

Llamau Response to Welsh Government on

**Gender-based Violence, Domestic Abuse and Sexual Violence (Wales) Bill - Stage 1
Consultation**

Llamau is Wales' leading homelessness charity and has built a reputation for engaging with the most challenging and socially excluded individuals, supporting them to move from vulnerability to independence.

The principle activity is to promote the wellbeing and welfare of people in need in Wales by assisting them to meet their holistic needs in the areas of accommodation, safety from abuse, advocacy, education, training, counselling and the reduction and prevention of offending.

We have 28 years' experience supporting vulnerable young people, children and women with a range of complex needs including offending issues, mental health issues, substance misuse and a variety of domestic abuse and all forms of violence against women.

We have extensive practitioner expertise in relation to gender specific services and are currently one of the largest providers of both gender specific and domestic abuse services in Wales.

We have modelled our successful gender specific services on acknowledging that a comprehensive service must be based on understanding the context and needs of women. Many women who experience violence/abuse also present with co-existing issues. This approach addresses the multifaceted problems women face, providing an integrated holistic support package, which identifies and builds on women's strengths, enabling women to lead independent, self-determined lives.

Our gender specific and domestic abuse services are focused in South Wales, but we deliver other support services to homeless young people and vulnerable women across Wales. Our range of services includes gender specific supported accommodation, refuge provision; outreach services; specialist homelessness prevention services, Freedom Programme, Recovery Toolkit provision; specialist parenting support as well as delivering from a number of Multi Agency Centres in Wales.

Last year we worked with 4,782 individuals, providing support to enable 94% positive outcomes.

Our support is flexible and tailored to individual need; underlined through the philosophies of empowerment and choice. **Llamau is a values-led organisation which puts service users first and at the heart of the organisation.**

Our response to the inquiry

Fundamentally, Llamau welcomes the Welsh Government's recognition that legislation is a key aspect of our society's response to combatting violence against women.

On its own, legislation will not solve the problem, but legislation provides the framework within which the leadership required to tackle this problem can operate.

We are also pleased that the stated policy aims of the legislation are to improve prevention measures, to improve protection arrangements and to improve the quality of support on offer to victims of violence.

However, we are concerned that as the legislation currently stands it will have difficulty in achieving its stated aims.

The general principle of the bill:

Llamau, like many other providers of services to women and men who have been victims of violence, have significant concerns about the purported evidence base on which many of the policy assumptions have been made for the Bill. Llamau cannot stress strongly enough how important it is to take a gendered approach to this bill.

As a provider of male and female services, Llamau strongly endorses the title "Ending Violence against Women." The bill as currently titled is wordy, overly specific, and unhelpfully disassociates sexual violence and domestic abuse from violence against women. The term "Violence Against Women," is a catch-all for all forms of violence against women; including (but not limited to) domestic abuse, sexual harassment, rape, forced marriage, "honour"-based violence, female genital mutilation, and trafficking.

Taking a gendered approach does not mean excluding men. It means recognising the fact that domestic abuse in our society is primarily and predominantly directed by men towards women. This is an inequality between the genders that can be, and ought to be resolved, in part, through gender-specific legislation.

Thus, Llamau endorses the view that: ***"Violence against women is an inequality that is gendered"***

Llamau cannot support any wording that gives the impression that Domestic Abuse or Sexual Violence is a gender-neutral phenomenon. There is no evidence

whatsoever to suggest anything other than women disproportionately experience domestic abuse or sexual violence purely by virtue of being women.

The Wales Violence Against Women Group, which Llamau is a supporting member of, states:

“It is clear from the research available and the experiences of service providers working with men that male victims of domestic abuse not only have a different level of need to women, but also require different kinds of services. There is broad agreement across men’s and women’s organisations that a gender-neutral approach is not helpful. It is a disservice to men to assume that male victims require the same services as existing women’s services, which have been developed over the last forty years with the specific needs and experiences of women in mind. Existing services and methodology of delivery must not be skewed in an attempt to meet men’s needs. Men’s experience of violence and abuse are different to women’s and they must be treated differently, with active efforts made to reach male victims and respond appropriately. For example, in the case of domestic abuse, men are significantly less likely to require refuge accommodation than women, and less likely to engage in the group self-help approach that works for women (but more likely to engage with informal but direct, non-social-work-driven contact). Neither are men a homogenous group; gay, bisexual and transgender men have different needs to heterosexual men.”¹

Ultimately, it is unhelpful to talk about the efforts to tackle violence against women as being somehow mutually exclusive to the efforts to tackle violence against men.

For the legislation to be effective, we need to clearly identify what the issue we are trying to tackle is exactly and to call it what it is. The Task and Finish Group that reported back to Welsh Government in August 2012 stated that the boundaries of the legislation should be delineated around violence and abuse that disproportionately affects women and children and that usually takes place within a close social setting².

There is no need for Wales to re-invent the wheel with definitions, and the non-gendered approach contradicts:

- a) how Wales has dealt with the issue in the past,
- b) both criminal justice and social policy approaches taken by the United Kingdom government,

¹ Page 23, *Priorities for the Violence Against Women (Wales) Bill*, Wales Violence Against Women Action Group.

² Page 9, Task and Finish Group Report on The Welsh Government’s proposed ‘Ending Violence Against Women and Domestic Abuse (Wales) Bill’: Recommendations from the Task and Finish Group – download from:
[http://www.cardiff.ac.uk/socsi/resources/Robinson%20et%20al%20\(2012\)%20Task%20and%20Finish%20Group%20Report.pdf](http://www.cardiff.ac.uk/socsi/resources/Robinson%20et%20al%20(2012)%20Task%20and%20Finish%20Group%20Report.pdf)

- c) international norms and definitions, such as those of the UN's committee on the Elimination of Discrimination against Women (CEDAW committee), and the Istanbul Convention (The European Convention on Combating and Preventing Violence against Women and Domestic Violence, which was signed by the United Kingdom in June 2012).
- d) The White Paper that was associated with the Bill (published in November 2012) describing the issue not as Gender-based Violence, Domestic Abuse and Sexual Violence, but as "Violence Against Women."

There is a general issue around data reliability and data validity within the group of public sector and third sector bodies that deal with violence against women. There is more discussion about this further on the response, but we would question the usefulness in this context of placing single-time incidences of verbal abuse in a domestic setting in the same category as multiple incidences of serious physical abuse. Data reliability and underreporting remain issues that are not adequately accounted for in the explanatory memorandum that accompanies the Bill, and the use of British Crime Survey figures which suggest a less pronounced difference between the genders, provide an evidence base which could allow for a non-gendered approach. The 5-crime cap in the British Crime Survey will blunt the reporting of the worst impacts of violence within the home, and it does not grade the impact of abuse.

- **Publication of national and local strategies**

The process of gathering evidence and assessing needs on a national and a local basis will be fundamental to whether the relevant authorities covered under this legislation are able to make a real change to the way that they work to combat this issue.

While we commend a legislative approach that encourages innovation and creativity in dealing with this issue at the local level, we are concerned that the relatively free hand given to local authorities and local health boards in determining how local strategies are developed may result in vastly different approaches and outcomes for victims. The process of issuing statutory guidance is most likely to be enacted if a local strategy is submitted to the Welsh Ministers and it is not good enough, although the process of evaluating the threshold for that is unclear. There is an opportunity to guide the process more firmly at this stage in order to make sure that local strategies that are created are effective from the beginning.

Currently, the evidence which informs much of our public policy around domestic abuse has indicators which often get reported on selectively, or are misinterpreted or decontextualized.

For example, we are often told that one third of domestic abuse victims are male, but that is correct *if* we consider an incident without regard to:

- a) the severity of the abuse;
- b) whether or not it is repeated;
- c) whether or not there are other overlapping forms of abuse; or
- d) the context of the abuse.

However distressing a one-off verbal incident within a relationship may be (and without negating the more serious violence that some men experience), this legislation can only be expected to address public bodies' responses to more serious forms of violence that result in murder, serious injury or extreme psychological abuse. This expectation is in line with the Task and Finish Group's approach.

It would be very easy to misuse the one-third statistic above for example, to argue on a local level that one third of domestic abuse provision should be reserved for men. Simply because a woman **can** be violent towards a male partner, and (we have seen) is often condoned by both men and women alike as being "less serious" than a man attacking a woman, does not mean that it **happens** on an equal basis, and that services ought to be provided that cater to both men and women on an equal basis.

From its experiences of providing refuge accommodation, Llamau knows that men and women access services differently, and have different needs during the different stages of the process. This is in line with Women's Aid's approach to the issue. This must be accurately reflected as part of a rigorous needs assessment and to make sure that where appropriate, provision for men is delivered in a way that is best suited for them.

Indeed, the Equality and Human Rights Commission has stated "The public sector equality duty does not mean that single sex services should be cut, have funding withdrawn or that any new services should not be funded. Neither does it mean that service should necessarily be provided on the same scale for both men and women. For example, because women make up the majority of victims of domestic violence and rape, it may not be appropriate for a local council to fund or provide refuge services on an equal basis for men and for women."³

While the legislation specifically covers the need for strategies to have objectives and actions, it is unclear whether that the legislation may encourage a redesign of the current funding provision through which domestic abuse support services are delivered (i.e., the Regional Collaborative Committees (RCCs) overview of SPPG). With a duty now placed on local authorities and local health boards, it is conceivable that a more strategic approach will involve an expanded process of commissioning for specialist services.

³ Equality and Human Rights Commission, <http://www.equalityhumanrights.com/advice-and-guidance/public-sector-equality-duty/faqs-on-the-equality-duty/>

We have watched the English experience of commissioning of services at a local authority level for women and children who are experiencing violence or abuse. The wide variations in approach have caused many extremely well established refuges to close as they have been left behind in the commissioning process. Some areas have decided on arbitrary rules, such as only allowing women local to an area to use a local refuge, or have misinterpreted the Equalities Act and inappropriately required equal provision within refuges. Arguably in England, the fine balance between preventative and responsive services has tipped to an over-focus on the prevention side of work, which naturally leads to a reduction in funding for essential refuge services. Llamau is a proponent of good commissioning at the local area, with good quality best-practice guidelines for local service commissioners to follow when considering assessment of needs.

- **Appointment of a ministerial advisor**

Llamau is not concerned by the title of the role, nor of the (potential) trappings of office, but we would argue that the role as it stands in legislation is not independent enough to provide the proper oversight that the fight against violence against women requires. This could be rectified by allowing the adviser to oversee the national strategy and all local strategies, for example, with the ability to conduct an investigation when serious failings in a multi-agency public service response occur and deal with complaints about statutory services, in the manner of a commissioner. The task and finish group report recommends a commissioner⁴ and has a longer list of similar focus areas that the commissioner could have within their remit. This approach has the potential to make real change.

In its response to the White Paper, Llamau envisaged that role would be more of a Commissioner, possibly along the same lines as the Children's Commissioner. This approach has been discounted by Lesley Griffiths, Minister for Local Government and Government Business, as being too expensive, (the cost of maintaining offices and staff for a Commissioner could run to the £1m mark) and the adviser role has been created in order to be cost-effective and to simply provide advice to the minister and the department. It is unclear why this downgraded role needs to be legislated for as Welsh Ministers can appoint advisers already. We believe that the independence of this role is crucial to making a positive difference. We believe that there may be cost savings that could be made to allow a Commissioner role to more affordable.

In its consultation response to the White Paper, Llamau argued that the adviser's function would be extensive and a lot of influence would be placed in the successful candidate's hands. In and of itself, this is not a concern as long as the candidate appointed has a significant amount of expertise in all forms of violence against women.

⁴ Page 21, Task and Finish Group Report on The Welsh Government's proposed 'Ending Violence Against Women and Domestic Abuse (Wales) Bill': Recommendations from the Task and Finish Group

There still remains clarification about the exact role the adviser will take within government, which ought be addressed as a matter of urgency. Questions around the independence of the role and its ability to challenge government decisions remain, and the answers presented to the Stage One Scrutiny Committee by the Minister have made the issue less clear.

Any potential barriers to the implementation of the bill and whether the bill takes account of them?

We are not aware of any impediments, legal or otherwise, that would stop the bill from being implemented.

However, the explanatory memorandum sets out how it imagines the local strategies will be implemented in practice. Llamau considers the Bill an opportunity to change the “business as usual” approach to tackling violence against women and to make it truly transformational. Part of this is about properly holding relevant authorities to account at the local level and to make sure that the outcomes that they are seeking to achieve at a local level have a connection with practical activities.

On pages 12 and 13 of the Explanatory Memorandum published alongside the Bill, it makes it clear that the duty to produce local strategies will be satisfied by being housed with the Single Integrated Plans (SIP), and this may be mandated by statutory guidance.

We have concerns around the capacity of local authorities to integrate local strategies into their SIPs, SIPs have many demands placed upon them, and each local authority’s SIP has been developed independently, within a very loose framework of guidance. Interim research⁵ has demonstrated the general lack of consistency of SIP development and local authority / local service board approach.

The research also shows that the “response analyses” (i.e., the path identified within SIPs to achieve specific outcomes) to particular issues do not have sufficient academic underpinning to demonstrate a cause and effect relationship between an intervention and an outcome. It is therefore important that LSBs, when considering revisions to their latest SIPs, have detailed guidance to ensure that issues connected to violence against women are considered in a uniform fashion across local authorities. It is also vital that appropriate approaches at the local level to deal with these issues are not restricted to an operational or process-based response (i.e., a new way of working), but is connected to a *relevant* population outcome indicator, and a clear understanding of how the intervention will help achieve the outcome.

The placement of a local strategy within the Single Integrated Planning Process raises additional questions around who has ownership of a local strategy and who would be ultimately responsible for the delivery of the strategy. While the legislation

⁵ <http://wales.gov.uk/docs/caecd/research/130919-single-integrated-plans-interim-evaluation-en.pdf>

is clear that it is the responsibility of a local authority and a local health board, the intended operationalization of the legislation makes this less clear.

Llamau would advocate for a learning process from the RCCs, which were set up to oversee SPPG, to understand how local responses have developed and local strategies have been delivered through commissioned services. The make-up of the RCCs is diverse and involves both commissioned service providers, local council representation, and some statutory service providers. The combined approach of co-commissioning with service providers, overview of SPPG spending in any given area and statutory responsibility to deliver service may prove fruitful in the long run.

Unintended consequences of the Bill

We are not aware of any unintended consequences of the Bill.

Financial implications

We do not have any comment on the processes used in the explanatory memorandum to estimate the financial costs of the various legislative options.

While the financial implications for not introducing the bill are extremely difficult to model, it is clear bill are clear. An estimate based on Sylvia Walby's methodology (the standard approach used by government to estimate the cost of domestic abuse) conservatively places the cost of just domestic violence in Wales at £826.4 million⁶.

As the explanatory memorandum states on page 62, the additional costs of the bill on top of current spending are between £1.1 million and £2 million per annum. Whilst it is difficult to quantify the benefits in financial terms, that is often not the point when making law in this area; and while we need to be realistic about how much money we have to spend, often this is about better utilising resources that already exist. An improved response to violence against women will ultimately make our society stronger and more equal.

Appropriateness of power of Welsh Ministers to make subordinate legislation

We believe that the power for the Welsh Ministers to make subordinate legislation through various means is appropriate. However, we believe that it would be appropriate for whatever guise the Ministerial Advisor may take in the future to be more involved and named specifically as part of the procedure of oversight of both the national and local strategies.

⁶ Puckett, D., (2014) *Gwent Domestic Abuse Pathfinder Project – 2013/14 Final Report*, pp15-16