

Domestic Abuse Bill

LORDS NON-INSISTENCE, DISAGREEMENT AND AMENDMENTS IN LIEU

[The page and line references are to HL Bill 124, the bill as first printed for the Lords]

Clause 55

LORDS AMENDMENT 9

- 9** Page 35, line 19, at end insert –
- “() ensure all child contact centres and organisations that offer child contact services are accredited in accordance with national standards in relation to safeguarding and preventing domestic abuse as specified in regulations made by the Secretary of State.”

COMMONS REASON

The Commons disagree to Lords Amendment 9 for the following Reason –

- 9A** *Because it is unnecessary to provide for the accreditation of child contact centres by local authorities.*

LORDS NON-INSISTENCE AND AMENDMENT IN LIEU

The Lords do not insist on their Amendment 9, to which the Commons have disagreed for their Reason 9A, and do propose Amendment 9B in lieu –

- 9B** In Clause 55, page 35, line 19, at end insert –
- “() ensure all child contact centres and organisations that offer child contact services regularly check their employees, agency workers and volunteers for compliance with national standards in relation to safeguarding and preventing domestic abuse as specified in regulations made by the Secretary of State.”

After Clause 72

LORDS AMENDMENT 40

40 Insert the following new Clause –

“Victims of domestic abuse: data-sharing for immigration purposes

- (1) The Secretary of State must make arrangements to ensure that personal data of a victim of domestic abuse in the United Kingdom that is processed for the purpose of that person requesting or receiving support or assistance related to domestic abuse is not used for any immigration control purpose.
- (2) The Secretary of State must make arrangements to ensure that the personal data of a witness to domestic abuse in the United Kingdom that is processed for the purpose of that person giving information or evidence to assist the investigation or prosecution of that abuse, or to assist the victim of that abuse in any legal proceedings, is not used for any immigration control purpose.
- (3) Paragraph 4 of Schedule 2 to the Data Protection Act 2018 shall not apply to the personal data to which subsection (1) or (2) applies.
- (4) For the purposes of this section, the Secretary of State must issue guidance to –
 - (a) persons from whom support or assistance may be requested or received by a victim of domestic abuse in the United Kingdom;
 - (b) persons exercising any function of the Secretary of State in relation to immigration, asylum or nationality; and
 - (c) persons exercising any function conferred by or by virtue of the Immigration Acts on an immigration officer.
- (5) For the purposes of this section –
 - “immigration control purpose” means any purpose of the functions to which subsection (4)(b) and (c) refers;
 - “support or assistance” includes the provision of accommodation, banking services, education, employment, financial or social assistance, healthcare and policing services; and any function of a court or prosecuting authority;
 - “victim” includes any dependent of a person, at whom the domestic abuse is directed, where that dependent is affected by that abuse.”

COMMONS REASON

The Commons disagree to Lords Amendment 40 for the following Reason –

40A *Because the Government has committed to reviewing the processing of migrant victims’ personal data for the purposes of immigration control in response to the report on Liberty and Southall Black Sisters’ super-complaint on policing and immigration status published by Her Majesty’s Chief Inspector of Constabulary on 17 December 2020, and the Commons consider that the Amendment would preempt the outcome of that review.*

LORDS NON-INSISTENCE AND AMENDMENTS IN LIEU

The Lords do not insist on their Amendment 40, to which the Commons have disagreed for their Reason 40A, and do propose Amendments 40B and 40C in lieu –

40B After Clause 72, insert the following new Clause—

“Victims of domestic abuse: data-sharing for immigration purposes

- (1) The Secretary of State must make arrangements to ensure that personal data of a victim of domestic abuse in the United Kingdom that is processed for the purpose of that person requesting or receiving support or assistance related to domestic abuse is not used for any immigration control purpose.
- (2) The Secretary of State must make arrangements to ensure that the personal data of a witness to domestic abuse in the United Kingdom that is processed for the purpose of that person giving information or evidence to assist the investigation or prosecution of that abuse, or to assist the victim of that abuse in any legal proceedings, is not used for any immigration control purpose.
- (3) Paragraph 4 of Schedule 2 to the Data Protection Act 2018 shall not apply to the personal data to which subsection (1) or (2) applies.
- (4) For the purposes of this section, the Secretary of State must issue guidance to—
 - (a) persons from whom support or assistance may be requested or received by a victim of domestic abuse in the United Kingdom;
 - (b) persons exercising any function of the Secretary of State in relation to immigration, asylum or nationality; and
 - (c) persons exercising any function conferred by or by virtue of the Immigration Acts on an immigration officer.
- (5) For the purposes of this section—
 - “immigration control purpose” means any purpose of the functions to which subsection (4)(b) and (c) refers;
 - “support or assistance” includes the provision of accommodation, banking services, education, employment, financial or social assistance, healthcare and policing services; and any function of a court or prosecuting authority;
 - “victim” includes any dependent of a person, at whom the domestic abuse is directed, where that dependent is affected by that abuse.”

40C In Clause 79, after subsection (7) insert—

- “(7A) Regulations under this section bringing section (*Victims of domestic abuse: data-sharing for immigration purposes*) into force may not be made until both Houses of Parliament have approved a resolution to the effect that it should be brought into force, moved either after debate in that House of any publication of the outcome of a review by the Secretary of State of existing data-sharing procedures in relation to victims of domestic abuse for purposes of immigration control, or after 1 July 2021, whichever is the sooner.”

After Clause 72

LORDS AMENDMENT 41

41 Insert the following new Clause—

“Victims of domestic abuse: leave to remain and the destitution domestic violence concession (DDVC)

- (1) The Secretary of State must, within three months of this Act being passed, lay before Parliament a statement of changes in rules made under section 3(2) of the Immigration Act 1971 (“the immigration rules”) to make provision for any person subject to immigration control who is a victim of domestic abuse in the United Kingdom to have a route to apply for leave to remain.
- (2) The statement laid under subsection (1) must—
 - (a) set out rules for applying for indefinite leave to remain by any person subject to immigration control who is a victim of domestic abuse in the United Kingdom; and
 - (b) provide for those rules to be commenced no later than one month after the laying of the statement.
- (3) The Secretary of State must make provision for granting limited leave to remain for a period of no less than six months to any person eligible to make an application under the immigration rules for the purposes of subsection (2); such leave must include no condition under section 3(1)(c)(i), (ia), (ii) or (v) of the Immigration Act 1971.
- (4) The Secretary of State must make provision for extending limited leave to remain granted in accordance with subsection (3) to ensure that leave continues throughout the period during which an application made under the immigration rules for the purposes of subsection (2) remains pending.
- (5) Where subsection (6) applies, notwithstanding any statutory or other provision, no services shall be withheld from a victim of domestic abuse solely by reason of that person not having leave to remain or having leave to remain subject to a condition under section 3(1)(c) of the Immigration Act 1971.
- (6) This subsection applies where a provider of services is satisfied that the victim of domestic abuse is eligible to make an application to which subsection (3) refers.
- (7) The Secretary of State must, for the purposes of subsection (5), issue guidance to providers of services about the assessment of eligibility to make an application to which subsection (3) refers.
- (8) In this section—
 - (a) an application is pending during the period—
 - (i) beginning when it is made,
 - (ii) ending when it is finally decided, withdrawn or abandoned;
 - (b) an application is not finally decided while an application for review or appeal could be made within the period permitted for either or while any such review or appeal remains pending (meaning that review or appeal has not been finally decided, withdrawn or abandoned);

- (c) “person subject to immigration control” means a person in the United Kingdom who does not have the right of abode;
- (d) “provider of services” includes both public and private bodies;
- (e) “services” includes accommodation, education, employment, financial assistance, healthcare and any service provided exclusively or particularly to survivors of domestic abuse.”

COMMONS REASON

The Commons disagree to Lords Amendment 41 for the following Reason –

- 41A** *Because the Amendment would involve a charge on public funds, and the Commons do not offer any further Reason, trusting that this Reason may be deemed sufficient.*

LORDS NON-INSISTENCE AND AMENDMENT IN LIEU

The Lords do not insist on their Amendment 41, to which the Commons have disagreed for their Reason 41A, and do propose Amendment 41B in lieu –

- 41B** *After Clause 72, insert the following new Clause –*

“Recourse to public funds for duration of pilot scheme

- (1) For the duration of the pilot Support for Migrant Victims Scheme announced by the Government on 14 April 2021, the Secretary of State must make provision that a person who –
 - (a) is a victim of domestic abuse; and
 - (b) provides evidence in one or more of the forms in subsection (3);
 shall not be subject to restrictions on recourse to public funds, due to their immigration status, provided for in the provisions listed in subsection (2).
- (2) The provisions referred to in subsection (1) are –
 - (a) section (3)(1)(c)(ii) of the Immigration Act 1971;
 - (b) section 115 of the Immigration and Asylum Act 1999;
 - (c) Schedule 3 to the Nationality, Immigration and Asylum Act 2002;
 - (d) section 21 of the Immigration Act 2014.
- (3) For the purposes of this section, evidence that a person is a victim of domestic abuse may consist of one or more of the following –
 - (a) a relevant conviction, police caution or protection notice;
 - (b) a relevant court order (including without notice, ex parte, interim or final orders), including a non-molestation undertaking or order, occupation order, domestic abuse protection order, forced marriage protection order or other protective injunction;
 - (c) evidence of relevant criminal proceedings for an offence concerning domestic violence or a police report confirming attendance at an incident resulting from domestic abuse;
 - (d) evidence that a victim has been referred to a multi-agency risk assessment conference;
 - (e) a finding of fact in the family courts of domestic abuse;
 - (f) a medical report from a doctor at a UK hospital confirming injuries or a condition consistent with being a victim of domestic abuse;

- (g) a letter from a General Medical Council registered general practitioner confirming that he or she is satisfied on the basis of an examination that a person had injuries or a condition consistent with those of a victim of domestic abuse;
 - (h) an undertaking given to a court by the alleged perpetrator of domestic abuse that he or she will not approach the applicant who is the victim of the abuse;
 - (i) a letter from a social services department confirming its involvement in providing services to a person in respect of allegations of domestic abuse;
 - (j) a letter of support or a report from a domestic abuse support organisation; or
 - (k) other evidence of domestic abuse, including from a counsellor, midwife, school, witness or the victim.
- (4) The Secretary of State must, within 2 months of the completion of the pilot Support for Migrant Victims Scheme announced by the Government on 14 April 2021 –
- (a) consult the Domestic Abuse Commissioner and specialist organisations that work with victims of abuse on the impact of this section on victims;
 - (b) publish a strategy for the long-term provision of support for victims of domestic abuse who do not have leave to remain or have leave to remain subject to a condition under section 3(1)(c) of the Immigration Act 1971.”

After Clause 72

LORDS AMENDMENT 42

42 Insert the following new Clause –

“Monitoring of serial and serious harm domestic abuse and stalking perpetrators under Multi-Agency Public Protection Arrangements

- (1) The Criminal Justice Act 2003 is amended as follows.
- (2) In section 325 (arrangements for assessing etc risk posed by certain offenders) –
 - (a) in subsection (1), after ““relevant sexual or violent offender” has the meaning given by section 327;” insert ““relevant domestic abuse or stalking perpetrator” has the meaning given in section 327ZA;”;
 - (b) in subsection (2), after paragraph (a) insert –
 - “(aa) relevant domestic abuse or stalking perpetrators;”.
- (3) After section 327 (section 325: interpretation) insert –

“327ZA Section 325: interpretation of relevant domestic abuse or stalking perpetrator

- (1) For the purposes of section 325, a person (“P”) is a “relevant domestic abuse or stalking perpetrator” if P has been convicted of a specified offence and meets either the condition in subsection (2)(a) or the condition in subsection (2)(b).
- (2) For the purposes of subsection (1), the conditions are –
 - (a) P is a relevant serial offender; or

- (b) a risk of serious harm assessment has identified P as presenting a high or very high risk of serious harm.
- (3) An offence is a “specified offence” for the purposes of this section if it is a specified domestic abuse offence or a specified stalking offence.
- (4) In this section –
- “relevant serial offender” means a person convicted on more than one occasion for the same specified offence, or a person convicted of more than one specified offence;
- “specified domestic abuse offence” means an offence where it is alleged that the behaviour of the accused amounted to domestic abuse within the meaning defined in section 1 of the Domestic Abuse Act 2021;
- “specified stalking offence” means an offence contrary to section 2A or section 4A of the Protection from Harassment Act 1997.
- (5) Within 12 months of the Domestic Abuse Act 2021 being passed the Secretary of State must commission a review into the operation of the provisions of this section.
- (6) The Secretary of State must lay before Parliament a report setting out the findings of the review under subsection (5) which must include a comprehensive prevention and perpetrator strategy for domestic abusers and stalkers for the purposes of –
- (a) improving the early identification, assessment and management of perpetrators;
 - (b) increasing the number of rehabilitation programmes;
 - (c) increasing specialist work to tackle abusive attitudes and behaviour; and
 - (d) ensuring a co-ordinated approach to data collection and management of perpetrators across England and Wales.”

COMMONS DISAGREEMENT AND AMENDMENTS IN LIEU

The Commons disagree to Lords Amendment 42 but propose Amendments 42A, 42B and 42C as amendments in lieu –

42A Before Clause 69, insert the following new Clause –

“Strategy for prosecution and management of offenders

- (1) The Secretary of State must, before the end of the period of 12 months beginning with the day on which this Act is passed, prepare and publish a document setting out a strategy for –
- (a) detecting, investigating and prosecuting offences involving domestic abuse,
 - (b) assessing and managing the risks posed by individuals who commit offences involving domestic abuse, and
 - (c) reducing the risk that such individuals commit further offences involving domestic abuse.
- (2) The Secretary of State –
- (a) must keep the strategy under review;
 - (b) may revise it.

- (3) If the Secretary of State revises the strategy, the Secretary of State must publish a document setting out the revised strategy.
- (4) In preparing or revising a strategy under this section, the Secretary of State must consult –
 - (a) the Domestic Abuse Commissioner, and
 - (b) such other persons as the Secretary of State considers appropriate.
- (5) Subsection (4) does not apply in relation to any revisions of the strategy if the Secretary of State considers the proposed revisions of the strategy are insubstantial.”

42B In Clause 75, page 59, line 8, after “section” insert “(Strategy for prosecution and management of offenders),”

42C In Clause 79, page 60, line 32, at end insert –
“() section (Strategy for prosecution and management of offenders);”

LORDS NON-INSISTENCE, DISAGREEMENT AND AMENDMENTS IN LIEU

The Lords do not insist on their Amendment 42, do disagree with the Commons in their Amendments 42A, 42B and 42C and do propose Amendments 42D, 42E and 42F in lieu –

42D Before Clause 69, insert the following new Clause –

“Identification, monitoring and management of serial domestic abuse and stalking perpetrators

- (1) The Criminal Justice Act 2003 is amended as follows.
- (2) In section 325 (arrangements for assessing etc risk posed by certain offenders) –
 - (a) in subsection (1), after ““relevant sexual or violent offender” has the meaning given by section 327;” insert ““relevant domestic abuse or stalking perpetrator” has the meaning given in section 327ZA;”;
 - (b) in subsection (2), after paragraph (a) insert –
“(aa) relevant domestic abuse or stalking perpetrators,”.
- (3) After section 327 (Section 325: interpretation) insert –

“327ZA Section 325: interpretation of relevant domestic abuse or stalking perpetrator

- (1) For the purposes of section 325, a person (“P”) is a “relevant domestic abuse or stalking perpetrator” if P has been convicted of a specified offence and meets either the condition in subsection (2)(a) or subsection (2)(b).
- (2) For the purposes of subsection (1), the conditions are –
 - (a) P is a relevant serial offender; or
 - (b) a risk of serious harm assessment has identified P as presenting a high or very high risk of serious harm.
- (3) An offence is a “specified offence” for the purposes of this section if it is a specified domestic abuse offence or a specified stalking offence.

- (4) In this section –
- “relevant serial offender” means a person convicted on more than one occasion for the same specified offence, or a person convicted of more than one specified offence;
 - “specified domestic abuse offence” means an offence where it is alleged that the behaviour of the accused amounted to domestic abuse within the meaning defined in section 1 of the Domestic Abuse Act 2021;
 - “specified stalking offence” means an offence contrary to section 2A or section 4A of the Protection from Harassment Act 1997.”

- (4) The Secretary of State must, before the end of the period of 12 months beginning with the day on which this Act is passed –
- (a) commission a review into the operation of the provisions in this section;
 - (b) prepare and publish a document setting out a strategy for the prosecution and management of domestic abuse and stalking offenders.
- (5) A strategy under subsection (4)(b) must include provisions for –
- (a) detecting, investigating and prosecuting offences involving domestic abuse or stalking,
 - (b) assessing and managing the risks posed by individuals who commit offences involving domestic abuse or stalking, and
 - (c) reducing the risk that such individuals commit further offences involving domestic abuse or stalking.
- (6) The Secretary of State –
- (a) must keep the strategy under review;
 - (b) may revise it.
- (7) If the Secretary of State revises the strategy, the Secretary of State must publish a document setting out the revised strategy.
- (8) In preparing or revising a strategy under this section, the Secretary of State must consult –
- (a) the Domestic Abuse Commissioner, and
 - (b) such other persons as the Secretary of State considers appropriate.
- (9) Subsection (7) does not apply in relation to any revisions of the strategy if the Secretary of State considers the proposed revisions of the strategy are insubstantial.”

42E In Clause 75, page 59, line 8, after “section” insert “(*Identification, monitoring and management of serial domestic abuse and stalking perpetrators*),”

42F In Clause 79, page 60, line 32, at end insert –

“() section (*Identification, monitoring and management of serial domestic abuse and stalking perpetrators*);”

LORDS NON-INSISTENCE,
DISAGREEMENT AND AMENDMENTS IN
LIEU TO THE
Domestic Abuse Bill

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