



Championing Children and Young People in England

Office of the Children's Commissioner:

**Response to the cross-government consultation
on the definition of domestic violence**

March 2012

Office of the Children's Commissioner

The Office of the Children's Commissioner is a national organisation led by the Children's Commissioner for England, Dr Maggie Atkinson. The post of Children's Commissioner for England was established by the Children Act 2004. The United Nations Convention on the Rights of the Child (UNCRC) underpins and frames all of our work.

The Children's Commissioner has a duty to promote the views and interests of all children in England, in particular those whose voices are least likely to be heard, to the people who make decisions about their lives. She also has a duty to speak on behalf of all children in the UK on non-devolved issues which include immigration, for the whole of the UK, and youth justice, for England and Wales. One of the Children's Commissioner's key functions is encouraging organisations that provide services for children always to operate from the child's perspective.

Under the Children Act 2004 the Children's Commissioner is required both to publish what she finds from talking and listening to children and young people, and to draw national policymakers' and agencies' attention to the particular circumstances of a child or small group of children which should inform both policy and practice.

The Office of the Children's Commissioner has a statutory duty to highlight where we believe vulnerable children are not being treated appropriately in accordance with duties established under international and domestic legislation.

Office of the Children's Commissioner's response to the cross-government consultation on the definition of domestic violence

1. Introduction

The Office of the Children's Commissioner is led by the Children's Commissioner for England, Dr Maggie Atkinson. The Children's Commissioner has a duty to promote awareness of the views and interests of all children in England, in particular those whose voices are least likely to be heard, to the people who make decisions about their lives. One of the Commissioner's key functions is encouraging organisations that provide services for children always to operate from the child's perspective. In carrying out her function, the Commissioner must have regard to the United Nations Convention on the Rights of the Child.

This response is based on the following evidence:

- Emerging evidence from the Inquiry into Child Sexual Exploitation in Gangs and Groups
- Research into children's experience of risk and child protection
- Research into the mental health needs of children in the youth justice system.
- Internal expertise across safeguarding, child abuse, domestic violence, health and serious youth violence, held at the Office of the Children's Commissioner

2. General comments

The Office of the Children's Commissioner considers the violence and abuse experienced by children to be a child protection issue, and it is this position that guides our response.

The Office of the Children's Commissioner recognises with concern that children and young people:

- Experience abuse in their own intimate relationships
- Experience abuse within their families
- Witness abuse within their families

We welcome the attention that the government is paying to all three broad forms of abuse that children and young people experience. In all of these instances services and structures are required to protect children from violent and abuse, and at present these are not always available.

However, we are concerned that some of the proposals in the consultation document conflate all of the abuse that children and young people experience, in a way that has the

potential to compromise or oversimplify the strategic and operational responses required to protect children from abuse.

There are, for example, separate considerations to be given to the needs of a child or young person who is witness to domestic violence or abuse from one parent to another and those of a young person who is engaged in a partner relationship where they experience violence or abuse. Overall we consider it is important to delimit the inclusion of different forms of abuse within the definition. The direction of the violence or other abuse is important both to the identification of such abuse and to the nature of needs which services must address. While it may be appropriate to include wider intra-familial violence if the definition is to remain adult focussed, there are different considerations if it is to include any young people under 18. Where there is forced marriage, 'honour' based violence or FGM in respect of minors, these concern parent-child, or extended family, relationships and require therefore a child protection response. We expand on these distinctions below.

We do consider that it is extremely important to recognise that violence and abuse occurs in teenage relationships and that this requires a response in terms of service provision in particular. Research from the NSPCC, the University of Bedfordshire, London Metropolitan University, the End Violence Against Women Coalition, and Race on the Agenda, amongst others, has clearly indicated the violence that young people experience in their own relationships; within their peer groups and intimate relationships, and indeed where these cross over. This evidence base is sufficient in identifying a significant gap in service provision and a limited ability to protect children from violence and abuse.

However, the Office of the Children's Commissioner considers that this research, and this government consultation, needs to be the start of a conversation about such abuse, and that more work is required, particular to understand the behaviour of those with violent behaviour, to justify a definitional change for all children and young people.

3. Should the Government's definition remain the same?

3.1 We suggest that there is a need to revise the current definition in the following ways:

- a) To include coercive control: this is clearly a feature of the experience of those trapped by violent and abusive partners. The nature of controlling behaviour – such as limiting contact with friends and family; restricting access to finances; an inquisitorial response to daily life – combined with the threat of violence makes it extremely difficult for those suffering to escape.
- b) To use the phrase 'domestic violence and abuse' rather than domestic violence alone. It is known from research that many women do not identify themselves as victims because the nature of the abuse is not always violent - although the threat of violence may be ever present - and so do not seek help.

- c) To extend the definition to include 16 and 17 year olds and go no lower until further consideration has been given to the implications for children and for services (further detail below).
- d) To recognise the importance of frequency and persistence in addition to the occurrence of 'incidents' of violence or abuse. It is useful to include both in the definition because a single incident should be sufficient for a protective response to be made. However, it is in the nature of much domestic violence and abuse that there are complex patterns of behaviour involved over a period of time.
- e) The phrase 'between adults' should be amended to reflect that it is usual for this violence and abuse to be from one person to another, Further, it is more usual for the perpetrator to be male. Using a generalised definition of 'violence in relationships' is common in many statutory agencies and may further disadvantage women in gaining an understanding response to their situation.
- f) If the definition is extended below 18 we would suggest that forced marriage, honour based violence and FGM should be seen as child abuse in respect of this younger age group as this concerns abuse from parent, or extended family, to a child.

4. Extending the definition to a younger age group (Options 3 and 4)

- 4.1 There are a number of complexities involved in addressing these options, which are indicated below. Even if under 18s are included in the definition, the application of other aspects of the related issues is not a simple matter. Is it appropriate, for example, to include violence from under 18s towards their parents or carers?
- 4.2 It is important to distinguish between:
 - a) Intimate partner violence in teenage relationships
 - b) The impact of domestic abuse in an adult relationship on children in the household or family
 - c) The impact of abuse against children from family members including honour based violence, forced marriage, FGM, child sexual abuse, neglect etc

It is suggested that there is a need to consider the original question about extending the age of inclusion in respect of each of these, for both 16 and 17 year olds and then for all children. We have indicated below the issues which arise when this approach is taken and a number of questions which we believe need to be addressed.

4.3 Intimate partner violence in teenage relationships

- 4.3.1 **Those aged 16-17:** It is our view that the definition could include those aged 16-17 but we would question whether it is appropriate to extend the definition to those younger than this. There are some key differences between these age groups. For example, while the older age group can marry with consent and may be living independently from their parents or carers, those under 16 are not in this position.

They are potentially less able to escape except through coming into care and they are potentially in the same daily environment – in school or neighbourhood as the abusive partner.

However, for us, there remain important provisos even to the inclusion of 17-18 year olds as there continues to be a need to reflect the potential vulnerability and specific needs for support of 16-17 year olds, particularly if the relationship is with an older person. In such instances we would be question whether or not the relationship was an example of child sexual exploitation, for example, and would not want such focus to be lost within this new definitional context. We therefore suggest the following:

In respect of 16 – 17 year olds: that this age group is included with the proviso that if the perpetrator was significantly older than the victim, this be considered a child protection issue, potentially within the remit of child sexual exploitation or child abuse

4.3.2 All children

There are a number of questions to be raised here:

a) Under 16s who perpetrate violence or abuse:

- In respect of 10 -15 year olds, what is or should be the response to perpetrators if they are of a similar age?
- Would children's behaviour be understood to be the same as that of adults, and their mindset to be the same in the sense of how power and control would be used? Once children are below the age of consent the only distinguishing legislation that we have available is the minimum age of criminal responsibility, which would imply that those aged 10 and above are criminally responsible for domestic violence.
- How would this be differentiated from bullying?
- What is added by using domestic violence as a way to conceptualise the violence?
- Such violence, if serious could still be prosecuted as GBH, ABH, murder etc.
- Would the response include the presumption to charge as many police forces do for adults? We question the benefit of criminalising children who perpetrate abuse in this way. There are real risks in bringing more children within the remit of processes which criminalise their behaviour.

b) Under 16s who are victims:

- We question whether current structures and services for domestic violence are appropriate, such as Multi-Agency Risk Assessment Conferences and IDVA provision
- If an under-16 year old is in a relationship with a significantly older partner should this not be considered through the lens of child protection, and in some cases child sexual exploitation?

c) Perpetrators and victims under 13:

- The Office of the Children's Commissioner would expect any under-13 year old who is in a violent relationship to be responded to as a child in need of protection and through a child protection framework.

4.4 The impact of domestic abuse in an adult relationship on children in the household or family

- a) 16 – 17 year olds: we would suggest that in these cases it still be seen as a child protection issue. There do not seem to be good reasons to take a different approach to children once they turn 16 when they are living in abusive households.
- b) Children under 16 – this is a child protection issue. A change in definition should not draw in either of these age groups as the violence is not between child and adult it is between adult and adult with an impact on the child. The impact needs to be recognised in responses from children's services and a safeguarding approach needs to be taken.

4.5 The impact of abuse against children from family members including 'honour based' violence, forced marriage, FGM, child sexual abuse and neglect

- a) 16 -17 year olds: we suggest that this continues to be seen as a child protection issue. Bringing this into the context of domestic violence confuses the issues. If such abuse was taking place and the victim was five years old it would be seen simply as child abuse: we consider that there is no justification for a change when at 16 they are still a child.
- b) Under 16 year olds: this is child abuse and we suggest should not be confused with other definitions of abuse or violence.

5. The impact on services and suggested benefits

- 5.1 The recognition that violence and abuse occurs in teenage relationships must have considerable impact on the way in which young people are supported and this violence is addressed. As the violence and abuse that older children and young people experience often manifests itself in different ways to that experienced by younger children, at an operational level there can be a failure to identify or protect those in need. The violence, in the case of teenage relationships, may appear to be more closely aligned with violence experienced by adults, rather than that experienced by younger children: however we must not lose sight of the fact that the victims, and in many cases those who commit violence, are still children. As such, addressing this gap in service provision and ability to identify the need is not

so much to do with the widening of the definition as the understanding that older children and young people need protection, help and support, as much as do younger children: a recognition which has been included in the Munro report and acknowledged by Graham Allen's work but which is not always reflected in the response from child protection agencies. There is an evident need for support, protection and for services which address the violent or abusive behaviour because of the needs of all those affected as well as the risk of such behaviour forming a pattern which continues into adulthood.

- 5.2 It is suggested that the current arrangements made for adults are not necessarily suitable for young people and that an extension of the age range should not assume this. The response to both child victims and perpetrators, and those who cross the victim/perpetrator divide, should be based instead on child protection principles.

In relation to victims' refuges, Multi-Agency Risk Assessment Conferences, training for professionals and civil remedies in the field of domestic violence are designed for adults. Rather than extending adult services down to accommodate older children, we would advocate for children's services being able to accommodate and protect all children.

In relation to those who perpetrate violence and abuse, criminal justice approaches should not simply be transported into the response to a younger age group but consideration given to alternative approaches which do not criminalise a wider group of young people if this can be avoided. The confirmation of identity as a perpetrator of intimate partner violence at an earlier age is very troubling and it is essential, not least for those who have grown up witnessing violence from a parent to another, to find ways of enabling boys and young men in particular to change direction. Boys may be victims or perpetrators and the nature, direction, consequences and best responses all need full consideration.

- 5.3 Providing an effective response to both victims and perpetrators of any age is an early intervention issue. With young people, the potential consequences in terms of emotional and mental health and the impact on later relationships make it evident that there are a number of benefits, including financial ones, in tackling this problem early, through education and other routes.
- 5.4 There must be effective and safe sharing of information and joint working approaches by those involved in addressing domestic violence and its consequences for all age groups.
- 5.5 Those who are already working with young people who may have perpetrated or experienced violence within partner relationships, need to be well informed and to address these issues in their work. For example, those working in the criminal

justice system could address how young people might reflect on their relationships with peers and partners.

- 5.6 There are currently many gaps in provision for support, protection and for addressing the violent behaviour in the context of intimate partner violence among young people. Once boys reach a certain age (often between 10 and 14) they can no longer access refuge provision with their mothers, and there is no or very little appropriate safe provision for young people needing to escape violence. The vast majority of service provision for young people, for example the youth service, education and youth justice (including the secure estate) is delivered on a mixed-gender basis, and is non-specialist in the field of domestic abuse or violence against women and girls more broadly. There is a need to address how children's services and schools could or should respond in a safeguarding context to younger perpetrators and how YOT services and secure settings deal with these issues.

6. In conclusion

We refer back to the section 3.1 above in respect of our response to the changes in definition.

We consider that there is a need for much more information and consideration about the implications of intimate partner violence among young people and the appropriate response. The question of definition is not necessarily the place to start. While we recognise with concern that such violence occurs, and that services are required to protect children, we would question whether a change in the domestic violence definition to include all children is the most appropriate response. Our concern is that this is an area as yet not well understood and which requires further consideration: the consequences of including such abuse within the overall definition may not all be beneficial.

The overall aims of revising the definition must be to assist those affected by such abuse to identify for themselves that this is unacceptable; to enable improved understanding of the size and nature of need and to support the development of suitable service provision.

By framing this consultation as a criminal justice matter, and therefore being Home Office, rather than Department for Education, led, the primacy of child protection is missing from the tone of the document. We would ask for the Department for Education's role in this consultation process and wider area of work to be made transparent in order appropriately engage children's services and safeguarding boards in this agenda.

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