



## Home Affairs Select Committee Inquiry into tackling violence against women and girls: funding Bar Council written evidence

### About Us

The Bar Council represents approximately 18,000 barristers in England and Wales. It is also the Approved Regulator for the Bar of England and Wales. A strong and independent Bar exists to serve the public and is crucial to the administration of justice and upholding the rule of law.

### Scope of Response

1. This submission addresses the questions on the impact of funding for Violence Against Women and Girls (VAWG) from within the family justice system.

### Executive Summary

2. A well-functioning family justice system is vital for the prevention of VAWG. The extent to which VAWG occurs within family units and within relationships is well documented.<sup>1</sup> VAWG within families has its roots in gender-based power imbalances which can give rise to abusive practices.
3. Whilst there is a legislative basis in England and Wales for tackling VAWG through the family courts, we are concerned about the impact of inadequate funding for the implementation of these measures, meaning that women and girls are:
  - Unable to secure appropriate and meaningful protection from VAWG; and
  - That in some cases, family court proceedings can themselves become a vehicle for ongoing abuse.
4. The main areas in which the inadequate funding is apparent are:
  - Lawyers and Legal Aid – legal aid fees must be adequately resourced to ensure provision of early legal advice and the scope of legal aid should be widened to include both parties
  - Qualified Legal Representatives (QLRs) – the QLR scheme is insufficient and not fit for purpose
  - Underfunding of the Family Court System leading to delays in proceedings and an inability to adequately deal with allegations of domestic abuse – timeliness must be improved and adequate resources are needed to assess and provide treatment for those found to have committed abuse

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<sup>1</sup> Most violence against women is committed by current or former husbands or intimate partners. [More than 640 million women aged 15 and older](#) (26 per cent) have been subjected to intimate partner violence (Facts and figures: Ending violence against women, UN Women 25 November 2024).

- Underfunding of Local Authorities – there is a statutory obligation on councils to respond to VAWG, including providing services to a family or initiating public law proceedings, but the reported funding gap will impact their ability to fulfil this obligation
5. We have some idea of the scale of prevalence through the number of applications made for protection (including non-molestation orders and female genital mutilation (FGM) protection orders). However, there is presently no single way of measuring VAWG across the full spectrum of family law cases. We are asking the government to define VAWG in a way that is capable of being adopted and accepted by all.
  6. There is no means by which the family court is able to assess whether decisions were, in fact, the right ones, unless proceedings begin afresh or something particularly terrible and newsworthy happens. Family court judges would be assisted by evidence-based research about the outcomes for children and parents who have experienced VAWG. The proposed national Reporting and Review Mechanism<sup>2</sup> is one way in which outcomes may be assessed. This was due to be piloted across 2024, but there have been no further updates since the announcement.

## Introduction

7. Theoretically, family law provides a legislative basis for the prevention of VAWG. The range of powers of the family court to prevent VAWG include:
  - Injunctions – Including non-molestation orders and occupation orders, Forced Marriage Protection orders and Female genital mutilation (FGM) prevention orders.
  - Private law proceedings – orders regulating where and with whom a child should live which can ensure that arrangements are safe and do not expose children and their parents to harm.
  - Public law proceedings – initiated by local authorities to protect children who have suffered or who are at risk of significant harm
  - International children proceedings – to protect children in cross-border situations (Wardship / 1980 Hague Child Abduction proceedings).
  - Financial remedy / divorce proceedings – may provide sufficient financial support for women and children post-separation.
8. Whilst there is a legislative basis in England and Wales for tackling VAWG through the family courts, we are concerned about the impact of inadequate funding for the implementation of these measures, meaning that women and girls are:
  - unable to secure appropriate and meaningful protection from VAWG and
  - that in some cases, family court proceedings can themselves become a vehicle for ongoing abuse.

**Question 1: On what basis do bodies that provide funding for tackling VAWG (for example: government departments, police forces, voluntary organisations) currently prioritise funding decisions?**

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<sup>2</sup> [Chapter 4: Detailed plan for the Family Court Reporting and Review Mechanism pilot](#)

9. The lack of sufficient funding in key areas of the family justice system is such that the aspirations of legislative reforms to tackle VAWG may not be achieved. In this regard we say that many of the bodies which are integral to tackling VAWG are under-resourced in areas which impacts their effectiveness. We observe this in key areas addressed below.

### *Lawyers and Legal Aid*

10. Lawyers can advise victims of VAWG on the legal remedies available to them in the family court to protect themselves from further harm. Often economic and financial abuse is an aspect of VAWG encountered in families, which may mean that women are unable to pay for their legal representation or that their resources are limited (and may be exhausted by their former partner, the alleged perpetrator, through family court proceedings, as returned to below).
11. Some victims of VAWG may be eligible for legal aid. Legal Aid, Sentencing and Punishment Offenders Act (LASPO) 2012 represented a wholesale amendment to civil legal aid eligibility in England and Wales.<sup>3</sup> Following its entry into force, legal aid was no longer available for private law proceedings concerning children and divorce proceedings. LASPO 2012 contained an exception for victims and survivors of domestic abuse who would remain eligible for legal aid in these proceedings, if they could prove that they were victims of domestic abuse by way of 'gateway evidence'.<sup>4</sup> The acceptable forms of evidence were quite limited in scope and were widened following a successful judicial review brought by Rights of Women which highlighted the difficulties that victims/survivors of domestic abuse would experience in providing this evidence.<sup>5</sup>
12. Although theoretically victims of VAWG may be able to access legal aid to be represented by a lawyer in family court proceedings to protect them from further abuse, there is a fundamental barrier which inhibits access to justice in this context. Legal aid rates have not increased since 1996 and for many providers, family legal aid represents a loss-making service.<sup>6</sup> Family legal aid solicitors can expect hourly rates of £32 - £71.33, and rates for private law children cases, divorce and financial remedy cases, and injunctions are particularly poor.<sup>7</sup> A large amount of work undertaken on family law legal aid cases is not billable.<sup>8</sup> The administrative cost of running a legal aid practice is incredibly high in contrast to remuneration for the work undertaken.<sup>9</sup> Given that the costs of undertaking family legal aid work are not covered by the fees received, the deficit must be covered by other sources of work (e.g. privately paying work).<sup>10</sup>
13. The result of this is that many solicitors and barristers are unable to take on legal aid work in certain categories of family law, the number of providers is decreasing generally, and where family legal aid work is undertaken, it is conducted by more junior members of staff

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<sup>3</sup> Legal Aid, Sentencing and Punishment of Offenders Act 2012

<sup>4</sup> LASPO 2012 Schedule 1, Civil Legal Aid (Procedure) Regulations 2012

<sup>5</sup> Rights of Women, R (on the application of) v The Lord Chancellor and Secretary of State for Justice [2016] EWCA Civ 91, and later amended by The Civil Legal Aid (Procedure) (Amendment) Regulations 2016

<sup>6</sup> MOJ, Review of Civil Legal Aid Summary Report (2025); Law Society 'Research on the Sustainability of Civil Legal Aid' (2024) Frontier Economics.

<sup>7</sup> Law Society 'Research on the Sustainability of Civil Legal Aid' (2024) Frontier Economics 40.

<sup>8</sup> MOJ (2025) 107

<sup>9</sup> Law Society 'Research on the Sustainability of Civil Legal Aid' (2024) Frontier Economics 37-38

<sup>10</sup> Law Society 'Research on the Sustainability of Civil Legal Aid' (2024) Frontier Economics 34.

and junior barristers. Research on the sustainability of civil legal aid commissioned by the Law Society also established the difficulties providers experience in finding barristers who can undertake publicly funded family cases due to the poor remuneration rates, and that advocacy may be conducted 'in house' by solicitors, who in turn then experience additional pressures for court preparation.<sup>11</sup> This is particularly concerning as family law cases involving VAWG can be incredibly complex, requiring specialist representation from lawyers who understand not only the way that the family justice system will approach the case, but also the difficulties that victims/survivors of VAWG may experience in engaging with the proceedings.

14. Another issue associated with the removal of legal aid for many categories of family law by LASPO 2012 (save for those who can evidence that they have been victims of domestic abuse) is that alleged perpetrators of violence of abusive behaviour may be unrepresented. This has given rise to serious difficulties, including situations where victims of domestic abuse (who may also be unrepresented) have had to face their perpetrators as unrepresented litigants in the court arena.
15. The importance for both the complainant and the alleged perpetrator to be properly represented cannot be overstated. It is only with early legal advice that many women come to see that the experience they endured in the relationship was not only difficult but was actually abusive. Some complainants do not regard their experiences as abusive until they speak to a legal representative. Conversely, with early legal advice which can properly scrutinise and test the quality of the evidence, an alleged perpetrator, can be assisted to admit his abuse on a certain basis, avoid a fact-finding hearing and focus on rehabilitation and treatment. For those alleged perpetrators who wish, properly, to contest the allegations, early legal advice will assist them to show the court that they have not been abusive, and the risk alleged is not therefore present.

### *Qualified Legal Representatives (QLRs)*

16. The Domestic Abuse Act 2021 and subsequent legislation prohibited, in certain circumstances, the cross-examination of victims of domestic abuse by perpetrators (and vice versa). The Qualified Legal Representative (QLR) Scheme was intended to support this process and ensure that proceedings were conducted fairly.<sup>12</sup> Through the scheme, the court may appoint a QLR who would appear on behalf of the alleged perpetrator solely for the purposes of cross-examining the victim on the allegations made against them. However, the QLR scheme is publicly funded by the Legal Aid Agency and therefore suffers many of the difficulties outlined above in terms of its remuneration. It is also a voluntary scheme, dependent upon solicitor advocates or barristers signing up for it.
17. There is therefore a chronic lack of QLRs. In *Re Z (Prohibition on Cross-examination: No QLR)* [2024] The President of the Family Division said:

*"...the court office in Newcastle had undertaken no fewer than 120 different communications by email or telephone in an attempt to find a QLR, yet none could be found who was willing or available to take on the case."*

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<sup>11</sup> Law Society 'Research on the Sustainability of Civil Legal Aid' (2024) Frontier Economics 43

<sup>12</sup> Section 31W(6) of the Matrimonial and Family Proceedings Act 1984 and section 85K(6) of the Courts Act 2003

18. The QLR scheme is insufficient and not fit for purpose. Legal aid needs to be restored for both sides. This is an example where the government would spend to ensure funding on both sides but ultimately would make considerable savings as the system runs with greater efficiency and the part of the backlog that is created by litigants in person would reduce.
19. Domestic abuse is being perpetrated post-separation through the financial remedy process in the following ways:
  - abusers cut off financial support or access to joint finances, which puts the victim under extreme pressure and makes it difficult or impossible to access legal advice and representation;
  - abusers fail to provide financial disclosure when ordered by the court or requested to do so;
  - abusers bully through mediation and negotiations, causing delay and using that delay to rearrange their finances;
  - abusers breach court orders. The Family Court is insufficiently funded to get to grips with these cases.
20. The delays in the court system exacerbate this abuse. The Fair Shares research shows that women who are victims of domestic abuse are more likely than women who are not victims of domestic abuse, to leave their marriage without any financial settlement.<sup>13</sup> S.25 of the Matrimonial Causes Act 1973 provides that courts should consider the 'conduct' of the parties when dividing the marital finances on divorce. Current caselaw has set the bar so high that even in cases where there has been serious domestic abuse, that abuse is highly unlikely to be taken into account at all by the Family Court when dividing the finances on divorce.<sup>14</sup>
21. Last year Resolution surveyed professionals working in the family justice system, asking whether domestic abuse is sufficiently taken into account by courts in financial remedy cases. Resolution reported that 80% of the 526 professionals responding to the survey answered that it is not.<sup>15</sup> The Fair Shares report found that up to 5 years after their divorce, female domestic abuse survivors continued to be more likely than other women to be in financially precarious situations.<sup>16</sup> This is not being addressed by the Family Court through increased settlement awards due to a lack of resources.

### *Funding for the Family Courts*

22. A parent who is a victim of abuse by another parent, may seek to protect their child from this harmful dynamic through private law proceedings, regulating the child's time with each of their parents to prevent further abuse. The family justice system is beset by delays, particularly in the context of private law proceedings. The backlogs in the criminal justice system means that work which would and should be dealt with in the Crown Court, such as domestic abuse, is not being dealt with in a timely fashion which has shifted those cases also onto family courts, whereby the family courts have had to undertake fact-finding hearings when previously they would have been dealt with in the criminal court. In other words, if

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<sup>13</sup> [Fair shares? Sorting out money and property on divorce - Nuffield Foundation](#)

<sup>14</sup> [N v J - Find Case Law - The National Archives](#)

<sup>15</sup> [Domestic Abuse in Financial Remedy Proceedings | Resolution](#)

<sup>16</sup> [Fair shares? Sorting out money and property on divorce - Nuffield Foundation](#)



the backlog of cases in the criminal courts were brought down, it would reduce the number of fact-finding hearings that would be required in the family court.

23. The most recent statistical return from the MOJ suggest that the average length of private law proceedings between July – September 2024 was 41 weeks.<sup>17</sup>
24. This statistic needs to be seen in the context of the qualitative experiences of litigants in private law proceedings. Waiting almost a year for a resolution of a child’s care arrangements is likely to be traumatic and damaging for victims of VAWG. Where there are allegations of domestic abuse, a resolution judge may consider that those allegations need to be determined (by way of a fact-finding hearing) before welfare decisions can be taken about a child’s time with the other parent. What we experience as practitioners is that there can be significant delays before the court has time to hear a fact-finding hearing and determine the allegations. Often victims will be waiting a year or more for this hearing to take place. We observe it is common for alleged perpetrators to make significant counter-allegations, to flood the proceedings with extensive evidence, which often means that judges do not have the time to get to grips with the underlying issues in the case until there is a fact-finding hearing. If the relationship is abusive, it is likely to be underpinned by coercive control by the man, the proceedings themselves can become a vehicle for ongoing abuse, coercive and controlling behaviour, financial abuse and gaslighting. They can also be financially crippling for women who are funding their legal representation privately, as they must not only re-live their abuse through the preparation of statements of evidence and the giving of evidence at a fact-finding hearing, they must also respond to allegations made against them by the perpetrator of abuse – a dehumanising and costly process. We observe that at the end of a fact-finding hearing, at which allegations of domestic abuse may be proven, it is exceptional for a court to make a costs order in children proceedings. This means that there are no costs consequences for perpetrators who refuse to admit to their behaviour and perpetuate the expansion of private law proceedings at significant financial and emotional cost to victims of VAWG.
25. In addition, there are a lack of available resources to assess and provide treatment/therapy/reparative work for men found by the family court to have abused a woman and/or child. This therefore removes an opportunity for the perpetrator to have the intervention required to enable any rehabilitation which in turn means that any other women he has relationships with and any children in involved, are likely to at risk.
26. Another consequence of the pressure on the family court is that interim child arrangements for the child’s time with the alleged perpetrator may be ordered by a court in circumstances where a judge has not had time to identify where the abusive behaviour lies, meaning that parents may be forced to continue to come into contact with perpetrators, and children may be exposed to further harm. The adversarial nature of private law proceedings was identified by the 2020 Harm Report as problematic and suggested that an investigative approach was required.<sup>18</sup> We would highlight the need for the court system to be adequately resourced to deal with domestic abuse allegations – legislative and procedural reforms will not be effective unless there are enough judges, with sufficient time and expertise, to hear the cases and carefully consider the risks for children.

## *Local Authorities*

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<sup>17</sup> [Family Court Statistics Quarterly: July to September 2024 - GOV.UK](#)

<sup>18</sup> [Assessing Risk of Harm to Children and Parents in Private Law Children Cases](#)

27. Local authorities have a statutory obligation to respond to violence against women and girls. A local authority may identify VAWG as an issue giving rise to the need to provide services to a family, to investigate whether a child is at risk of harm or to initiate public law proceedings in the family court for a child's protection. Local authorities are chronically underfunded – the Local Government Association has reported that English councils face a £2.3 billion funding gap in 2025/26, rising to £3.9 billion in 2026/27.<sup>19</sup> Inevitably this funding gap will impact local authorities abilities to effectively tackle VAWG.

### **Question 2: What is the link between how VAWG is measured and how services are funded? How should VAWG be measured?**

28. Before VAWG can be measured, it must be clearly defined, and the definition must be capable of being adopted by all. The Government's commitment to tackle violence against women and girls needs to be underpinned by two factors:

- A clear definition of what VAWG is, namely all forms of violence and harmful practices that affect women and girls including so-called honour-based violence and female genital mutilation (FGM).
- An understanding that VAWG is not inevitable so that as well as tackling VAWG after it happens, policies are formulated which focus on prevention and early intervention as a fundamental and integral part of the overall approach. A criminal justice response alone is inadequate.

29. VAWG, in the context of the family courts, can be measured by reference to the proportion of cases in the family court where concerns about domestic violence are in issue. There are currently government statistics available which provide an overview of the types of applications that are before the family court<sup>20</sup>. It is possible to monitor the number of applications for which protection is sought by applications (e.g. Domestic Violence Remedy orders such as non-molestation orders, occupation orders, forced marriage protection orders and female genital mutilation protection orders). These provide a good insight into the scale of applications before the family court overall in relation to these issues, but they do not thereafter demarcate (a) the proportion of those applications which involved victims who are women and girls and (b) other types of applications (e.g. private law applications for contact orders and public law cases) where domestic abuse is perpetrated against women and girls. In other words, there is no available measurement of VAWG across the spectrum of family court applications. It is likely that this gap is remediable.

### **Question 3: How are outcomes of services tackling VAWG (including data collection) being assessed by organisations that deliver front line services, funding bodies or government departments?**

30. The "outcome" of the family court when faced with VAWG must be as follows:

- Protecting adults from domestic abuse;
- Protecting children from domestic abuse; and

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<sup>19</sup> [Further funding cuts for councils would be disastrous; urgent funding and reform is needed | Local Government Association](#)

<sup>20</sup> <https://www.gov.uk/government/statistics/family-court-statistics-quarterly-july-to-september-2024/family-court-statistics-quarterly-july-to-september-2024#domestic-violence-remedy-orders>

- Rehabilitating perpetrators.

31. That will include:

- Ensuring “contact” only happens when it is safe – physically, emotionally and psychologically;
- Protecting victims from being retraumatised by the court process;
- Protecting victims from lawfare (the strategic use of the legal proceedings themselves to intimidate, hinder or control the victim);
- Giving children the best chance they can to thrive; notwithstanding any adverse experiences faced by them as a consequence of VAWG.

32. Fundamentally, the family court is forward looking. Judges must determine what arrangements will best meet a child’s needs in the short, medium and long-term. But there is no means by which the Family Court is able to assess whether that decision was, in fact, the right one, unless:

- Proceedings begin afresh, either by way of an application to vary or an application to enforce;
- Something particularly terrible and newsworthy happens, e.g. a child is murdered, like Sara Sharif.

33. Judges in the family court are often in an invidious position. They are required to make difficult decisions with imperfect evidence in an overly-stretched and resource poor system. Family court judges (and other professionals involved in the system) would be assisted by evidence-based research about the outcomes for children and parents who have experienced VAWG. At the moment, there is nothing.

34. In February 2024, the Government set out its plan to establish a national Reporting and Review Mechanism<sup>21</sup> with the objective of increasing transparency and accountability in the family court where allegations of domestic abuse arise. It is envisaged that in due course, it will produce an annual report which will allow issues and points of best practice to be identified. This was due to be piloted across 2024, but there have been no further updates since the announcement.

#### Question 4: How should the Government prioritise funding in a VAWG strategy?

35. This document’s focus is the funding that is required within the family justice system.

36. Our recent spending review submission<sup>22</sup> sets out a number of proposals to help address this which includes:

37. **Proposal 1: Remove means testing for legal aid for alleged victims and survivors of domestic abuse and bring all cases involving domestic abuse within legal aid scope for both parties**

- a. All victims and survivors of domestic abuse – whether in the criminal or family court – should be entitled to legal advice and representation. In May 2023 the Ministry of Justice introduced passporting for victims of domestic abuse on universal credit, meaning that they are not subject to means testing in order to access legal aid. We welcomed this development but called for recommendation 9 of the Domestic Abuse

<sup>21</sup> [Chapter 4: Detailed plan for the Family Court Reporting and Review Mechanism pilot](#)

<sup>22</sup> [Bar Council spending review submission: fixing the foundations of the justice system](#)



Commissioner's Report to be fully implemented and all means testing removed for alleged victims of domestic abuse. This would provide critical support to them when navigating the legal system.

- b. In addition, non-means tested legal aid should be made available to alleged perpetrators. This means legal representation for both parties. Currently, in circumstances where the unrepresented alleged abuser wishes to cross examine their alleged victim, the court is required to find and appoint a qualified legal representative (QLR) to carry out the cross-examination. However, there have been difficulties with many courts finding an available QLR in time. The role is a limited one and can be no proper substitute for full advice and representation throughout the proceedings.

**38. Proposal 2: A package of measures to address VAWG through the family justice system**

- a. A February 2024 National Audit Office report found from January to March 2023, in 40% of family dispute cases neither the applicant nor respondent had legal representation. Litigants in person (LiPs) often slow down the court process as judges have to explain legal processes to the litigant in person, and time is taken up by the individual raising unarguable points, which – if they were advised and represented – would not be made.
- b. Within the family justice system, we propose a package of measures to support this commitment which are:
- c. Specialist domestic abuse and child abuse support and assessment services for all members of the affected family.
- d. Implement special trauma-informed measures in courts to include the provision of screens in all court buildings, separate routes into the court buildings and waiting areas; trauma-awareness training for Cafcass and case progression officers; independent domestic violence advisors (IDVAs) trained in family justice as well as criminal justice and the provision of Domestic Abuse Perpetrator Programmes and supervised contact centres.
- e. Implementation of 'Jade's Law' to automatically suspend parental responsibility in cases of femicide. This will require funding to ensure all parties, including the children and care givers, are represented and have access to non-means-/non-merit-tested legal aid.
- f. Funding for the rollout of the Pathfinder Courts across England and Wales following the successful pilots – these courts take an investigative and problem-solving approach to private law proceedings to improve the court responses to domestic abuse and enhance the voice of the child within proceedings. All new courts to be funded at least to the same level as the pilot courts;
- g. Commitment that applications under the Domestic Abuse Protection Orders and Notices (DAPOs and DAPNs) scheme will remain free for complainants and the police to give immediate and ongoing protection to victims of domestic abuse.
- h. Continued support for the DAPOs and DAPNs pilot schemes to enable immediate and ongoing protection of domestic abuse victims, including training for magistrates and judges.

**Question 5: How adequate is the coordination of funding for tackling VAWG? Are there examples of good partnerships?**

**Question 6: What are the scale and nature of the challenges for accessing funding for tackling VAWG?**

39. The conclusion reached in the “Value for Money – Tackling Violence Against Women and Girls”<sup>23</sup> report published by the National Audit Office on 31<sup>st</sup> January 2025 is as follows:

*“Violence against women and girls is a significant and growing problem, affecting one in 12 women and causing significant harm. The Home Office leads the government’s efforts to address VAWG, but to date these efforts have not improved outcomes for the victims of these crimes or the safety of women and girls more widely.*

*The Home Office is not currently leading an effective cross-government response. It has a limited understanding of the extent of resources devoted to addressing VAWG across government and the impact this is having. Without this knowledge, the Home Office cannot be confident that the government is doing the best it can to keep women and girls safe.*

*The new government has set an ambitious target to halve violence against women and girls within the next decade. To meet this ambition the Home Office will need to lead a coordinated, whole-system response that addresses the causes of VAWG.*

*The Home Office’s review of the existing evidence base could provide a foundation from which to develop the next strategy. But it will need to maintain a focus on continuous evaluation to ensure it can capture learning from local innovation and adapt its approach. The Home Office also needs to quickly establish the structures and incentives necessary to align all delivery partners behind the goal of reducing the significant harms caused by violence against women and girls.”*

40. On the basis of this report and others, the Bar Council submits that funding is not coordinated and therefore not as effective as it could be.

41. Further, VAWG falls into the purview of a number of government departments - Ministry of Justice but also the Department of Education and the Department of Housing, Communities and Local Government – all supposed to be led by the Home Office on this issue, but a coordinated approach is still lacking and the policy remains disjointed.

**The Bar Council**  
**April 2025**

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<sup>23</sup> <https://www.nao.org.uk/reports/tackling-violence-against-women-and-girls/>