – There are no age restrictions/limitations placed within the Bill or supporting guidance. However, the only explicit reference to children in point 41 (page15) of the Explanatory Memorandum states that “The Bill and any guidance will seek to support and complement existing safeguarding procedures concerning children under the age of 18, it will not replace them.

Pages 26 and 27 of the supporting guidance refer to safeguarding children, interventions

and young people in abusive relationships. This is heavily domestic abuse focused and does not go far enough to 'support and complement existing policies for safeguarding children'.

Given the number of adults in Wales (over 500,000) that we estimate have experienced sexual abuse in their lifetime and the constant flow of current cases being exposed there is a good case for explicit reinforcement of the expectations and responsibilities with regards to children and sexual violence.

We would like wording within the Bill and supporting documents to explicitly state that child abuse includes rape, sexual exploitation, ritual abuse and all offences under the Sexual Offences Act 2003 are issues that need to be responded to as a child protection issue. All professionals that suspect child abuse should employ the safeguarding procedures available. The Survivors Trust along with other agencies in the UK is asking for mandatory reporting of known and suspected child abuse in Regulated Activities. Mandatory reporting (also known as Daniel's Law) has the support of Shadow Ministers in the UK government. This needs to be included in the Bill.

A hugely important area that we also feel is necessary to highlight within the Bill and guidance is that children ages between 16-18 also need to be responded to with Safeguarding procedures. This is a group that is often seen to sit outside children's services and adults services remits. However, it is an age group that is at particular risk for all forms of violence and abuse and as such needs to have protection and support.

7. Section 1 (1) (a) – no details of prevention measures yet provided in the Bill or Explanatory Memorandum. Education a key element of prevention is also obvious by its absence.

TST Cymru supports the development of 'A Whole Schools Approach' throughout primary and secondary education in Wales. This includes a School's Champion and a school's specific policy which ensures that each the school can manage in an appropriate and professional manner issues relating to sexual abuse, gender based violence and domestic abuse either in young people's relationships, in the home or externally such as sexual exploitation. In addition, 'Healthy Relationships' should be a compulsory part of the curriculum throughout a child's school life. Individual schools in Wales have developed this approach with Ygsol Gymraeg Plas Mawr being an excellent example of best practice.

We would like to see the Bill impose a clear and mandatory duty on all Local Authorities in Wales to introduce and develop the measures we have outlined above.

SECTION 2: SPECIFIC MATTERS FOR COMMENT SPECIFIED BY THE COMMUNITIES, EQUALITY AND LOCAL GOVERNMENT COMMITTEE

1. THE PUBLICATION OF NATIONAL AND LOCAL STRATEGIES

We very much welcome the proposals to introduce a National Strategy.

We hope, to ensure clarity and to ensure that gender based violence, domestic abuse and sexual violence each receive the attention they deserve and are treated equally and fairly, that the National Strategy will contain sections which deal with gender based violence, domestic abuse and sexual violence separately and individually.

We also hope that the National Strategy will impose a clear and unambiguous mandatory duty on Public Bodies in respect of the Local/Regional Strategies that they will introduce to either:

- Introduce a Strategy that contains sections which deal with gender based violence, domestic abuse and sexual violence separately and individually; or
- Introduce separate strategies for gender based violence, domestic abuse and sexual violence.

In our experience to date, the task of formulating such Local Strategies has fallen upon the local Domestic Violence Co-ordinator. Local Domestic Violence Co-ordinators, generally speaking and quite understandably, have a far greater knowledge of domestic violence than of say sexual violence. This greater knowledge of domestic violence tends sometimes to be evidenced quite reasonably in the local strategies that are produced with the result that matters relating to sexual violence are not dealt with or addressed as arguably they should be.

There is a real danger that this problem will be evidenced in the National Strategy and the local/regional strategies produced pursuant to the National Strategy unless the National Strategy contains sections which deal with gender based violence, domestic abuse and sexual violence separately and individually and the local/regional strategies produced: (i) contain sections which deal with gender based violence, domestic abuse and sexual violence separately and individually; or (ii) have separate strategies for gender based violence, domestic abuse and sexual violence.

Given that there is under-reporting and issues with disclosure for many of the issues covered by the Bill and that the strategies will be informed by needs assessments there needs to be a duty placed on Local Authorities and Local Health Boards to ensure a pathway for care and support for victims and survivors of abuse, violence and intimidation at some point in their lives regardless of where they live, their gender or age.

2. THE APPOINTMENT OF A MINISTERIAL ADVISER ON GENDER-BASED VIOLENCE, DOMESTIC ABUSE AND SEXUAL VIOLENCE.

We are pleased that a position which has a statutory advisory role will be created by way of the appointment of a Ministerial Adviser.

We are however concerned that the scope of the functions to be performed by the Ministerial Adviser and the wide-ranging work which is anticipated will be undertaken by the Ministerial Adviser will result in unreasonable demands being made of one person, particularly if they are to work without staff or offices, and they will be expected to work directly with Welsh Ministers, the whole of the Public Sector in Wales and the whole of the Voluntary Sector in Wales to ensure ownership at a strategic level by Local Authorities, Local Health Boards and other key stakeholders throughout Wales of the important matters identified in the Bill relating to gender based violence, domestic abuse and sexual violence.

We are also concerned that one person could not reasonably be expected to have an extensive knowledge of gender based violence and domestic abuse and sexual violence. It is likely that the person appointed to the position of Ministerial Adviser will have significant knowledge and experience of one of the key areas and a little knowledge of the other two. This, in turn, could well lead to the person appointed as Ministerial Adviser, intentionally or unintentionally, favouring the key area of which she/he had considerable knowledge and experience. This could lead to for example to domestic abuse being preferred to gender based violence and sexual violence and the aims and ambitions of the Bill only being truly promoted and attained in respect of one of the three key areas.

We believe that our concerns as detailed in the 2 preceding paragraphs highlight serious potential issues which merit serious consideration at an early stage.

In order to maximise the chances of the appointment of a Ministerial Adviser achieving the outcomes anticipated by the Bill, we feel that it is highly desirable that an appropriate underlying structure which is robust and appropriate is introduced to provide advice, support and assistance to the Ministerial Adviser.

In this context, we would advocate that the Ministerial Adviser is supported by three national specialist Deputy Advisors. We recommend that the three national specialist Deputy Advisors should report to the Ministerial Adviser. We envisage that one Deputy Advisor would have a speciality in domestic abuse, another Deputy Advisor would have a speciality in rape, sexual abuse and other forms of sexual violence, whilst the remaining Deputy Advisor would have a speciality in other forms of gender based violence.

Furthermore if the responsibility for ensuring the effectiveness of the national and local strategies and the measure and evidencing of attainment of the national indicators is to be within the responsibility for the Adviser then the role needs to be independent. A commissioner would be better placed to achieve this or at the very least an external advisor.

3. POTENTIAL BARRIERS TO THE IMPLEMENTATION OF THESE PROVISIONS AND WHETHER

THE BILL TAKES ACCOUNT OF THEM

- As previously mentioned it is of vital importance that the implementation of the Bill is supported by expert knowledge and understanding of gender based violence, sexual violence and domestic abuse. Without this informed understanding the strategies, indicators and other provisions of the Bill are at risk of being ineffective and therefore not achieving the principle aims of the Bill. It is key to the successful development of the provisions of the Bill that there is a duty to consult with and involve expertise that lies outside the Public Sector and within the voluntary sector.
- We welcome the prominence given to “Ask and Act” in the Bill. We also support the recognition of the importance of training for staff to enable them to undertake this intervention with skill and confidence.

We are however concerned that monies might be unavailable to enable a public body or the voluntary sector to “Act” when “Asking” reveals abuse and a victim/survivor needs help and support. This might be a particular concern in relation to sexual violence where victims/survivors who reveal that they need counselling, help and support will inevitably be referred to the specialist voluntary sector operating in Wales. Currently there are waiting lists of 4 months to 2 years for counselling among the specialist sexual violence providers in Wales. It is to be expected and welcomed that successful ask and act interventions will increase the numbers of people coming forward. There needs to be confidence for staff asking the question and people being asked that they will receive support in a short space of time. Without this we risk re-victimising people through secondary traumatisation and placing them in the position of having to again try and cope with issues that they have developed coping mechanisms (to some extent) for.

The proposed multi-agency care pathway appears to be a very good idea. However, it will only work if all appropriate agencies (public sector and voluntary sector) are involved in the planning and ongoing implementation of the different care pathways that will need to be devised and introduced to meet the needs of victims of various and differing forms of Gender Based Violence, Domestic Abuse and Sexual Violence and if all those involved co-operate with each other.

4. WHETHER THERE ARE ANY UNINTENDED CONSEQUENCES ARISING FROM THE BILL

- A delay in implementation of National Strategy;
The national strategy will be published ‘no later than 6 months after the date on which the first general election is held’. This suggests a significant amount of time may elapse before the Strategy will be published and then implemented and acted upon. The National Strategy is the key element of the Bill and it seems that not very much will happen until it is published. It is therefore concerning that the likely delay in publishing the Strategy will inevitably have a detrimental impact on the momentum, motivation and expectations that have been established and may lead to a period of inertia, disappointment and frustration, particularly amongst service providers.

- Delay in LA's attempting to draft and implement Local Strategies;
The Local Strategies need to be published 'no later than one year after the date on which the first ordinary election is held' The reorganisation of Local Authorities will also have an impact. In reality this means that the strategies will be implemented several years from now. Victims and survivors need and are deserving of the necessary changes sooner.
- There are clear concerns that the Bill and its implementation at a national, regional and local level may favour or be more informed by an understanding of one but arguably not two or of all three of the three forms of violence identified or mentioned in the title of the Bill. If our concerns are justified, this will clearly have a detrimental impact on victims of the one or two forms of violence that are perhaps less well understood and treated and also on those voluntary sector organisations that serve them.

Our concerns in this context, if they prove to be well founded, may lead to one or two of the forms of violence identified or mentioned in the Bill being less well favoured in national, regional or local strategies. This could lead to an unfortunate and confusing situation arising and to it being generally accepted that all three forms of violence are being catered for and addressed when in fact this is not the case. The consequences of this happening would be serious for the victims/survivors of those forms of violence that were disadvantaged and those voluntary sector organisations that support them. It is therefore fundamentally important ~~key~~ that a clear and mandatory duty is placed on Local Authorities and Local Health Boards to have effective pathways and policies in place for all forms of violence and that the National and Local Strategies are informed by consultation with those who have expertise on each form of violence.

5. FINANCIAL IMPLICATIONS OF THE BILL (AS SET OUT IN PART 2 OF THE EXPLANATORY MEMOR

As previously mentioned we are concerned about the limited monies available to increase resources and the subsequent strain on the limited resources that are available by the introduction of "Ask and Act". The increase that has occurred in demand for specialist violence services in the last 2 years has been, to a large extent, for counselling which in most parts of Wales is provided by the specialist voluntary sector. Currently there are waiting lists of 4 months to 2 years for counselling among the specialist sexual violence providers in Wales. It is to be expected and welcomed that successful ask and act interventions will increase the numbers of people coming forward. There needs to be confidence for staff asking the question and people being asked that they will receive support in a short space of time. Without this we risk re-victimising people through secondary traumatisation and raising issues that they have developed coping mechanisms (to some extent) for.

The Bill itself and the campaigns by Welsh Government such as 'Making a Stand' will, as is the intention, generate an increased awareness. This will also increase demand for services from victims/survivors. We would hope that the Welsh Government will issue guidance to commissioners who provide or commission services and that the guidance issued will be

based on a credible understanding of unmet need for services to victims/survivors. This concept should also be included in any guidance issued by the Wales Government in relation to the development of the Local Strategies.

It is widely acknowledged that victims and survivors of all forms of abuse and trauma will look for support in other services unaware or reluctant to disclose their real needs and seek specialist support. Guidance also needs to be provided to primary health care services, substance misuse services and others to provide appropriate support/ commissioning appropriate services for victims and survivors accessing these services. This will also, in the long term, lead to cost savings for services. For example, The World Health Organisation estimates that up to 60% of women in the UK mental health service population have been sexually abused in their lifetimes and 20% of victims/survivors of sexual violence will use health services in the first year but by the second year, 50% are “heavily embedded” in the health system. The mental health issues range from anxiety and depression to serious self-harm and suicide. This inevitably has a cost for the health service. The Cross-Government Action Plan on Sexual Violence and Abuse reported that the cost of sexual violence to society was £8.5 billion in 2003-4 alone. If people are able to get appropriate specialist support and to get that support earlier money will be saved.

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)

Our views are as follows:

- (a) Sections 5(3)(b) to 5(5) of the Bill refer. These sections seem to indicate that the Wales Government may direct a Local Authority/Local Health Board to “review their local strategy” but cannot insist that they do so. If an event occurs that is serious enough to warrant the Wales Government insisting that a Local Authority/Local Health Board reviews its local strategy, it seems that it would also be appropriate for the Wales Government to have the power be able to insist that a local strategy is amended by a Local Authority/Local Health Board as required by the Wales Government.
- (b) It would be helpful if the scope of the statutory guidance that can be issued by the Wales Government pursuant to Section 12(1) of the Bill, as outlined in Section 12(2) of the Bill, could be extended to enable such statutory guidance to require a Local Authority/Local Health Board to have or to gain an appropriate understanding of the prevalence of gender based violence, domestic abuse and sexual violence in the area of the relevant authority, the adequacy of services available to victims/survivors and where services are available to victims/survivors.
- (c) In terms of Section 6(1) of the Bill, we feel that it is important that when considering and in producing a local strategy that a Local Authority and a Local Health Board must be placed under a duty to gain and have a clear understanding of the prevalence of gender based violence, domestic abuse and sexual violence in the area of the relevant authorities, the adequacy of services available to victims/survivors and where services are available to victims/survivors. We consider this to be fundamentally important

