

## Health and Wellbeing Board

24 November 2021

### Overview of the Domestic Abuse Act 2021 and Whole System Approach to Domestic Abuse



## Report of Amanda Healy, Director of Public Health, Durham County Council

### Electoral division(s) affected:

Countywide

### Purpose of the Report

- 1 To provide members of the Health and Wellbeing Board (HWB) with an overview of the Domestic Abuse Act 2021 and outline key implications for the local authority and its partners.

### Executive summary

- 2 It is estimated that over 2.4m people are affected by domestic abuse each year in England and Wales. In order to tackle this the government has introduced The Domestic Abuse Act 2021.
- 3 This act aims to support victims, including children and young people to live lives free from abuse, coercion, and control.
- 4 The act, which received royal ascent on 29 April 2021, has introduced a range of legislative measures, as set out in detail in Appendix 2 and Appendix 3, to support victims of domestic abuse including their children.
- 5 Key changes include an update to the statutory definition of domestic abuse which now includes children and young people as victims in their own right and recognises emotional and economic abuse. It also places a statutory requirement on local authorities to provide residents of County Durham, and those who travel from different local authority areas, a range of safe accommodation options and broader wrap around support.
- 6 Durham County Council (DCC) have received over £1.16m through the New Burdens Fund for financial year 2021/22 from the Department of

Levelling Up, Communities and Housing (DLUCH) to ensure that the requirements of the act are successfully implemented.

- 7 It is unclear at this point what future year's funding allocations will amount to, making the commissioning of sustainable services more challenging; future funding allocation announcements are expected as part of the autumn spending review 2021.
- 8 Following the completion of the Safe Accommodation Needs Assessment, a detailed commissioning plan will be developed and approved prior to spend commitment.
- 9 In order to meet the requirements of the act, members of County Durham's Domestic Abuse and Sexual Violence Executive Group (DASVEG) are acting as the Local Domestic Abuse Partnership and will provide oversight and governance for the work.
- 10 Timelines for implementation of the legislative changes, as set out in paragraph 19 to paragraph 22, are challenging and will require multi agency support in order to be achieved.
- 11 All work to meet the requirements of the act will be carried out in line with the outcomes of the wider system developments, set out in more detail in paragraphs 41 - 57:
  - (a) Outcomes of the Budget Prioritisation
  - (b) Findings of the Health Needs Assessment
  - (c) Outcome of the Co-ordinated Community Response self-evaluation

### **Recommendation(s)**

- 12 Members of the Health and Wellbeing Board are asked to:
  - (a) Note the content of the report;
  - (b) Acknowledge the statutory requirements placed on the local authority and its partners.

## **Background**

- 13 Domestic abuse (DA) is a serious crime that cross cuts across all geographical and cultural groups. It is a crime largely perpetrated in private, with few witnesses and as a consequence is under reported and under recorded.
- 14 Despite this, it is estimated that DA effects over 2.4 million people each year in England and Wales; two thirds of these are women and more than one in ten offences reported to the Police are domestic abuse related.
- 15 The impact of COVID 19, more specifically the stay at home order put in place to save lives and protect the NHS, is still unknown. Nationally and locally there is emerging evidence that incidents of DA increased during this period due to the additional pressures placed on households and/or relationships.

## **The Domestic Abuse Act 2021**

- 16 The current government's response to tackling DA is based upon the introduction of the Domestic Abuse Act 2021; the key aims of the act are as follows:
  - (a) Protect and support victims;
  - (b) Transform the justice system;
  - (c) Improve performance; and
  - (d) Promote awareness
- 17 In order to meet the aims outlined in paragraph 16, the act has introduced legislative changes that will strengthen support to victims and increase measures to tackle perpetrators; a full range of these are listed in **Appendix 2** and **Appendix 3**.

## **Statutory Accommodation Duty**

- 18 Durham County Council (DCC) is classified by government as a tier one local authority, meaning that the introduction of the act, places a number of requirements they must comply with under the new Safe Accommodation Duty; this includes:
  - The development of a Local Domestic Abuse Partnership
  - Completion of Department of Levelling Up, Communities and Housing (DLUCH) needs assessment
  - Overarching domestic abuse strategy
  - Safe accommodation strategy

- Annual performance reporting to national government
  - Commissioning plan/strategy
- 19 The Local Partnership Boards will be central to ensuring that local authorities set out a robust strategy for tackling domestic abuse based on an assessment of the needs of all victims in their local area.
- 20 The Local Partnership Boards will also be required to assess the need for accommodation-based domestic abuse support for all victims in their area, including those who require cross-border support.
- 21 Tier one authorities will be required to deliver their strategy, and report back annually to Government. The annual reporting requirement will help the Government and others to monitor how the new duties on local authorities are working, understand where there may be challenges and how the funding is being used, and help identify and disseminate good practice.
- 22 The needs assessment was completed in September and will inform the future Domestic Abuse Safe Accommodation Strategy due for publication no later than 5 January 2022.

## **Governance Structure**

- 23 The Safe Durham Partnership (SDP) have a remit to deliver a range of cross cutting objectives and subsequently form part of the council's delivery mechanism for the County Durham Vision 2035. The SDP, along with its subgroups take a lead on several of the vision objectives.
- 24 The Domestic Abuse and Sexual Violence Executive Group (DASVEG), a well-established subgroup of the SDP, is responsible for providing the governance arrangements for the domestic abuse system across County Durham and Darlington.
- 25 The DASVEG reporting structure also ensures that as well as regular reporting to the SDP, strong links are in place with wider partnerships including the Durham Safeguarding Children's Partnership and the Durham Safeguarding Adults Partnership.

## **Service Provision Requirements**

- 26 DCC, guided by DASVEG, and informed by the outcomes of the need's assessment will be required to commission the following provision:
- (a) Refuge accommodation
  - (b) Specialist safe accommodation
  - (c) Dispersed accommodation
  - (d) Sanctuary scheme

- (e) Move on and/or secondary accommodation
  - (f) Any other accommodation as identified by the need's assessment
- 27 In addition to the accommodation requirements, the act also places a responsibility on DASVEG to ensure that the following wrap around support is also made available to all victims, including children and young people housed within the various safe accommodation:
- (a) Advocacy support
  - (b) Management of services
  - (c) DA prevention advice and guidance
  - (d) Specialist support for victims with protected characteristics and complex needs
  - (e) Children and young people's support
- 28 It should also be noted that DCC and its partners have some safe accommodation provision already in place this includes:
- (a) Four women's refuge
  - (b) Domestic Abuse Navigator Service (DAN) for victims with complex needs
  - (c) Dispersed properties including some move on
  - (d) Sanctuary Scheme
- 29 Appropriate consultation that captured the lived experience of survivors has taken place with current providers and has formed part of the evidence base of the need's assessment process.

## **Funding**

- 30 In January 2021 the Home Office released a funding allocation of £50k to each tier one local authority. This money, the Capacity Building Fund, is to be specifically used to build system capacity to ensure local authorities have resource to support them prepare to meet the requirements of the act and to contribute to the development of the needs assessment and strategy.
- 31 DCC, in line with local authorities across the country, have agreed to utilise their allocation of the Capacity Building Fund to employ, on a short-term basis, a dedicated Domestic Abuse Commissioning Officer.
- 32 It should be noted that DCC will be required to report nationally on how their funding has been utilised and what impact it has had on system progress.
- 33 In addition, the Director of Public Health (DPH) signed a Memorandum of Understanding (MOU) with DLUCH in March 2021. This MOU has enabled the release of a further £1.16m New Burdens Funding (NBF).

- 34 The amount of NBF received was calculated using a national formula based on predicted need for the development and sustainability of a broad range of safe accommodation options and the associated wrap around support across County Durham.
- 35 It is the intention of the Act to make NBF available each financial year however, further years funding will not be announced until the autumn of 2021, making the commissioning of quality services more challenging.
- 36 A detailed commissioning proposal informed by the need's assessment will be presented to DASVEG prior to the commitment of any NBF spend.

### **Progress to Date**

- 37 County Durham and Darlington already benefit from a long-standing DA governance structure reporting to the SDP, therefore DASVEG will act as County Durham's local domestic abuse partnership for both local authority areas.
- 38 A multi-agency working group has been established to ensure that the remaining requirements of the act are met. Initially the focus of the group was the completion of the need's assessment within timescale and the completion of the Safe Accommodation Strategy 2021 – 24.
- 39 Once the strategy has been endorsed, further work will take place on the development of a Whole System Approach to Domestic Abuse Strategy due to be published in 2022.
- 40 It should also be noted that all development reports are informed by a range of complimentary Public Health led DA system improvements including;
- (a) Outcomes of the Budget Prioritisation work
  - (b) DA Health Needs Assessment
  - (c) Review of Co-ordinated Community Response

### **Wider Domestic Abuse System Improvements**

- 41 In addition to the progress made in terms of DCC and its partners meeting their statutory duty, as set out by the DA Act 2021, Public Health have led on a range of whole system improvement activity.

#### **Budget Prioritisation Exercise**

- 42 During August – September 2020, PH led on a system wide Budget Prioritisation (BP) process.

- 43 The BP framework encourages partners to think about how to get the best value for money. It does not prescribe how budgets should be allocated between programmes. Instead, it allows users to break down big decisions into smaller manageable pieces by considering:
- which programmes could offer the greatest value in the future,
  - the current state of programmes that are being delivered,
  - the budget currently divided across programmes,
  - how easy it is for programmes to change.
- 44 By thinking in this structured way, users of the prioritisation process will be able to make recommendations on whether to increase, decrease or maintain spend in each programme area.
- 45 The County Durham process to date has followed the national steps. Specific workshop activities have included:
- Confirming the overarching programme budget areas across the system. (Most of the budget is provided by Durham County Council, then the Police, Crime and Victims' Commissioner and then Durham Constabulary.)
  - Setting criteria by which to evaluate the potential value of programme spend.
  - Weighting the chosen criteria based on their relative importance to one another.
  - Completing evidence templates against the criteria.
  - Scoring against the criteria based on the evidence presented.
  - Completing current state templates and comparing current spend and outcomes to benchmarks if available; assessing the feasibility and opportunity for improvement.
  - Determining direction of travel of spend based on the collation of all the above.
- 46 Outcomes:
- All areas have suffered historic disinvestment and programme budgets are built on non-recurrent funding. National recommendations for spend per head far exceed local spend.
  - Demand exceeds the current service capacity in all areas. All programme areas would benefit from an increase in budget, yet partners are realistic about organisational budget pressures.
  - Strong evidence base for a range of interventions and approaches.
  - All partners appreciated how interconnected the domestic abuse system is, and investment needs to be strategic to ensure stability throughout the system and for its vulnerable users.

- Partners developed an understanding of all programme areas, the evidence base and the current spend, which should ensure a more collaborative approach to commissioning going forward.
- Direction of spend (table below). Given the scale of need in County Durham there are no recommendations to reduce investment in a programme area as the risks were perceived to be too great.

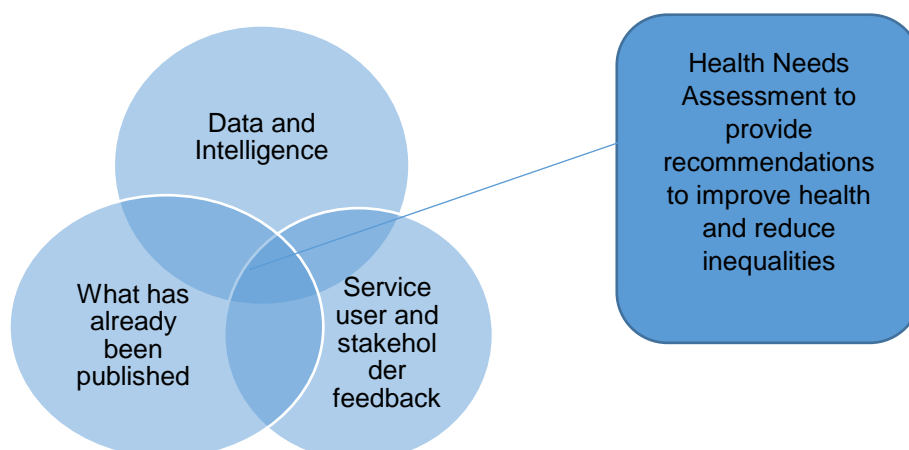
Programme Area	Direction of travel	Comments
Children and Young People - Prevention	Increase	Small investment with good outcomes currently. High feasibility to improve. Opportunity to impact adverse childhood experiences (ACEs).
Children and Young People - Specialist	Increase	Outcomes good but investment small. Impact on ACEs. Modelling to predict increase.
Adults – Prevention	Maintain	Current programme DCC non recurrent funding, system wide investment required.
Adults – Specialist	Maintain	Requires mainstream investment otherwise lacks resilience. Excellent service outcomes.
Accommodation	Maintain	Current budget is favourable based on overall spend. Consider other models but maintain funding for vital crisis service.
Workforce	Increase	High feasibility scores. All agencies recognise importance but needs strategic support and investment.
Perpetrators	Maintain	Critical system interdependencies but requires investment from all partners.

### Health Needs Assessment

- 47 During 2019 – 2020, Public Health have worked with partners to develop a Domestic Abuse Health Needs Assessment (HNA).
- 48 The role of this HNA is to consider what we know, but also to think about what we should know about a population.
- 49 In a constantly evolving agenda, it is critical to continually assess our knowledge and understanding of national policy which is implemented at a local level to best meet the needs of our residents. In a real-world context of limited resources, decisions need to be made about how and where those resources are allocated and areas with high need are likely to be prioritised.
- 50 The principle of the HNA is based upon three critical processes for gathering relevant information, as illustrated in Diagram 1.



**Diagram 1 – Health Needs Assessment**



- 51 A literature review was conducted to understand from published evidence what potential health inequalities may exist and be able to then compare this, utilising an epidemiological approach, to local intelligence and data. Lastly, a broad range of stakeholder engagement was carried out, and thematically reviewed, to capture the voice of victims and perpetrators through robust interviews and focus groups.
- 52 The systematic process of the HNA has allowed for the development of a range of key findings and recommendations covering the following DA system areas:
- System Review and Mapping: ensuring there is a collective understanding of interdependencies and partnership working,
  - Significant unmet need,
  - Demand led system/graded response,
  - Equity of access,
  - Prevention with a focus on the impact on children,
  - Older adults,
  - Mental health needs,
  - Learning from emerging practice.
- 53 The detailed recommendations have been endorsed by members of DASVEG and will be considered when developing all future system work moving forward.

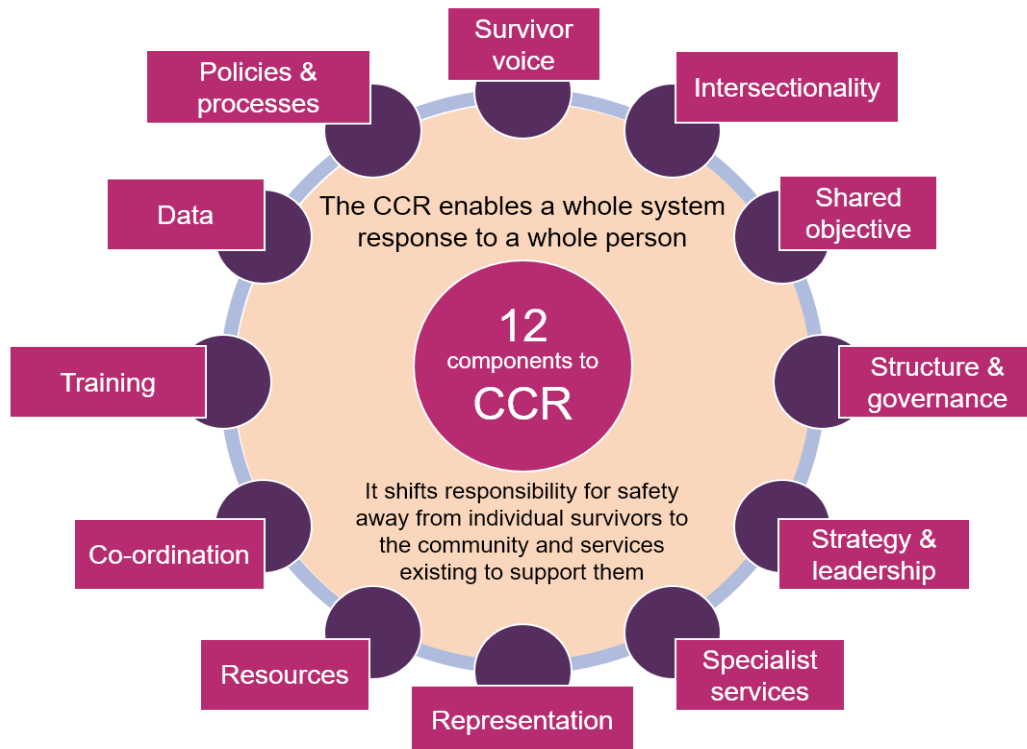
### **Co-ordinated Community Response**

- 54 In July 2020, with support from the newly appointed Domestic Abuse Commissioner, leading national organisation Standing Together

published the report *In Search of Excellence* which examines the effectiveness of Co-ordinated Community Response's (CCR) from across the country.

- 55 National and international best practice identifies that each local authority area should have a Co-ordinated Community Response (CCR) in place (Diagram 2).

**Diagram 2: Co-ordinated Community Response**



- 56 After considering the findings of this report, public health with the support of DASVEG, have instigated a system leadership self-assessment process by developing an audit tool designed to identify strengths and weaknesses across 12 key component sections of the CCR system.

- 57 Once completed, this will be considered alongside the requirements of the Domestic Abuse Act 2021, the outcome of the BP exercise and the findings of the HNA to enhance our CCR and approach to tackling DA as a whole system.

### **Main implications**

- 58 Failure to meet the deadlines set by DLUCH will result in DCC not meeting requirements of the MOU and may result in government scrutiny.

59 In addition, if appropriate services are not commissioned within the timeframe required, the level of funding that the local authority has received, and future funding allocations may be affected.

## **Conclusion**

60 Tackling Domestic Abuse remains a priority for Durham County Council and its partners. The implementation of the requirements of the Domestic Abuse Act 2021 will ensure that victims, including children and young people receive the support they need to live free from violence and abuse.

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## **Appendix 1: Implications**

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### **Legal Implications**

The Domestic Abuse Act 2021 places a statutory duty on the local authority in relation to the provision of suitable safe accommodation to residents of County Durham and those from other areas.

### **Finance**

DCC have received £1.16m New Burdens Funding in order to meet the needs of the Safe Accommodation requirements of the Domestic Abuse Act 2021. Failure to appropriately allocated spend may impact on future funding agreements.

### **Consultation**

N/A

### **Equality and Diversity / Public Sector Equality Duty**

N/A

### **Climate Change**

N/A

### **Human Rights**

N/A

### **Crime and Disorder**

The Domestic Abuse Act 2021 will impact on policing and will be a focus of work for the Safe Durham Partnership.

### **Staffing**

N/A

### **Accommodation**

The local authority has a statutory responsibility to house victims of domestic abuse.

### **Risk**

There are a number of risks associated with failure to comply with the requirements of the Act including financial.

## **Procurement**

There are procurement implications as there is a requirement to commission/procure a range of suitable accommodation-based and support services for victims of domestic abuse in this financial year and future years.

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## Appendix 2: Support for Victims

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The Domestic Abuse Act 2021 will:

- create a statutory definition of domestic abuse, emphasising that domestic abuse is not just physical violence, but can also be emotional, coercive or controlling, and economic abuse. As part of this definition, children will be explicitly recognised as victims if they see, hear or otherwise experience the effects of abuse;
- create a new offence of non-fatal strangulation;
- extend the controlling or coercive behaviour offence to cover post-separation abuse;
- extend the ‘revenge porn’ offence to cover the threat to disclose intimate images with the intention to cause distress;
- clarify the law to further deter claims of “rough sex gone wrong” in cases involving death or serious injury;
- create a statutory presumption that victims of domestic abuse are eligible for special measures in the criminal, civil and family courts (for example, to enable them to give evidence via a video link);
- establish in law the Domestic Abuse Commissioner, to stand up for victims and survivors, raise public awareness, monitor the response of local authorities, the justice system and other statutory agencies and hold them to account in tackling domestic abuse;
- place a duty on local authorities in England to provide support to victims of domestic abuse and their children in refuges and other safe accommodation;
- provide that all eligible homeless victims of domestic abuse automatically have ‘priority need’ for homelessness assistance;
- place the guidance supporting the Domestic Violence Disclosure Scheme (“Clare’s law”) on a statutory footing;
- ensure that when local authorities rehouse victims of domestic abuse, they do not lose a secure lifetime or assured tenancy;
- stop vexatious family proceedings that can further traumatise victims by clarifying the circumstances in which a court may make a barring order under section 91(14) of the Children Act 1989;
- prohibit GPs and other health professionals from charging a victim of domestic abuse for a letter to support an application for legal aid.

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## **Appendix 3: Measures for tackling perpetrators**

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The Domestic Abuse Act 2021 will:

- prohibit perpetrators of abuse from cross-examining their victims in person in family and civil courts in England and Wales;
- bring the case of R vs Brown into legislation, invalidating any courtroom defence of consent where a victim suffers serious harm or is killed;
- enable domestic abuse offenders to be subject to polygraph testing as a condition of their licence following their release from custody;
- extend the extraterritorial jurisdiction of the criminal courts in England and Wales, Scotland and Northern Ireland to further violent and sexual offences;
- provide for a new Domestic Abuse Protection Notice and Domestic Abuse Protection Order, which will prevent perpetrators from contacting their victims, as well as force them to take positive steps to change their behaviour, e.g. seeking mental health support;
- introduce a statutory duty on the Secretary of State to publish a domestic abuse perpetrator strategy (to be published as part of a holistic domestic abuse strategy).