

## Written evidence submitted by the Women's Aid Federation of England (COR0202)

1. Women's Aid is the national charity working to end domestic abuse against women and children. We are a federation of over 170 organisations which provide just under 300 local lifesaving services to women and children across the country. Over the past 47 years, Women's Aid has been at the forefront of shaping and coordinating responses to domestic abuse through practice, research and policy. We empower survivors by keeping their voices at the heart of our work, working with and for women and children by listening to them and responding to their needs.
2. Our support services, which include our Live Chat Helpline, the Survivors' Forum, the No Woman Turned Away Project, the Survivor's Handbook, Love Respect (our dedicated website for young people in their first relationships), the national Domestic Abuse Directory and our advocacy projects, help thousands of women and children every year.
3. We welcome the opportunity to respond to the Home Affairs Select Committee's inquiry. Home is not a safe place for those experiencing domestic abuse. The mass experience of isolation, and limited routes to support and safety, are set to have significant impacts on women and children. It is essential that the government takes coordinated, proactive action to prevent physical and emotional harm, and meet the increased and changing needs of survivors and their children, during this pandemic.

### WOMEN, VAWG AND INEQUALITIES

4. It is widely evidenced that women and girls are at increased risk of various forms of violence against women and girls (VAWG), including domestic abuse, during health crises.<sup>1</sup> It was predictable that 'lockdown' measures would increase women's risk of physical and emotional harm, and close down their access to support and safety.<sup>2</sup> More widely, the pandemic is deepening pre-existing inequalities in society – meaning different groups are being disproportionately impacted.
5. Whilst mortality from COVID 19 is higher for men, the social and economic impacts of the pandemic are having severe impacts on women. Women are more likely to work in low paid, insecure and informal jobs, make up the majority of people living in poverty, are more reliant on social security, and do the majority of care – both paid and unpaid.<sup>3</sup> Women make up 77% of healthcare workers, and 83% of the social care workforce - and the majority of workers with the highest exposure to COVID 19.<sup>4</sup>
6. Black and minoritised communities are experiencing the highest levels of death rates from the virus, a direct result of structural inequality in society that leads to deprivation, unsafe working conditions, poor health outcomes and systemic barriers in accessing their rights.<sup>5</sup> Imkaan have documented that Black and minoritised women are not only experiencing increased violence and abuse, but “racialised discrimination and the disproportionate impact of structural inequalities.”<sup>6</sup> COVID 19 is having severe impacts on Deaf and disabled women, who already face higher risks of gender-based violence and health inequalities – increasing reliance on abusers for care and access to basic essentials, creating further barriers in accessing help and support, suspending protections through the Care Act 2014, and threatening their independent living, health and wellbeing.<sup>7</sup>
7. Whilst we have welcomed the government's public awareness campaign, and guidance, on domestic abuse and COVID 19, the absence of coordinated government leadership to prevent VAWG and reduce structural inequalities resulting from COVID 19 remains stark. We are also deeply concerned by the government's plan to separate domestic abuse from the Violence Against Women and Girls (VAWG) Strategy. Services led 'by and for' Black and minoritised, migrant and Deaf and disabled women work across all forms of VAWG and have expressed serious concerns about the 'othering' impact of dividing the strategies in this way. Changes required include:

- **Equal representation of women and those facing other forms of structural inequality in decision making spaces, including all government departments responding to COVID 19;**
- **Consistent collection of data disaggregated by sex, race, disability and characteristics protected by the Equality Act 2010.**

<sup>1</sup> Fraser, E. (2020). *Impact of COVID-19 Pandemic on Violence against Women and Girls*. VAWG Helpdesk Report 284. DFID.

<sup>2</sup> Fraser, E. (2020). *Impact of COVID-19 Pandemic on Violence against Women and Girls*. VAWG Helpdesk Report 284. DFID

<sup>3</sup> <https://www.unwomen.org/en/news/stories/2020/3/news-womens-needs-and-leadership-in-covid-19-response>

<sup>4</sup> Women's Budget Group, *Crises Collide: Women and Covid-19 Examining gender and other equality issues during the Coronavirus outbreak*, 2020

<sup>5</sup> Public Health England, *Disparities in the risk and outcomes of COVID-19*, June 2020

<sup>6</sup> Imkaan, *The Impact of the Two Pandemics: VAWG and COVID-19 on Black and Minoritised Women and Girls*, 2020.

<sup>7</sup> Sisters of Frida, *The Impact of COVID 19 on Disabled Women from Sisters of Frida*, 2020

- **An integrated government VAWG strategy which centres on survivors facing multiple forms of discrimination, on the bases of race, ethnicity, migrant status, disability, sexuality and other factors.**

## IMPACT ON SURVIVORS

8. Analysis of Women’s Aid’s Survivor Survey on COVID 19,<sup>8</sup> and the experiences of women contacting our members and direct services, has identified six key impacts of the pandemic on survivors:

- **Abuse is escalating** – 67% (31 out of 46) of survivors who are currently experiencing abuse told us that it had got worse since COVID 19.
- **It is harder to leave** – over three quarters of survivors currently experiencing abuse (78%, 36 out of 46) stated COVID 19 has made it harder for them to leave.
- **Abusers are using COVID 19 as a way to control**, or failing to take necessary precautions to prevent spread of virus – 72%% (33 out of 46) of survivors experiencing current abuse told us their abuser has more control over their life since COVID 19.
- **Survivors are concerned about safe child contact** – see section 4.
- There are **mental health impacts** on survivors and children – just over half of survivors (74 out of 141) who experienced abuse in the past that need mental health support are unable to access it.
- The **financial impact of the crisis** is fuelling economic abuse, and increases barriers to leaving.

*“I feel like my partner is behaving worse because he is frustrated about being stuck in the house. He takes it out on me. Before I could escape for a break by going out for a while, now I just feel trapped.”*

(Women’s Aid COVID 19 survivors’ survey respondent)

9. The escalation of abuse has been compounded by limits to survivors’ access to public services and support. ‘Lockdown’ measures have meant women and children have been restricted from their wider family, friends or community members, and workplaces or school – all key areas of support and possible routes to safety. Public services – including the police, social care services and healthcare providers – continue to be diverted by COVID 19.

10. Barriers to support are even more acute for women facing intersecting forms of oppression. Women with insecure immigration status fear reporting and seeking help, and engaging in the Test and Trace system, due to legitimate concerns about their details being shared with immigration enforcement, and migrant women with no recourse to public funds (NRPF) are excluded from many forms of statutory support altogether.<sup>9</sup> Services led ‘by and for’ Black and minoritised women have reported needing to support survivors in understanding government guidance, and because of increased racism during this time.

11. In April 2020 the government launched a public awareness campaign, *#YouAreNotAlone*, on domestic abuse – including information for employers, and some translated materials for survivors. However, much of the government’s guidance and announcements on COVID 19, and information about accessing support, continue to be inaccessible to women facing additional barriers due to race and ethnicity, language, migrant status, and disability. In addition, some of the regulations and systems established to control the virus are having unintended consequences for survivors. We have a number of concerns about safety and data protection within the Test and Trace system - including requirements for disclosing addresses and the lack of robust domestic abuse training for contact tracers. We have also heard examples of survivors being fined and treated insensitively for not wearing a mask by the police - despite the exemption available for those who have a trauma history.

12. Spain and other European countries launched the ‘Mask 19’ initiative, where women can use a code word to alert pharmacies about domestic abuse. In the interim these initiatives were developed in specific local areas and with specific retailers, which risked a piecemeal approach to accessing support in communities. The UK government has launched a similar approach – survivors will be able to ‘Ask for ANI’ within participating pharmacies to access support. We are severely concerned that the national scheme does not meet critical safeguards – including robust training for staff, risk assessment, challenging harmful attitudes, and accessibility and inclusion.<sup>10</sup> Women’s Aid has led Ask Me, a community response to domestic abuse, for four years and trained over 1000 ambassadors across the

<sup>8</sup> Women’s Aid. (2020) *A Perfect Storm: The Impact of the Covid-19 Pandemic on Domestic Abuse Survivors and the Services Supporting Them*. Bristol: Women’s Aid.

<sup>9</sup> More than half of women surveyed by Kings College London and Latin American Women’s Rights Service, reported they felt they would not be believed by the police because of their immigration status (54%), with more than half feeling that the police or the Home Office would support the perpetrator over them (52%). - Kings College London and LAWRS (2019). *The Right to be Believed*. Available: <https://stepupmigrantwomenuk.files.wordpress.com/2019/05/the-right-to-be-believed-key-findings-final-1.pdf>

<sup>10</sup> <https://www.womensaid.org.uk/wp-content/uploads/2020/05/Joint-Statement-on-Codeword-Scheme.pdf>

UK. We have developed significant expertise in training and empowering community members to give safe, effective responses to survivors, which is critical for the development of community approaches to domestic abuse during COVID 19.

**13. We urge the government to build on the #YouAreNotAlone campaign to reach all survivors and all communities, including:**

- **Ensuring information, government guidance and domestic abuse awareness materials are fully accessible to all - translated into all languages including British Sign Language and designed to tackle the additional barriers facing survivors from marginalised groups.**
- **Clear communication, and consistent implementation, of the exemptions from COVID 19 regulations available to survivors - including for leaving the home and not wearing a mask.**
- **Urgently working with the specialist VAWG sector to ensure that the NHS Test and Trace Service is safe for survivors.**
- **Act on the recommendations of the #StepUpMigrantWomen campaign, and ensure survivors can safely report abuse and engage with public services without fear of immigration enforcement.**
- **Learn from Women's Aid's Ask Me scheme to roll out safe and effective community approaches that ensure survivors get the right help, the first time.**

**IMPACT ON SPECIALIST SERVICES**

14. Women's Aid's national network of members, who provide refuge services and a range of other specialist support services to women and children experiencing domestic abuse, have been severely impacted by COVID 19. The pandemic is a 'perfect storm' of increased demand for support from women and children experiencing domestic abuse, at the same time as staff shortages and reduced capacity, practical challenges in delivering face-to-face services, difficulties in working remotely, and the trauma of supporting survivors in this time. Findings from our surveys with services have shown:

*"By running DA services close to the bone we have not left any resilience for times like this"*  
(Women's Aid member service)

- In April 2020, 84% of services reported had been forced to reduce or cancel one or more of their services due to COVID-19, including 36% of refuge providers who had to do so.
- In April 2020, 49% of services had affected by staff sickness, and 64% were affected by staff being unable to come into work due to staff isolation.<sup>11</sup>
- In June 2020, 100% of responding services said they expected to see an increase in demand either in the next six months or year.<sup>12</sup>

15. Whilst many of our member services are proud of their response to the pandemic, the difficulties our survey from the first lockdown found have only increased further. The third national lockdown and continuing pressures of meeting increased demand has resulted in an increase in staff burnout and staff sickness or self-isolation. We also know that there has been an increase in staff experiencing vicarious trauma, particularly in staff who are also survivors.

16. Urgent government action is needed to ensure life-saving national network of services can continue to prevent harm resulting from the pandemic, and rebuild survivors lives when it ends. NHS Guidance on 'cohort 2' (health and social care workers) has now been published<sup>13</sup>, which states that local authorities and NHS vaccination services can include homeless services and support, housing with support and other 'frontline social care' services as eligible. This is welcome particularly as many member services have booked vaccines or succeeded in getting vaccines for refuge staff. We are however concerned that commissioned services are being prioritised for the vaccine due to existing relationships with public health and local authorities. **We are clear that all frontline services are a critical part of our national infrastructure and urge for:**

<sup>11</sup> Women's Aid. (2020) *A Perfect Storm: The Impact of the Covid-19 Pandemic on Domestic Abuse Survivors and the Services Supporting Them*. Bristol: Women's Aid

<sup>12</sup> Women's Aid, The impact of Covid-19 on domestic abuse support services, April 2020

<sup>13</sup> [https://www.england.nhs.uk/coronavirus/wp-content/uploads/sites/52/2021/01/C1037-COVID-vacc-deployment-SOP\\_community-based-care-workers-14-January-2021.pdf](https://www.england.nhs.uk/coronavirus/wp-content/uploads/sites/52/2021/01/C1037-COVID-vacc-deployment-SOP_community-based-care-workers-14-January-2021.pdf)

- **Guidance for vaccination cohort 2 to make clear that all VAWG services – including refuges, community-based services, and non-commissioned services – should be prioritised for the vaccine.**

## **Funding**

17. Before the pandemic, funding was the number one concern for the sector. Nearly half of domestic abuse services responding to Women’s Aid’s Annual Survey in 2019 were running an area of work with no dedicated funding at all.<sup>14</sup> Largely delivered by specialist women’s charities, services have limited cashflow and reserves to cope with shocks and the need for urgent adaptations to their delivery. Services run with multiple funding streams, reporting on numerous outcomes and targets to different funders, with short-term budgets which do not cover the full costs of delivery and competitive tendering practices which fail to recognise their expertise. Many services rely heavily on fundraising and donations, which are also going through a period of flux due to the pandemic.

18. We estimated that at least £65 million of the Treasury’s £750 million package of support for charities was required to ensure specialist VAWG services could cope during the pandemic. We called for a flexible and fair funding pot which would be simple for services to access, alongside ring-fenced funding for services led ‘by and for’ Black and minoritised women, Deaf and disabled women, and LGBT+ survivors.

19. The government’s £37 million in emergency funding for domestic and sexual violence services in England and Wales was therefore welcome. However, funding was split over three government departments, with a range of application processes – creating a stressful, difficult and exclusionary process for frontline services to navigate during a time of crisis. Less than half of services responding to our June survey had experienced an overall increase in funding/income during the pandemic<sup>15</sup>.

20. Whilst the initial October 2020 deadline for spending emergency COVID 19 funds has been extended for a limited period, much of this funding is now ending. Yet lockdown measures continue, and life-saving services continue to face high demand, with staff that are overworked and underpaid. 21. As these services are supporting women who have experienced escalating violence and abuse, they are reporting that cases are increasingly complex and women need support for far longer. Research by has also shown that national lockdowns have made reporting to the police harder, and COVID 19 restrictions and associated socioeconomic strains make leaving abusive relationships more difficult<sup>16</sup>. This research also identified a decline in survivors telling police they had recently separated or attempted to separate - indicating that the lockdown is keeping survivors in abusive relationships – and suggested that separations will be delayed until restrictions are eased, rather than cancelled<sup>17</sup>. As we know separation is a trigger for domestic abuse escalation, we need to ensure that specialist domestic abuse services and statutory agencies are ready for a surge in demand when COVID restrictions finally lift in 2021.

22. The statutory duty on local authorities to fund accommodation-based services in the Domestic Abuse Bill and the accompanying £125million in funding for 2021-22, and £40 million available to victim services through PCCs is welcome. We are however concerned that many of our member services remain in the dark about when they will receive this funding. This is particularly concerning when these services face a funding cliff-edge in March 2021 - as COVID 19 funding runs out – and in some cases are having to start redundancy processes for staff.

23. Women’s Aid estimates that £393 million is required annually to ensure specialist women’s domestic abuse services are sustainable in England.<sup>18</sup> In addition, Rape Crisis estimate that £102.7 million annually is required to ensure specialist sexual violence and abuse services are available for victim and survivors; and Imkaan state that £57 million annually is needed to ensure that the existing highly specialist network of services for Black and minoritised women are sustainable.<sup>19</sup>

## **24. We are calling urgently on the government to deliver:**

- **Clarity about how sustainable funding for the specialist VAWG sector after March 2021 will reach frontline services as soon as possible.**

<sup>14</sup> Women’s Aid (2020) The Domestic Abuse Report 2020: The Annual Audit, Bristol: Women’s Aid.

<sup>15</sup> Women’s Aid. (2020) *A Perfect Storm: The Impact of the Covid-19 Pandemic on Domestic Abuse Survivors and the Services Supporting Them*. Bristol: Women’s Aid

<sup>16</sup> Hohl, K., Johnson, K., (2020) A crisis exposed – how Covid-19 is impacting domestic abuse reported to the police

<sup>17</sup> Hohl, K., Johnson, K., (2020) A crisis exposed – how Covid-19 is impacting domestic abuse reported to the police

<sup>18</sup> Women’s Aid (2019) Funding Specialist Support for Domestic Abuse Survivors Bristol: Women’s Aid.

<sup>19</sup> <https://www.endviolenceagainstown.org.uk/wp-content/uploads/Treasury-Letter-CSR.pdf>

- **Guarantee of sustainable, multi-year funding settlement for the specialist VAWG sector which ensures they are resilient as the next lockdown lifts and more survivors are able to reach out for help.**
- **Commitment to a secure funding future of specialist VAWG services, which includes ring-fenced funding or specific funding streams for services led ‘by and for’ Black and minoritised women, disabled women and LGBT survivors.**

### *Refuge services*

25. Refuges are on the frontline of the response. They are far more than just a ‘bed for the night’ - they provide physical and emotional safety and provide a package of expert, holistic support to support women and children escaping abuse to cope and recover. Demand for life-saving refuge services exceeded capacity before COVID 19; 57% of referrals to refuges were declined in 2019-20 and almost one in five of referrals were refused because the refuge had a lack of space or capacity to support the survivor. The number of refuge spaces in England is now 30% below the number recommended by the Council of Europe.<sup>20</sup>

26. Refuge services can be based in shared, self-contained or dispersed accommodation. Whilst government guidance<sup>21</sup> makes clear that refuges with shared facilities should remain open during the pandemic with infection control procedures in place, the women, children and staff in services have faced challenges during this time. The full lockdown period, from 23rd March to 31st May 2020, saw a 40.6% decrease in the number of refuge vacancies in England compared to the same period in 2019. Reasons for this decrease varied, but included: being unable to find move-on accommodation for women during the pandemic; being unable to accept new referrals; staff shortages; concerns about the spread of the virus; and lack of PPE.

27. We have seen welcome emergency funding made available for refuges, and positive action on making PPE available, and the number of refuge vacancies has gradually started to increase. However, our member services are now highly concerned by the new COVID 19 variant and the risks that survivors and staff within refuge are currently facing. Specifically, they are raising concerns on:

- How to safely manage self-isolation within communal accommodation, and the limited direction provided by the government guidance for doing so safely;
- Losing rental income as a result of adjusting accommodation for health and safety purposes – for example services having to section off parts of a refuge for new arrivals so they can quarantine for first 14 days.
- Significant variation in how testing is managed to enable refuges to safely accept new women and children – whilst some refuges are including in local authority testing pathways, many are not.
- Continued issues with move-on: 57% of the providers responding to our survey in June 2020 told us that there were women ready and waiting to move on from their refuge, and for 43% of providers over one third of their current residents were in this situation.

28. We remain highly concerned about the additional strain on refuge capacity, which was already unable to meet demand, resulting from COVID 19. The Domestic Abuse Bill includes a statutory duty on local authorities to fund accommodation-based services, which is set to be in force and underpinned by funding in April 2021. This will be accompanied with £125million in funding for 2021-22. However, there remains significant uncertainty about how and when this funding will reach refuges, and services urgently need clarity about funding arrangements if they are not to lose staff, or in some places collapse altogether. In addition, as the Bill does not mention ‘refuge services’ at all it currently does not guarantee that funding will go to specialist services that are experts in supporting women and children or specialist led ‘by and for’ services which face the most severe challenges within local funding systems. We’re concerned that the current drafting will also lead to unsafe forms of temporary accommodation, which aren’t designed meet survivors needs, being funded under the duty.

29. Barriers to refuge will disproportionately impact survivors facing multiple forms of discrimination who are seeking to escape. As housing costs of refuge services are largely met through housing benefit, many women with ‘no recourse to public funds’ (NPRF) due to their immigration status were unable to access refuge. Most refuges are unable to cover housing costs without other funding in place; only 4% of refuge vacancies in the year 2019-20 could

<sup>20</sup> Women’s Aid (2021) The Domestic Abuse Report 2021: The Annual Audit, Bristol: Women’s Aid.

<sup>21</sup> <https://www.gov.uk/government/publications/covid-19-guidance-for-domestic-abuse-safe-accommodation-provision>

support a woman who had NRPF<sup>22</sup>. The options facing women with NRPF unable to access refuge - homelessness, destitution or being forced to return to the perpetrator – were shocking before the pandemic and will only intensify without action. In Wales, the government has advised local authorities that while the law prevents them providing housing support to people with NRPF, they should use alternative powers and funding to assist those who require shelter during the pandemic.<sup>23</sup>

### 30. We urge government to:

- **Update guidance for domestic abuse safe accommodation with information on accepting and managing safe referrals, support bubbles with worked examples presented.**
- **Provide a direct contact point within MHCLG or Public Health England for refuge services so they can address specific concerns and issues with managing self-isolation.**
- **Commit to transitional funding arrangements until the statutory duty for accommodation-based services is fully operational in 2021, to ensure refuge services and their expert staff are not lost.**
- **Compensate loss of rental income or arrears for refuge services during the pandemic.**
- **Work with Women’s Aid, the Domestic Abuse Housing Alliance, housing associations and local authorities to develop practical and workable solutions to the move-on challenge.**
- **Deliver reforms to the Domestic Abuse Bill to ensure all migrant women can access a refuge space and, in the interim, enable local authorities to ensure access to shelter for those with insecure status.**

## SAFE CHILD CONTACT AND THE FAMILY COURTS

31. The safety of child contact is a serious concern for survivors of domestic abuse during COVID 19. Perpetrators routinely use child contact arrangements as a tool of coercive and controlling behaviour and survivors are telling us that they are using COVID 19 to continue this further. Of the survivors with child contact arrangements responding to our survey in June 2020, 38% (64 out of 162) told us child contact arrangements have been used to further abuse and 34% (57 out of 162) told us they were concerned about the safety of child contact during this time.<sup>24</sup>

### Child contact arrangements

32. Whilst the President of the Family Division issued guidance during the first lockdown to make clear that if parents cannot agree to an arrangement, they may vary the arrangement to be safe, the guidance is open to interpretation.<sup>25</sup> Guidance from the President and statements from the government which encourage parents to adopt a ‘*pragmatic approach*’<sup>26</sup> will largely rely on parents being able to agree revised arrangements. Where one parent is controlling and abusive, this is very unlikely to happen. Similarly, digital options developed for child contact in contact centres which rely on ‘other people’ taking up the role of the contact centre<sup>27</sup> are unlikely to be safe or appropriate in domestic abuse cases.

*“I have stopped contact between the children and their father for the duration of the epidemic. He is threatening me with court. He wouldn't even tell me where he worked and said “we will all get it anyway”. I do not trust him to keep our children safe.”*

(Women’s Aid COVID 19 survivors’ survey respondent)

33. As the first lockdown eased, we began to hear from survivors accused of breaching a court order by limiting or preventing contact during the crisis in order to keep themselves and their children safe. For example, one mother who needed to self-isolate with her children to protect their health, and offered online contact during the first lockdown. The children’s father did not take up this offer, but when the lockdown eased, he took the survivor back to court accusing her of breaching the contact order, and she was ordered to pay his costs.

34. Similarly, Rights of Women have reported concerns with: perpetrators using the situation to continue their abuse by placing children at risk intentionally; perpetrators insisting on arrangements continuing contrary to guidance; perpetrators issuing enforcement applications unreasonably; and perpetrators not returning children after contact.<sup>28</sup>

<sup>22</sup> Women’s Aid (2021) *The Domestic Abuse Report 2021: The Annual Audit*, Bristol: Women’s Aid

<sup>23</sup> Welsh Government (2020) *Written Statement: COVID-19 Response – Homelessness and Rough Sleepers* <https://gov.wales/written-statement-covid-19-response-homelessness-and-rough-sleepers>

<sup>24</sup> Women’s Aid. (2020) *A Perfect Storm: The Impact of the Covid-19 Pandemic on Domestic Abuse Survivors and the Services Supporting Them*. Bristol: Women’s Aid.

<sup>25</sup> President of the Family Division (2020) *The Coronavirus crisis and compliance with family court child arrangement orders*. Courts and Tribunals Judiciary: <https://www.judiciary.uk/announcements/coronavirus-crisis-guidance-on-compliance-with-family-court-child-arrangement-orders/>

<sup>26</sup> Ministry of Justice response to parliamentary question Family proceedings: corona virus. 24 March 2020

<sup>27</sup> NACCC (2020) *NACCC factsheet for professionals. Information about child contact in light of covid-19*.

<sup>28</sup> Rights of Women (2020) *Coronavirus and child contact arrangements*. <https://rightsofwomen.org.uk/get-information/family-law/coronavirus-and-child-contact-arrangements/>

## Family court cases

35. Remote family court proceedings have been a key change impacting survivors during the pandemic. The numbers of cases heard using audio and video technology in courts and tribunals each day in England and Wales trebled from March to April 2020.<sup>29</sup> Whilst remote hearings can work well in some cases, the effectiveness of video hearings for ensuring access to justice in cases of domestic abuse is not fully clear. In some cases, being in a physical courtroom is vitally important.<sup>30</sup>

36. Guidance for remote hearings in April 2020 makes clear that the following factors may limit participation, and mean hearings need to be adjourned. Many of these are likely to impact survivors:

- Social and economic inequality, which can affect access to technology and living environments;
- Cases where parties live together - particularly in cases of domestic abuse;
- Parties who have young children and no access to childcare, meaning the children may hear or witness inappropriate matters.<sup>31</sup>

37. The Nuffield Family Justice Observatory has undertaken rapid consultations on the use of remote hearings in the family court were conducted in April<sup>32</sup> and September 2020<sup>33</sup>. Findings have identified:

- Concerns about the fairness of the remote hearings in certain cases and circumstances – particularly “where not having face-to-face contact made it difficult to read reactions and communicate in a humane and sensitive way”, including in cases involving domestic abuse.
- A lack of empathy and support for parties pre- and post-hearing, especially for litigants in person. Issues of confidentiality, security and privacy were raised, including examples where other people were on the line with parties, and where children were present due to a lack of childcare.
- Risks that remote hearings in cases of domestic abuse can be used as a coercive control tactic and increase vulnerability, with a lack of clarity on special measures are being used to help vulnerable and intimidated witnesses to give their best evidence in court.
- Whilst most professionals felt that things were working more smoothly, the majority of parents and family members had concerns about the way their cases had been dealt with and just under half said they had not understood what had happened during the hearing.
- Concerns about barriers to participation and support for people with disabilities, especially where interpreters, intermediaries and advocates cannot be physically with their clients.

38. In November 2020 the Family Justice Council published guidance on domestic abuse and special measures in remote and hybrid hearings. The guidance applies to all family proceedings where domestic abuse has been proved or may be an issue. It states that “victims of domestic abuse should always be consulted (via their legal representative if they have one) as to their preferred mode of participation—in a courtroom in person, or by telephone or video.”<sup>34</sup> The guidance also covers personal protection, special measures and participation directions, and fact-finding hearings.

### 39. The Ministry of Justice and Family Division must ensure that:

- **New allegations of a breach of a child arrangements order, where there are historic or current allegations of domestic abuse, are dealt with carefully, and with awareness of the potential for perpetrators to use the pandemic as an opportunity to continue their abuse.**
- **Parents who normally use a contact centre for child contact are not penalised for breaching orders because the alternatives offered are not safe - either for children or non-abusive parents.**
- **All judges and magistrates are aware of the President’s guidance on the coronavirus crisis and compliance with family court child arrangements orders, and there is a clear system for appealing court decisions which don’t reflect this.**

<sup>29</sup> HMCTS (2020) Courts and tribunals data on audio and video technology use during coronavirus outbreak. <https://www.gov.uk/guidance/courts-and-tribunals-data-on-audio-and-video-technology-use-during-coronavirus-outbreak>

<sup>30</sup> Ministry of Justice (2016) *Transforming our justice system*. MoJ.

<sup>31</sup> Courts and Tribunals Judiciary (2020). The remote access family court. Version 3 (3 April 2020).

<sup>32</sup> Nuffield Family Justice Observatory (2020). Remote hearings in the family justice system: A rapid consultation. <https://www.judiciary.uk/wp-content/uploads/2020/05/remote-hearings-rapid-review.pdf>

<sup>33</sup> Nuffield Family Justice Observatory (2020). Remote hearings in the family justice system: Reflections and experiences. <https://www.nuffieldfjo.org.uk/resource/remote-hearings-september-2020>

<sup>34</sup> Family Justice Council (2020) *Safety from Domestic Abuse and Special Measures in Remote and Hybrid Hearings*.

- **All judges and magistrates are aware of, and implement, the Family Justice Council's guidance on domestic abuse and special measures in remote and hybrid hearings.  
February 2021**