

***Domestic Abuse –
Access to Justice***

**Report on Black, Asian and Minority
Ethnic (BAME) Women, Domestic
Abuse and Access to Legal aid**

The Legal Services Commission

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Contents

Executive Summary

1. Introduction

SECTION ONE

2. LSC Best Practice in the Area of Domestic Abuse

3. Legal Aid

4. Background Context – Domestic Abuse and Experiences of BAME Women

5. Background to This Consultation

6. Approach to This Consultation

SECTION TWO

7. Key Themes Identified Through Consultation

7.1 Barriers that the LSC Can Actively and Directly Influence

7.1.1 Inconsistent access to statutory services

7.1.2 Awareness of availability of legal aid

7.1.3 Access to information on legal aid

7.1.4 Confusion over eligibility for legal aid

7.2 Barriers that the LSC May Indirectly Influence

7.2.1 Perceived limitations and inflexibility of legal aid

7.2.2 Fear of service provider discrimination and misunderstanding

7.2.3 Referral fatigue

7.2.4 Fear of engaging with a solicitor

7.2.5 Intimidation at formal legal environment

7.3 Barriers for Consideration by the LSC

7.3.1 Cultural and family pressure

7.3.2 Practical and legal implications of seeking help

7.3.3 Issues of language and interpretation

8. Recommendations

Annex A Birmingham Event Schedule

Annex B Cambridge Event Schedule

Annex C Suggestions for Improving Services

Annex D Speaker Biographies

Annex E Participant Data

Executive Summary

The Legal Services Commission (LSC) is responsible for the administration of the legal aid budget across England and Wales, annually assisting around 2 million people who are facing financial difficulty to access information, advice and legal representation. Each year, the LSC helps around 20,000 survivors of domestic abuse. In pursuit of their aim to enable such survivors – notably women – to access legal services at the earliest opportunity, the LSC are currently supporting or leading a number of initiatives. These include: increased coordination with national legal initiatives and institutions and between regional offices; pioneering partnership work and pilot projects across the UK; a renewed focus on client and public engagement to improve and expand access to justice; the commissioning of a number of research projects on the best way to reach survivors of domestic abuse, and; the launch of the Single Equality Scheme, including a specific focus on ‘inclusivity’ in relation to women experiencing domestic abuse.¹

Despite the early successes of these initiatives, the LSC is conscious of the fact that women survivors of domestic abuse often have a number of interrelated problems relating to children, divorce, housing or debt, for instance. This can further complicate their efforts to access legal services and to secure the assistance that they need. Black, Asian and Minority Ethnic group (BAME) women will share many of these interrelated problems, but are also likely to face additional difficulties. BAME domestic abuse survivors are one and a half times less likely to seek statutory services. The Domestic Abuse Literature Review 2008 confirmed that “minority ethnic groups have particular problems accessing support for domestic abuse.”

It was this reference which prompted the LSC to further investigate the experiences of BAME women in accessing legal aid in domestic abuse cases. Thus, the ultimate aim of this consultation was to ***influence proposed legal aid reforms and gather ideas to improve access to legal aid and access to information.***

The specific research questions to be addressed were:

- What specific obstacles are faced by BAME women in accessing legal aid in domestic abuse cases?
- How do these barriers to access affect BAME women?
- Are there social and economic factors specific to BAME communities?
- What are the religious or cultural constraints?
- Where and in what form should information about legal aid be available?
- What would increase domestic abuse survivors’ confidence when seeking legal advice and assistance?

A series of events and focus group discussions involving both BAME women and service providers were held across the UK to inform this consultation. All the events provided opportunities for legal aid providers, professional support services and survivors of domestic abuse to network and share information. Barriers to access legal aid identified by speakers and focus group participants over the course of this consultation fell on both the ‘supply’ (provision of services) and ‘demand’ (uptake of

¹ Running in parallel to these initiatives, the Government Equalities Office are working hard to ensure that good progress is made in translating laws and procedures relating to domestic abuse to practice on the ground. Results include an increase in the number of specialist domestic violence court systems, an expansion of sexual assault referral centres and the development of Europe’s first Human Trafficking centre.

services) sides of legal aid. So that the LSC might use these findings in their ongoing efforts to reduce barriers to access and improve legal aid services, these barriers were grouped into three thematic areas.

1. Barriers that the LSC can Actively and Directly Influence

Inconsistent access to statutory services

Participants felt that access to legal services was a 'postcode lottery': whilst some areas may offer excellent services, others may offer none at all. This can pose a particular problem for BAME survivors, for instance, are there services within a reasonable distance that can assist women who do not speak English as a first language? Are available services 'culturally competent'? Currently just one in ten Legal Advisors offers BAME services.

Awareness of availability of legal aid

Consultation participants agreed that women are rarely aware of their rights in respect of legal aid, or where to seek information regarding it. Furthermore, women are not familiar with the necessary criteria to access legal aid, or which solicitors offer such assistance. Throughout the consultation, a number of specific questions surrounding rules, regulations and processes in respect of legal aid were raised – particularly in the case of BAME women unfamiliar with the UK.

Access to information on legal aid

The consultation focused specifically on how access to information on legal aid could be improved. It was felt that the highly successful LSC helpline should be extended to 24 hour coverage and the website should be more user-friendly. Whilst printed materials are already available in a number of languages, there is still a bar of cost and practicality. More importantly, information needs to be presented clearly and free of jargon, and made accessible to women who are prevented from being alone. Useful examples of innovative practice were shared, including disguising phone numbers as barcodes on pots of lip balm.

Confusion over eligibility for legal aid

There is considerable confusion around eligibility for legal aid amongst both women and support workers. The latter felt that eligibility is "a minefield for victims" and that both advocates and organisations need access to a means testing tool. The LSC are currently developing such a 'quick calculator' tool to allow solicitors to be able to respond to questions surrounding eligibility and contributions immediately. Other issues that were raised included whether limits and contribution requirements were appropriate.

2. Barriers that the LSC May Indirectly Influence

Perceived limitations and inflexibility of legal aid

A key area of concern for women raised through the consultation was the complexity of changing a solicitor if unhappy with the service. The difficulties created when a survivor is relocated were also raised, both in terms of ensuring continuity of legal representation and the implications of showing new contact details on paperwork that can be accessed by the perpetrator. Furthermore, it was pointed out that after leaving a violent relationship, service provider protection must be thorough and ongoing. It was also reported that perpetrators of domestic abuse can bar women's access to legal representation completely, by registering with every solicitor in the area.

Fear of service provider discrimination and misunderstanding

Some BAME women fear a lack of understanding and even discriminatory and racist attitudes from service providers. Time was highlighted as a key factor in the relationship between service provider and client; sometimes the survivor needs a

'cooling off' period, whereas other times long delays can put women off of pursuing a case. The consultation also highlighted a perceived danger of various service providers trying to 'control' the survivor by pushing for decisions at a traumatic time. When the police are called to deal with a domestic abuse claim, women report that they have frequently felt at a disadvantage to their ex-/partner and are viewed as hysterical or unstable. Particular difficulties were faced by BAME women with limited English proficiency relative to the perpetrator.

Referral fatigue

Echoing the findings of the Limehouse Review, the consultation found that multiple sources of information can overwhelm survivors. Participants highlighted a lack of inter-agency communication, solicitors unable to provide advice on multiple subjects, a sense of 'to-ing and fro-ing' and too much 'signposting'. A holistic approach was seen to be vital in reducing barriers for BAME women, and highlighted the importance of building trust. This approach should include an increase in joined-up thinking and multi-agency working, as well as the establishment of 'one stop shops' housing all services and information in one location.

Fear of engaging with a solicitor

A lack of knowledge of the law and legal process can add to women's distress once legal aid is sought. The solicitor may have to probe for details or question testimony, which can seem judgemental and traumatic by the survivor. Participants felt that often solicitors seemed too process driven, or fail to grasp specific, cultural issues of a case. Women also reported that *violence* can be prioritised over *abuse* by some solicitors. Concerns were raised over the sharing of information and breaches of confidentiality across the solicitor network. Examples of how solicitors could improve their services were shared, with one legal firm offering 'people skills' training to its solicitors receiving particular praise.

Intimidation at formal legal environment

Going to court was seen as a particularly frightening process for survivors of domestic abuse that often fails to be victim-centred. The lack of video-linking, screens, female judges and pre-trial visits to court rooms were highlighted, all of which would assist in reducing the formality and intimidation of the experience. Furthermore, survivors who are giving evidence against the perpetrator need to be prepared for cross-examination, and BAME women with limited language proficiency need an opportunity to familiarise themselves with court language and terminology.

3. Barriers for Consideration by the LSC

Cultural and family pressure

A significant barrier to legal aid for BAME women is cultural and family pressure, particularly in communities where a high importance is placed on the sanctity of marriage. Asian women in particular are expected to uphold the family '*izzat*' (honour) in marriage, and may be seen to disgrace the family if the marriage fails. For many BAME women abused by their partners, separation or divorce are not seen as viable options; pressure from legal advisors to seek a divorce can deter women from accessing statutory services in the future. Women who do speak out against their abuser(s) may experience physical, financial or other reprisals, particularly in forced marriage situations where limits on personal freedom make seeking help more difficult.

Practical and legal implications of seeking help

Practical and/or legal implications of seeking support from legal services may discourage BAME women from doing so. Marriage is the sole source of financial and emotional support for many women experiencing abuse, and alternative employment,

housing or means of subsistence may be lacking. For BAME women specifically, fear of the potential impact on their immigration status if help is sought may also act as a deterrent; the consultation revealed that few women are aware that legal aid can be accessed for domestic abuse cases regardless of immigration status. However, women with no recourse to public funds who leave their sponsors are unable to access accommodation or benefits and thus risk destitution. Examples were shared where women in such situations had no choice but to return to abusive relationships.

Issues of Language and Interpretation

Throughout the consultation, questions were raised regarding the use of interpreters from a BAME survivor's particular community. On one hand, it was felt that a shared cultural background and understanding aided the interpretation process. On the other, women expressed a strong fear of being exposed to their community or family through an interpreter. It was agreed that where possible, an interpreter should be female and not a family member. Furthermore, it was seen as critically important that interpreters have some knowledge of or training in issues surrounding domestic abuse. A key message was that individual service providers must be aware of the local profile, and offer culturally specific support services.

The recommendations which arose from the consultation reflect the views of the focus group participants and service provider representatives on how the barriers to access to legal aid outlined above can be reduced, in order to promote equality of access.

Access:

- ⇒ **Action:** The LSC to explore means of incentivising solicitors to provide specialist BAME services.

Improving location and format of information:

- ⇒ **Action:** The LSC to produce a clear and simple Q&A style format leaflet.
- ⇒ **Action:** The LSC to explore innovative new ways of making information more accessible, such as in women's toilets and through supermarket campaigns.
- ⇒ **Action:** The LSC to ensure that when an agency or organisation is involved in leaflet distribution, that they are given accompanying training or awareness-raising regarding the importance of proactively signposting information.
- ⇒ **Action:** The LSC to strive towards a telephone number that is free to call from a mobile, and a website and phone number that are untraceable.
- ⇒ **Action:** The LSC to widely promote the use of the new eligibility calculator tool as soon as it is available.

Working through intermediaries (e.g. community based organisations - CBOs):

- ⇒ **Action:** The LSC has examples of best practice around the country where it is liaising with CBOs and Non-Government Organisations (NGOs) to boost the impact and reach of their services. These initiatives, where the LSC acts as a partner to CBOs or a broker between CBOs and solicitors, should be documented, publicised and replicated.
- ⇒ **Action:** The LSC should link with existing Home Office initiatives, Government Equalities Office and Equality and Human Rights Commission (EHRC) to collaborate and improve services, especially with regard to specific abuse against women such as honour based violence and human trafficking.

Diversity/Domestic Abuse awareness-raising for solicitors:

- ⇒ **Action:** The LSC to investigate the potential for training in domestic abuse and/or diversity for solicitors.

1. Introduction

The Legal Services Commission

The Legal Services Commission (LSC) is responsible for the administration of the legal aid budget across England and Wales, helping around 2 million people a year to get information, advice and legal representation. The UK provides the largest legal aid system in the world, serving 8,000 vulnerable people a day. In July 2009 it will celebrate its 60th birthday.

Legal aid helps with the costs of legal advice and representation for people who cannot afford it. The LSC strives towards a legal aid system where taxpayers support how these funds are spent and clients are proud to use the service. The LSC also has a strong focus on commissioning joined-up, integrated services and reaching the hard-to-reach.

Survivors of domestic abuse are highlighted as a particular priority of the Commission. Each year the Legal Services Commission helps around 20,000 people suffering domestic abuse across the country. Expenditure on closed domestic abuse cases in 2007/8 was £66 million, money that goes primarily towards increasing access to information and awareness-raising. The ultimate aim is for women to be able to access LSC services at the first possible opportunity.

SECTION ONE

2. LSC Best Practice in the Area of Domestic Abuse

The LSC is currently supporting a number of initiatives to increase access to advice for survivors of domestic abuse (DA).

Whole System Initiatives

As part of the Legal Services Commission's work on improving the justice system, national and regional liaison work has involved forging stronger relationships with Her Majesty's Courts Service (HMCS), domestic abuse support groups and Crown Prosecution Service. Regional offices are coordinating activities to ensure that appropriate information is available to survivors of DA. Examples include:

- Prioritisation of solicitors who deliver domestic abuse services, when allocating contracts for family legal aid work.
- Production of a DA 'call to action' leaflet, which is widely distributed to job centres, housing authorities, court services, libraries, police stations and schools.
- Provision of a national telephone advice line with text and ring back service, offering family legal advice. The Community Legal Advice Helpline receives 3000 calls a week on family matters including DA.
- Provision of a Community Legal Advice website which receives 3 million hits a year.
- Increasing the number of refuges with access to family and social welfare advice, ensuring that the client receives appropriate advice in a timely manner.
- There is also pioneering partnership work going on around the country – in the North East, Brighton, Kent and Cardiff, for instance – offering legal advice on a sessional basis to vulnerable women who would not otherwise access a 'high street' solicitor.

In Tyneside, the LSC are partnering with **WHIST (Women's Health in South Tyneside)**, a large drop in centre, where a significant proportion of the women have experienced abuse. These women are hesitant to access 'normal' advice provision and so the LSC has facilitated the linking up with female solicitors, who visit WHIST once a week on a demand led basis. This has been quite successful and women can now seek advice in a safe and comfortable environment.

In Newcastle, the LSC are cooperating with the **GAP (Girls are Proud) Project** which supports sex workers through drug treatment, sexual health advice and harm minimisation and facilitates access to mainstream services. The LSC has contacted solicitors to attend weekly drug treatment sessions, in order to provide information whilst women are waiting for appointments. The female-only environment means that women can access information and advice without their pimp being present. However, solicitors are working on a pro-bono basis, which makes the service difficult to maintain.

The LSC in the North East has also provided a small pool of funding to solicitors to obtain advice and training to equip them to identify and support cases of **honour based violence and female genital mutilation**. As a result of this initiative solicitors have joined a multi-agency network targeting the issue and are receiving regular referrals.

In Kent the LSC is collaborating with the ***Rising Sun Domestic Violence Project***, to offer a legal advice surgery by organising and funding a monthly rota of five firms of solicitors to visit the refuge and talk to clients. The LSC has also been visiting women's groups in Brighton to give presentations on the Community Legal Advice helpline and website, building the capacity of support workers to direct their clients to appropriate information.

These pilots are exploring how such work can be effectively rolled out in a more systematic, sustainable way within their area.

Client and Public Engagement

As part of the Client and Public Engagement Strategy, the LSC collects information about the perceptions and experiences of clients. This is done so that it may influence LSC policy, enhance understanding of the means of access and practical barriers that clients face and result in more client-focused services. Since January 2009 the LSC has been leading public debate and events to celebrate the 60th anniversary of legal aid, providing excellent opportunities to pursue this Strategy. For more information on these celebrations, see <http://www.legalaid60.org.uk/>.

The LSC recognise that survivors of domestic abuse face particular obstacles in accessing legal advice and have carried out a number of research projects in order to understand the best way to reach survivors of domestic abuse. These include:

- *LSRC Civil and Social Justice Survey*, Pascoe Pleasance et al. 2004.
- *LSC Client Diversity Group*.
- *An End of Pilot Review of the Limehouse Project Family Advice Centre BAME Communities Model²* 2007.
- *LSC Domestic Violence Group Consultation on seeking protection from harm via the legal system³* 2004.
- *Domestic Violence Literature Review*, University of Leicester 2008.

On 1st August 2008, the LSC launched its Single Equality Scheme (SES), which sets out the strategy and priorities for tackling discrimination and promoting equality over the next three years. As part of the SES Action Plan (Activity 63), the LSC has committed to improving services for women experiencing Domestic Abuse as part of their objective for 'Inclusivity'.

3. Legal Aid

In the majority of cases, survivors of domestic abuse will be eligible for legal aid. In April 2007, the maximum limit to a DA survivor's income or capital was withdrawn (unlike for other applications). There are several ways the law can protect people from domestic abuse. These include *non-molestation orders*, which state that the abuser should not abuse or threaten the survivor, and *occupation orders* that can force the abuser to leave the home and restrict them from the surrounding area. Abusers that break the terms of the court order can be arrested. Other family legal

² The Limehouse Project Family Advice Centre was set up as part of the LSC 'Family Advice and Information Services'. The aim of the pilot was to bring together a range of legal advice and information and support services for individuals experiencing relationship breakdown. The two year project came to an end in November 2007.

³ Consultations with survivors and staff of support organisations in the North East, East Midlands, Newcastle, Middleborough, Leicester and Bristol.

aid may cover divorce, separation, contact and residence cases, finance issues and childcare proceedings.

Survivors of domestic abuse will normally need the help of a solicitor to apply for an order and legal aid can cover these legal costs. Survivors will be asked to pay a contribution towards costs if their disposable income is over a certain amount. Survivors or their abusers do not have to be British to qualify for legal aid, which is available regardless of immigration status. The costs of an interpreter can also be paid for under the legal aid certificate.

4. Background Context – Domestic Abuse and Experiences of BAME Women

The Government Equalities Office is keen to ensure that the changes in laws and procedures concerning domestic abuse translate into solid improvements on the ground. The key priority areas are domestic abuse, sexual violence and abuse, human trafficking, prostitution and sexual exploitation. Today there are 104 Specialist Domestic Violence Court systems; the network of Sexual Assault Referral Centres is expanding; there are specialist rape prosecutors in every Crown Prosecution Service (CPS) area; and the UK Human Trafficking Centre has opened - the first of its kind in Europe.

The average number of instances of violent abuse before the sufferer seeks help is thirty-five, with the abuse escalating in terms of severity and frequency with each instance. Women experiencing a domestic abuse situation often have a number of interrelated issues to deal with, including other family problems, divorce, post relationship problems relating to children, disputes regarding maintenance and the division of property, homelessness, welfare problems, criminal cases, debt, housing and financial hardship.

The BAME⁴ (Black, Asian and Minority Ethnic group) ‘umbrella’ encompasses a multitude of ethnicities, nationalities, cultures and religions. As a result, the BAME community consists of various diverse communities – each with their own needs, concerns and lifestyle. So, for instance, the day-to-day experiences of a second generation British Chinese woman in her thirties will differ greatly to those of a Bengali Muslim teenager, or a retired Jamaican Evangelical Christian, despite their shared ‘BAME’ status. It is important to recognise that BAME women’s experiences of domestic abuse will be equally diverse and multi-dimensional. This is further compounded by the complex nature of domestic abuse itself, including the variety of forms that domestic abuse can take (physical, psychological, emotional, sexual, financial), and the range of potential perpetrators; including former or current partners, extended family members and so on.

Whilst some research suggests that there is little variation in the prevalence of domestic violence by ethnicity,⁵ it is also reported that 59% of domestic violence murders in London were of BAME women (2005-6). Also significant is that BAME survivors of domestic abuse are one and half times less likely to seek statutory

4 The LSC has moved from using the terms Black and Minority Ethnic (BME) to Black, Asian and Minority Ethnic (BAME). This does not affect the formal classifications used in our analysis and figures presented and in previous consultations.

5 Walby and Allen 2004, cited in Parmar, Sampson and Diamond 2005.

services.⁶ The reasons for this are multiple and interlinking, and it is likely that individual BAME women will be affected by several factors simultaneously. However, consultation showed that a considerable number of women had not even heard of legal remedies until they came into contact with a support service. Women are less likely to approach a solicitor and more likely to go to other services for support, including GPs, health visitors, midwives, community services, Surestart, voluntary organisations etc. For example, a London GP network has reported to the LSC that 13 out of 20 women approach them with non-medical problems.⁷

We need to knit together a local patchwork of advice and help for domestic abuse survivors.

Carolyn Regan LSC Chief Executive

5. Background to This Consultation

BAME survivors of domestic abuse are more likely to seek help from outside the legal system than within it and the legal route is usually seen as the last option - if considered at all. A woman's urgent priority is her safety and that of any children. The Domestic Violence Literature Review 2008 stated that: "minority ethnic groups have particular problems accessing support for domestic abuse. It is likely that they are under-represented amongst those making applications for non-molestation orders." This isolated reference prompted this further LSC investigation of experiences of BAME women in accessing legal aid.

This consultation therefore aimed to find out more about the experiences of the BAME community in accessing LSC legal advice in domestic abuse cases, with a view to reducing barriers to access. The evidence base will be used to improve access to justice through ensuring that services do not indirectly discriminate against diverse groups.

The ultimate aim of the consultation was to ***influence proposed legal aid reforms and gather ideas to improve access to legal aid and access to information.***

The specific research questions that the consultation wished to address were:

- What specific obstacles are faced by BAME women in accessing legal aid in domestic abuse cases?
- How do these barriers to access affect BAME women?
- Are there social and economic factors specific to BAME communities?
- What are the religious or cultural constraints?
- Where and in what form should information about legal aid be available?
- What would increase domestic abuse survivors' confidence when seeking legal advice and assistance?

⁶ Batsleer et al. 2002; Rai and Thiara 1997, cited in Parmar, Sampson and Diamond 2005.

⁷ Carolyn Regan LSC CEO.

6. Approach to This Consultation

Data collection

In order to achieve a broad and rich evidence base, reflecting the experiences of both BAME women and service providers, a number of events and focus group discussions were held as part of this consultation:

- **Nottingham and Leicester** - Meetings with BAME support services.
- **Birmingham (January 2009)**- A BAME women's workshop including a Q & A session chaired with a Family Barrister and two focus groups, The research adopted a participatory action approach with women that had experienced DA and accessing the legal aid system.
- **Cambridge (June 2009)** - A workshop with a multi-agency focus, looking at DA including honour based violence. The event was chaired by the LSC's sponsoring Commissioner, with presentations from the LSC Chief Executive, a solicitor specialising in DA and survivor of honour based violence.

Annexes A and B show full details of the event programmes.

Prior to these events, prospective participants were asked to complete a short pre-registration questionnaire. The aim of this survey was to gain an understanding of their initial understanding of legal aid and their experience of accessing legal services.

Collaboration

The LSC is committed to working in partnership with agencies and supporting grass roots community organisations, in line with the Compact Agreement between Government and the Third Sector. The LSC thus commissioned a voluntary women's organisation, Women Acting in Today's Society (WAITS), to jointly deliver the focus groups with BAME clients. In addition, we worked closely with Bal Howard at Suffolk Constabulary.

Empowerment

The LSC Corporate Social Responsibility Policy aims to empower local communities and those that collaborate with the LSC, through bringing together local business, service providers and the general public. During the consultation, the LSC aimed to provide information about legal aid services and improve awareness of domestic abuse issues. Activities included:

- Community Legal Advice leaflet stand.
- Legal Aid 60th Anniversary Promotional material.
- Tour of St. Philips Chambers.
- Ashram – Moving Forward DVD.
- Welcome pack with DA fact sheet.
- Legal Aid 60th anniversary stand at Birmingham's Women Policy Conference.

All the events provided opportunities for legal aid providers, professional support services and survivors of DV to network and share information.

Evaluation

In addition, evaluation forms were distributed to all participants in the welcome pack. This enabled the LSC to monitor the effectiveness of the event and the quality of the materials provided. A total of 80% of the participants completed and returned the forms.

The LSC commissioned an independent researcher from the Centre for International Development and Training (CIDT), University of Wolverhampton, to evaluate the events and focus groups and write up an independent report of the consultation outcomes, using both quantitative and qualitative data from the consultation.

SECTION TWO

7. Key Themes Identified Through Consultation

A number of barriers to access to legal aid were identified by speakers and focus group participants at the consultation events, which are reported in detail below. These fell on both the 'supply' (provision of services) and 'demand' (uptake of services) sides. They included:

- Inconsistent access to statutory services.
- Awareness of availability of legal aid.
- Access to information on legal aid.
- Confusion over eligibility for legal aid.
- Perceived limitations and inflexibility of legal aid.
- Fear of service provider discrimination and misunderstanding.
- Referral fatigue.
- Fear of engaging with a solicitor.
- Intimidation at formal legal environment.
- Cultural and family pressure.
- Practical and legal implications of seeking help.
- Issues of language and interpretation.

So that the LSC might use these findings in their ongoing efforts to reduce barriers to access and improve legal aid services, these barriers have been grouped into three thematic areas:

1. Barriers that the LSC can **actively and directly influence** through their day to day work.
2. Barriers that the LSC **may indirectly influence** through relationships with other service providers.
3. Barriers that are **beyond the influence** of the LSC, but crucial for consideration.

The reporting of the consultation findings below includes a number of case studies and direct quotations to allow the voices of survivors of domestic abuse, support workers and service providers to be heard.

7.1 Barriers that the LSC can Actively and Directly Influence

7.1.1 Inconsistent access to statutory services

Participants felt that access to legal services was a 'postcode lottery' that often dictates how, when and to what extent survivors can make use of statutory services. Although the decision for legal aid is based on means and merits, this is potentially related to the issue of *consistency* of service provision, with some areas offering excellent services whilst others may offer none at all.

Whilst this is a factor affecting the vast majority of survivors of DA, regardless of race or ethnicity, there are additional implications for BAME women. For instance, are there services available within a reasonable distance that can assist women who do not speak English as a first language? Are available services in both specialist and mainstream organisations 'culturally competent', i.e. considerate of specific cultural matters that may characterise a case? Consistent access to appropriate services for BAME women is limited - at present just 1 in 10 Legal Advisors offers BAME

services.⁸ Where BAME services are available, women may not be aware of them – they may not be well publicised and promoted or some BAME women may be hard to reach through mainstream advertising and information campaigns.

7.1.2 Awareness of availability of legal aid

Consultation respondents agreed that women are rarely aware of their rights in respect of legal aid, or where to seek information. There is a general lack of awareness of basic human and legal rights and entitlements and little familiarity with the complex process of civil law.

I didn't have a clue about legal aid. I just happened to say the right thing to the right person at work.

Cambridge focus group respondent

People don't think they can access legal aid, they think you have to be on benefits to do so – even solicitors don't know.

Cambridge focus group respondent

Women are not familiar with the criteria to access legal aid or which solicitors offer legal aid; many have enquired at solicitors firms and been told: “We don't do it here, it's not available.” Focus group participants felt that Citizens Advice Bureaux should have up to date knowledge of which solicitors offer legal aid and which do not – participants were also shocked that upon enquiry most solicitors did not know which other solicitors firms do and do not offer legal aid:

We phoned five solicitors to talk about legal aid. They all said we don't do legal aid - that legal aid was separate from what they do. They said that it was not worth it monetarily - they do a lot of work but get peanuts. Trying to find a specialist solicitor who has appointments and will do legal aid is very difficult.

The helpline people say they are not legal advisors and give you a list. When you try the solicitors on the list 9 out of 10 don't do legal aid.

I went to the Citizens Advice Bureau who printed out leaflets. The solicitors no longer do legal aid when you call.

The consultation in Nottingham and Leicester also showed that there is a current and growing problem in accessing solicitors who do publicly funded work. Those who do are very much in demand, and less able to free themselves up at short notice to do emergency work. The issues are complicated by the fact that many women have complex individual circumstances, with multiple cases running at the same time, for example criminal, immigration, divorce, housing etc.

Throughout the consultation a number of specific questions around legal aid were raised:

- How much legal aid am I entitled to?
- What happens if I have parallel cases (including in different courts)?
- How soon can I access legal aid?
- Do I access legal aid or does my solicitor do it for me?
- How do I access information on my personal case?

⁸ Moving Forwards DVD – Ashram/WAITS.

- If I have accessed legal aid in the past, when can I access it again?
- How long will legal aid last? If my court case runs for years, when will legal aid stop?
- If other legal issues arise during the course of my case, would the same solicitor deal with those?
- Can a DA lawyer also address my immigration case?
- Can I access legal aid if I have no recourse to public funds?

Clear, accessible information needs to be provided by the LSC to answer these questions regarding rules, regulations and processes in respect of legal aid. In the case of BAME women not of UK origin, the need is even greater.

We don't know this country, there is no manual given out at Heathrow telling you about NI numbers, GPs and legal aid!

Birmingham focus group respondent

Women who have recently arrived in the UK claimed they have little understanding of even the most basic information about legal aid:

If you asked me what Legal Aid is, you would get a blank expression, I had no grasp of that term.

Birmingham focus group respondent

Friends told me, helped me to access information – I was lucky.

Birmingham focus group respondent

7.1.3 Access to information on legal aid

The LSC currently provides information through their website, telephone and text service and through printed materials. The consultation focused on how these could be improved. However different women have varied needs and it is important to recognise that not all BAME women require the same assistance.

There was wide interest in details of the LSC telephone service and how it operates – although it was recognised as an initial step rather than a replacement for face-to-face advice. Respondents requested that the helpline hours be extended to 24 hours if possible, to reflect the fact that: “DV is not just 9-5.” Current opening hours have recently been extended to 8pm Monday to Friday and on Saturday mornings. The telephone service is accessible in over 170 different languages and the website in 13 different languages. The LSC has already established that 24% of its clients using the telephone service classify themselves as Black Ethnic Minority, and this is representative across all ethnicities. However, it was also noted that a woman may not use the service when she needs immediate access to a specialist in family law – “she may have run out of the home barefoot and begged 20p off a stranger to make a call. She needs immediate help.”

General feedback indicated that more people would prefer to access the helpline than the website. It was agreed that the LSC website needs improvement in terms of being user-friendly – for example, the key word search is not very effective and the website is rather large to navigate without this tool.

In terms of printed materials – leaflets, posters etc - information in different languages means women who cannot read/speak English are not excluded, but it was also reported that some women may not read. Whilst the LSC has a good coverage of information in various languages, there is still a bar of cost and

practicality, for example in the Aston area of Birmingham, where there are 68 community languages.

I was isolated for so many years. Even a leaflet can be a lifeline for a woman not allowed to leave the house, not allowed to have friends.

However, not all agreed that leaflets were an effective means of displaying information, as often people just throw them away. People need to be actively signposted to leaflets by receptionists, support workers etc.

Regardless of the medium in which information is presented – whether on the website, a leaflet or a poster - there was a plea to “break down information in a language we understand”, which is clear and jargon free. The format of any information should be clear and simple and accommodate different learning styles, learning disabilities etc.

The focus groups reported that the LSC need to carefully consider how to provide information to achieve maximum impact. Women sometimes struggle to be alone; they may not be allowed to use the phone, they may be walked to the door of wherever they are going and be closely monitored. A children’s centre or English as a Second Language (ESL) class may be the only places they are allowed to go. There is a lack of opportunities for many women survivors of DA to speak out in private so the form and location of information must take this into account.

Some examples of innovative practice in reaching women were shared in the Cambridge consultation. One agency handed out lip balm pots with a DA helpline number on the base, resembling a barcode. A similar initiative from one of the hospital trusts signposted accompanied women to a poster and set of stickers in the women’s toilets – this instructed them to place a sticker on the base of their urine sample pot as a ‘cry for help’ if in need of protection, advice or support.

The full list of suggestions can be found in Annex C.

7.1.4 Confusion over eligibility for legal aid

There is considerable confusion around eligibility for legal aid amongst both women and support workers. A Birmingham Community Based Organisation (CBO) representative gave the example: “a woman applied for legal aid and was told that she didn’t qualify on means. I couldn’t understand this as she was on Job Seekers Allowance.” There was further concern that legal aid is only free up to certain point.

Case study A: confusion over eligibility

Marcella* went through a domestic violence case. After that, her ex partner and father of her children was killed. She tried to claim compensation for the children by using legal aid. She was told that because the father had a record of domestic violence the children were not entitled to any compensation. She appealed and was not successful. She was told she would not be able to appeal again as legal aid was not available, but was never told why.

**Note: all names have been change to protect identity*

Support agencies felt that eligibility is “a minefield for victims” and that both advocates and voluntary organisations need access to a means testing tool and to be helped to fully understand the contributions mechanism. The LSC is currently in the process of developing a ‘quick calculator’ tool - solicitors will soon be able to access

this computerised means testing tool and be able to respond on issues of eligibility and contributions immediately.

Issues raised surrounding eligibility included whether the limits are appropriate and how (if at all) the situation is affected where children are involved. Clients were also confused over the domestic abuse eligibility waiver and whether this covers an injunction only, or extends to finance and contact. It was pointed out that at 8%, the interest that the LSC charge is higher than most banks. Clients reported they would prefer to be given a timescale to pay the money back and not have it taken as a lump sum immediately. The impact of contributions from 'disposable income' is illustrated in one woman's story below.

Case study B: coping with contributions

Jenny's house was sold when her abusive ex-husband refused to pay mortgage contributions and due to the proceeds of the sale, she didn't qualify fully for legal aid and had to pay contributions: "at a time when I needed money most I was forced to pay a contribution to legal fees." The perpetrator meanwhile had taken loans in her name, declared himself bankrupt and therefore didn't have to pay legal fees. Jenny had to cut her hours at work to get under the threshold for legal aid and get a solicitor.

The perpetrator dragged the case out for five years. Every step of the way Jenny's solicitor had to apply for the legal aid certificate, and sometimes Jenny had to go to court and face the perpetrator alone, when legal aid was not awarded in time. Jenny feels the term 'disposable income' is misleading, as in her situation no money was 'disposable' – she was starting life over again with two children. She could not afford to buy another house, and was renting.

Jenny was compelled to pay £100 contribution per month for years – for example continuing to pay for four months in between court dates where no legal services were received. Finally Jenny could no longer afford these charges and gave up legal services, retaining her solicitor on a needs basis. £15k fees were taken in a lump sum from her bank account by the LSC – money she feels could have been better spent on her children. Jenny's solicitor was underpaid by £7000 in legal aid - despite obtaining permission all the way - and she felt guilty.

Finally Jenny decided to represent herself. "I had to go to court and cross-examine the man who had beaten seven bells out of me and raped me, and who had the right to cross-examine me."

7.2 Barriers that the LSC May Indirectly Influence

7.2.1 Perceived limitations and inflexibility of legal aid

A key area of concern was the complex rules surrounding a change of solicitor when a DA case is pursued. Focus groups respondents in Birmingham asked what they could do if they were not happy with the advice they were getting from their solicitor.

You're not paying, you don't get the same treatment as a private client – how do you know you're getting their best service?

Once receiving legal aid, women's experiences were that if they were unhappy with a solicitor, they could not change and were "stuck with them."

Case study C: limited to one solicitor

Mariam called the Legal Aid helpline a few months ago; she was told she could not receive further legal advice as she already had a solicitor. However, Mariam believed that her solicitor was not treating her equally as she was a recipient of legal aid rather than a paying client. Not being from the UK she felt very uncertain about domestic violence law and wanted information and a second opinion. There is no channel for this, as only one form of legal aid is valid. Mariam wanted sources of information, such as a website with detailed information on specific cases – currently library books are her only source of information.

It was further reported that perpetrators can ‘warn women off’ accessing legal services, in some cases barring women’s access to legal representation completely:

In smaller towns in the West Midlands some women are not able to access legal advice due to cynical manipulation of the system by their partners. In a couple of cases the partner has registered with every solicitor in the town that offers legal aid. Firms then cannot advise the woman, as this would present a conflict of interest. When the woman goes to another region she is told that she is outside the catchment area for legal aid. Once the partner has taken preliminary advice, the firm cannot help the woman.

Support worker, Birmingham

The consultation in Nottingham showed that where women were referred to refuge or re-housed outside of the area for reasons of safety, their Nottingham based solicitors were not paid for the additional time now involved in travelling to see the client. In most cases it had taken time to build up a rapport of trust, and many women did not feel emotionally able to start again with a new solicitor. In addition, they did not want any further proceedings issued from the court of the area where they now lived, as they were anxious to give their abuser no clues as to their new whereabouts. Some women were aware that their abuser and his family were proactively looking for her, and instances were given of paperwork and divorce papers showing a woman’s new address which allowed her to be traced. It was pointed out that after leaving a violent relationship service provider protection must be thorough and ongoing, as perpetrators will go to great lengths to find the survivor.

7.2.2 Fear of service provider discrimination and misunderstanding

Some BAME women fear lack of understanding and even discrimination and racial attitudes from Local Authorities and statutory service providers. Traditional face-to-face services are not always appropriate – the unfamiliar environment of a solicitor’s office can be perceived as threatening. As a result, women often prefer to seek protection and support from CBOs and NGOs, who can act as an intermediary on their behalf. As one WAITS representative explains: “Women need a safe place to confidently discuss the issues, tell their stories and be believed.”

Time was highlighted as a key factor in the relationship between service provider and client. Sometimes the sufferer needs a ‘cooling off period’ or time to make big decisions and adjust to their new environment. More often, delays with paperwork, waiting lists for legal aid providers or length of time between court dates can result in survivors changing their minds or feeling that action is not ‘worth it’. Women often need action to occur straight away when they have the courage to ask for help; the will to act may be gone a week later. This has a knock on effect on funding: for

example, the case may no longer be classed as an emergency if the client has had time to think about it before deciding to take action.

There appears to be confusion around what constitutes a breach of injunction, whether this be a telephone call or calling round to see the children. Where injunctions are breached, individuals reported fear of looking stupid or not being taken seriously by authorities:

They say “my husband phoned me” and they feel embarrassed to report this and say that’s all that has happened, even though it is a breach, and they think it will not be taken seriously.

Cambridge focus group participant

Consultation also revealed that there may be several breaches that the police and CPS do not enforce:

I have to keep on pressing to get action taken and I send strongly worded, severe e-mails before action is taken. The magistrates are not always aware of the problems that clients face, they keep on giving him another chance.

Cambridge focus group participant

The consultation highlighted a perceived danger of agencies/service providers trying to ‘control’ the domestic abuse sufferer – all trying to help and pushing for decisions within a fixed time frame at this very difficult and overwhelming time. In Leicester there is a trend of the police putting pressure on survivors to see the criminal case through, or they refuse to help. Often, police do not have access to the appropriate links to solicitors to refer women and many do not take action at all. Again in Leicester, at the time of the consultation, the police DV Officer had a current caseload of 500, demonstrating that sometimes the sheer workload prevents officers from being able to deal with all DA cases thoroughly and with sensitivity. Women do not make a distinction between the Civil and Criminal legal systems. If they feel the police or CPS have failed them in the past, they are likely to have little faith in any part of the justice system to assist them. The way the police behave has a huge impact on a woman’s future choices.

Where the police are called to deal with a domestic abuse claim, women report that they have frequently felt at a disadvantage to their partner or ex-partner. Often distraught and in tears, they feel that they are viewed as hysterical or unstable by the police, whilst the ex-/partner is able to appear calm and rational in comparison⁹. At the meetings with service providers and the workshops with BAME women, examples were shared of educated, articulate perpetrators who convinced the police of their version of events – even to the extent to which the female recipient of abuse was arrested for affray or misconduct. Unsurprisingly, this imbalance was exacerbated where the BAME women had limited or no English proficiency, particularly when compared to the male perpetrator.

Focus groups felt strongly that other service providers, particularly in health and education, need to be able to pick up the ‘tell tale signs’ and the ‘subliminal messages’ given out by women or children suffering DA. There was also a conflict of interest reported between DA organisations and social services regarding the laws surrounding ‘failure to protect’, where women feel compelled to stay in a house

⁹ LSC Domestic Violence Group Consultation on seeking protection from harm via the legal system 2004.

where they are abused but in doing so have 'failed to protect' their children, and thus fear having their children taken away.

Finally the issue of male survivors of domestic abuse was raised. Although the police have relatively high statistics due to counter-allegations, those consulted believed that male victims were a very small group. However, it was noted that men will find it hard to access support, as they cannot access women only services and may be ridiculed for coming forward.

7.2.3 Referral fatigue

The phenomenon of 'referral fatigue' is identified in the Limehouse Review and was echoed by the 2009 consultations. It reflects the experience of domestic abuse survivors having to go from one organisation to another, retelling their story again and again. The Limehouse Review identified research that has shown people will make three attempts to get help with a problem before giving up, and that the more times people are referred onwards, the less likely they are to ultimately have received advice.

The 2009 consultation confirmed that multiple sources of information can be overwhelming and highlighted:

- an assumption by many women that all agencies would be familiar with local services and initiatives;
- disjointed services and lack of inter-agency communication and partnership working;
- solicitors who are unable to provide advice on more than one area, so the survivor ends up visiting multiple service providers;
- a sense of 'to-ing and fro-ing' between service providers and agencies - a culture of 'passing the baton';
- a sense that dealing with domestic abuse is seen as "beyond my skills" by some agency workers encountered;
- how DA survivors can be told by agencies that "you don't meet (or exceed) our threshold";
- how survivors may be "sent off on journey of referrals and then they get lost", and;
- that merely being 'signposted' to another agency can deter survivors from reporting or seeing through cases.

These attitudes were seen to result in families and individuals "falling through the cracks" or becoming disillusioned as they are passed back and forth between different agencies. In some cases, due to lack of or overstretched resources and lack of up-to-date knowledge and understanding of law, service providers (such as police or solicitors) actively misinformed clients.

A holistic integrated approach was seen to be vital in reducing barriers for BAME women, and stressed the importance of support and building trust in encouraging clients to take the first step and discuss their problems.

When I am seeing a client I need to be able to say with confidence that the system will work - I can't do that now. The client has the perception that no one listens and acts.

Cambridge focus group participant

The idea of a holistic response was found to relate to both an increase in joined-up thinking and multi-agency working amongst service providers but also the

establishment of 'one stop shops' where all the services and information can be housed and accessed in a single location.

7.2.4 Fear of engaging with a solicitor

Once legal aid is obtained and women begin working with a solicitor, lack of knowledge of the law and what to expect throughout the process remains a problem. The independent evidence required by solicitors entails more than a woman just telling her story – the solicitor may have to probe for details or question testimony and this can be perceived as judgemental and traumatic by the DA survivor. The challenge for solicitors centres on how to obtain the required evidence in a delicate, subtle and sensitive way.

It was reported that service users were usually frightened, confused and emotionally exhausted at the point they contacted solicitors, but their experience was that many solicitors were process driven and did not take into account the client's state of mind in their approach.

We have to make sure that the solicitors who do DV work believe the stories of women. Women often approach solicitors about DV when they have no hard evidence such as police involvement, notes from GPs...

Birmingham focus group participant

Focus group respondents tended to fear that their solicitor may not be able to understand their case well enough to represent them effectively; they had a perception that solicitors were not able to grasp the issues from the outset of their case. Conversely women themselves may not understand domestic abuse as a legal concept, so it becomes very important for the professional to understand. In some cases fear of racism can add to women's feelings of marginalisation.

It was reported that with such a traumatic, emotional subject it is hard for women to "bare their life to total stranger." They also feel intimidated by the formal environment, expect to have to dress up, and mind their manners: "they see a guy behind a desk and go to jelly." One client reported that as someone who is trying to access legal services independently, who is not used to formal environments she feels she "can't get the words across what I want to say. If I can't get my story across very well then they can't represent me properly." Another client felt that between client and solicitor "something is missing... I just sit back and say God help me." In the experiences of the Leicester and Nottingham focus groups, when a woman does access a solicitor independently, the solicitor does not signpost to a support service.

Women at the Birmingham focus group offered the following 'top tips' for solicitors in dealing with DA survivors:

- Come out from behind the desk, try to create a friendlier atmosphere and cultivate a more approachable 'bedside manner'.
- Help the woman to feel comfortable and secure, for example by encouraging her to bring a friend to appointments.
- Don't let her carry on telling her story and assume that you understand - check and clarify with the interpreter.
- Recognise cultural diversity.
- Try not to rush the process through.

Women reported that *violence* is prioritised by solicitors over *abuse* – "psychological abuse means nothing to the solicitor." Women may be suffering oppressive financial

and sexual control and intimidation, but they doubt they will be believed by the solicitor or whether this treatment will qualify in the eyes of the law.

Clients are always asked: “Have you been to hospital with your injuries?” But why does abuse have to be measured in black and blue?

Cambridge focus group participant

The solicitor or the client may not understand how domestic violence fits with their story. In one example the solicitor could not see how the case constituted abuse. The support worker encouraged the client to write her story and went through it point by point, then was able to go and explain this to the solicitor.

WAITS representative

There were also some examples of inadequate support on the part of the solicitor reported:

The solicitor’s awareness of domestic violence was really poor. The woman had to repeat her story lots of times and it was obvious that the solicitor was struggling to believe her. The solicitor was shocked and made judgement comments like “you never told the police?” and “you never went to your GP?” She never told the police, as her husband was a police officer.

Support worker, Birmingham

Last week I went to the solicitors with a woman and her solicitor had contacted the opponent’s solicitors and seemed to believe his version of events. The woman was told “say you have had an affair, you can divorce him and you never have to see him again.” The woman was very distressed as she has never been unfaithful and would not wish to admit to such conduct. In this case advice on divorce does not help her DV situation.

Support worker, Birmingham

What we are finding is if women are going to solicitors for a DV injunction the burden of evidence placed upon them seems higher, whereas if we do a DIY injunction for them we can get a 12-month injunction based on just the woman’s evidence.

Support worker, Birmingham

The issue of sharing of information and confidentiality across the solicitor network was found to be a real issue as the second example (above) illustrates. Solicitors need to be aware of the complexity and sensitivity associated with DV cases.

Women often felt confused by actions taken by their solicitor. For example where an injunction was obtained, service users felt that its meaning had not been explained to them, nor the action they should take in the event of any breach.

Many users had been told by solicitors that they “couldn’t have an injunction”, but none of the users we spoke to knew the reason for this, nor had alternative options been discussed with them. Some users felt that their solicitors hadn’t really known what they were doing, as they didn’t seem to

*know the subject area. This had led to a loss of confidence in solicitors as a route to protection.*¹⁰

To proceed in the most productive way solicitors would have to: avoid making assumptions; listen to and understand individual and cultural aspects of a case and; build rapport to cultivate an atmosphere where survivors can express themselves without feeling judged or stereotyped. Focus groups reported that solicitors need opportunities for direct face-to-face empathetic work with survivors to be effective. These points reflect some of the emerging good practice detailed in Annex C, and could include home visits where safe to do so or meetings in other organisations which clients find a safe and informal environment.

One head of a legal firm involved in the consultation reported that she trains her solicitors in the ‘people skills’ of dealing with DA cases through the Freedom Programme. This three-day training course enables professionals to more effectively support those they work with who are experiencing domestic violence and abuse and raises their awareness about abuser behaviours, tactics and beliefs. The firm bears the cost of this training, which as a holistic training carries no CPD¹¹ points. However, most focus group participants strongly agreed that solicitors need attitude and skill based training in both diversity and DA awareness.

A solicitor involved in the consultation reported that in reality legal aid cases are often given to trainees due to poor remuneration. Solicitors reported that there are no funding streams for work which they would like to do and for which they see a need. They also pointed out some systematic hurdles, for example that legal aid can be revoked due to small missing details (e.g. paperwork), which does not recognise the fact that DA survivors have disrupted lives.

7.2.5 Intimidation at formal legal environment

Going to court can be even more frightening and intimidating and women desperately need someone in court who can offer emotional support. The civil and criminal courts were described as “a scary process. It is not victim centred.” It was reported that: “the civil and criminal courts don’t talk to each other, they are end to end processes in parallel – a woman may understand a given moment in time but not the whole process.” Women need to be familiar with this very traditional setting, to know who is who and how it works:

I didn’t even know how to call the judge; this is not included in the EFL course. How do I behave? Do I speak up?

Woman at Birmingham consultation

Solicitors expressed the need for a ‘quality standard’ for injunction, to enable them to feel confident to explain to their client what will happen. The lack of use of video-linking, screens, female judges and pre-trial visits in civil courts were highlighted, all of which would assist in reducing the formality and intimidation of a court experience. The perpetrator’s solicitor can often use the survivor’s words against them which can be very traumatic - the solicitor needs to prepare them for this and help the client to understand that this is not personal but just ‘playing the game’.

10 LSC Domestic Violence Group Consultation on seeking protection from harm via the legal system 2004.

11 Continuous Professional Development.

7.3 Barriers for Consideration by the LSC

7.3.1 Cultural and family pressure

A significant factor in accessing legal aid for BAME women who are suffering domestic abuse is the issue of cultural and family pressure. For some married women within BAME communities, their cultural, religious or personal beliefs confer high importance to the sanctity of marriage, often placing the burden of responsibility on the woman to protect and uphold the union at any cost. Research suggests that some Asian women experiencing DV are particularly affected, as when married they must protect the family's 'izzat' (honour¹²). A failed marriage is often blamed on the woman and seen to disgrace the family. Consequently, for many Asian women and indeed many others from the BAME community who are abused by their husband or partner, the possibility of separation or divorce is not seen as a viable option. Perceived pressure from legal advisors who see divorce as the only solution can be counterproductive, and as a result more BAME women are deterred from seeking out statutory services in the future. Although women might not wish to leave the relationship or see their partner charged, they are still in need of information and support to resolve their difficulties. As discussed some women from various BAME communities, particularly South Asian, are chaperoned everywhere on those occasions when they leave the house, so they are unable to report or seek help.

Another aspect of cultural or family pressure is the extent to which BAME women often experience physical, financial or other reprisals for speaking out against their abuser(s), including ostracism from their families and communities. This is particularly the case for women involved in forced marriages, where enforced dependence on their spouse and limits on their personal freedoms make accessing statutory services all the more difficult. Fear of reprisal is also likely to be shared by women who experience domestic abuse or abuse at the hands of multiple family members. Consultation raised this as an issue with gypsy/traveller communities as well, where violence/abuse is not reported and not acknowledged within the community.

Case study D: Honour based violence

Indi was born in the Punjab and brought to the UK aged one. In her home environment she was strictly monitored and controlled emotionally, physically and mentally by her family, other families and the wider community. This extended to friends, clothes, TV, music and every aspect of life. The rules of izzat were strictly enforced and there were severe punishments for breaking them. The education system failed Indi as it never questioned her poor attendance record or removal from school for two years.

From age 13 Indi was groomed to be a wife and at 17 she was forcibly married to a man, who she was forced to sponsor through immigration processes until he achieved Indefinite Right to Remain. Her father told her that he would kill her and go to jail if she did not comply. The Registrar and Immigration authorities also failed Indi on these occasions by failing to spot anything amiss. She was drugged and raped by her husband and this abuse continued for 8 and a half years, during this time she had three miscarriages – let down by the NHS who did not notice anything was wrong at home.

Throughout her ordeals Indi felt she had nowhere to turn within or outside the family, she feared disobeying or dishonouring her family, she was not aware of support services and the only option seemed to be suicide. After the third miscarriage she decided to flee. Her family engaged a bounty hunter to find her and she was made to feel like the perpetrator, she suffered from isolation, loneliness and depressions and did not dare to make Asian friends. Now after 14 years, she is able to help other victims through her job and has taken control of her life and destiny.

¹² Shah-Kazemi 2002; Rai and Thiara 1997, cited in Parmar, Sampson and Diamond 2005.

The Leicester and Nottingham consultation reported that many ‘community leaders’ attempted to mediate in cases where there were marital problems including abuse. They were untrained and usually had their own agenda, which was keeping the family and community together. They often viewed support services as “home wreckers”, and certainly did not refer survivors to them.

7.3.2 Practical and legal implications of seeking help

Further factors that may influence BAME women’s ability or desire to seek the support of statutory services are the practical and legal implications of doing so. For many women who live with domestic abuse, marriage is the sole means of supporting themselves – both financially and emotionally – and they may not want or be able to leave, despite the abuse they are suffering. A woman may lack alternative options in terms of employment or other means of subsistence, skills and experience to obtain a job, social networks or housing, or the belief that she has the strength to live independently.

For BAME women specifically there might also be other practical implications, such as the impact on immigration status, which in turn might make them more hesitant in accessing services. This is closely related to the issue of legal status where immigration procedures are underway or a limited leave permit or visa has been granted. Throughout the consultation, a particular focus was placed on immigration issues, which often go hand in hand with DV cases among BAME women. It was not commonly known that domestic abuse cases do not fall within ‘access to public funds’ and legal aid can be accessed for domestic abuse regardless of immigration status.

However, even with the benefit of legal aid, women with no recourse to public funds who leave their sponsor cannot access accommodation or benefits, and they therefore face destitution if they leave. Any funded refuge places are quickly taken up, particularly as women with no recourse do not move on, having nowhere else to go. Women living in such circumstances are extremely vulnerable and dependent on their partner, and their lack of independent status can be used as a repressive tool by the perpetrator. The stress, isolation and pressure of living in such conditions can lead to mental health issues.

The consultation in Leicester and Nottingham indicated the problems support staff face, often spending days trying to find a bed for women with no recourse through homeless hostels, the Red Cross or church services. These were difficult to find, usually only for a week and often in conditions that were unsuitable for a traumatised woman with little or no English and no knowledge of how to navigate the UK systems.

Examples of how many women have literally no choice but to go back to an abusive relationship were raised during the consultation:

- A woman with no recourse to public funds, whose children were taken by social services - she was given a sleeping bag and told to go and sleep in the cemetery.
- A pregnant woman with no recourse to public funds who could get no help – an estate agent took pity on her and allowed her to squat in vacant houses until she had her baby.
- A woman who was emotionally pressured and intimidated by her abusive partner to drop charges against him, saying she had exaggerated – service providers and Crown Prosecution Services would not support her thereafter.

Finally, even where a woman was able to gain a place in a hostel, focus group participants pointed out that there is stigma attached to living in a women's refuge, which are seen as "dark, dingy places where women hide themselves away."

When I told my ex-colleague I was leaving to work for a women's refuge, she told me I'd be a lesbian or a man-hater within a year.

Cambridge focus group respondent

7.3.3 Issues of language and interpretation

Different view points arose during the consultation events on whether it was preferable for a woman to receive interpretation services from someone from her own community. Some argued that "there is a lot that doesn't need to be explained if you come from a similar background", and research suggests that Asian women in particular preferred it if their advocate was also Asian and could speak their language. This was especially important when the woman could not speak English and if there were immigration issues as well.

However, women also expressed a strong fear of being exposed to their community or family through interpretation services. It was noted that ensuring clarity of boundaries is more important when both the interpreter and client are from small, local communities. The interpreter was viewed as holding absolute power:

In one example, rather than providing interpretation, an 'independent' interpreter confronted the client in her own language and said "Why are you doing this? Why are you bringing shame on your community?" The woman then kept quiet and we didn't understand why.

Birmingham CBO support staff

The consultation reiterated that a relative acting as an interpreter is inappropriate in a domestic abuse case. Solicitors should receive guidance as to why this is inappropriate, and need to be aware when this is happening. Where possible, solicitors should check if an interpreter is needed at the point the appointment is made to ensure this can be arranged.

We had problems with Mirpuri. The only person available to interpret for this woman was her dad and she did not want him to be in the room to translate for her.

Birmingham caseworker

Use of male interpreters can be inappropriate as disclosure can be of sensitive nature, including reports of sexual abuse which women may withhold from a male solicitor or interpreter, as they feel unable to discuss such incidents with a member of the opposite sex.

It is also critically important that interpreters have knowledge or training in relation to DA, as many can lack sensitivity and awareness in how they deal with traumatised women. For example, WAITS have observed that how they interpret for women with their solicitors is completely different to how a standard interpreter would do so.

Literacy was noted as a particular issue for the gypsy/traveller community but is also relevant to other groups and individuals as well. More widely it was agreed that there is a great need for culturally specific support services, which are free from terms and jargon which can overwhelm and confuse women. For some focus group participants the word 'legal' is a barrier in itself – it implies links to criminal activity as opposed to advice and support and describes a long journey of courts, expenses etc.

The key message was that individual service providers must be aware of the local profile and not take a 'one size fits all' approach. A common complaint was found to be that 'services don't exist' when in fact they do, but are not 'seen' by some groups.

8. Recommendations

'Equality' is not about treating everybody the same. Equity means making sure that the individual requirements of different people and different communities are taken into account. When some groups are excluded or lack the knowledge, connections or assertiveness to participate as fully as others, they must overcome obstacles to access in order to ensure fairness. This is important when carrying out equality impact assessments and monitoring the impact of service reforms.

The recommendations laid out below arose from the focus group discussions with BAME women and intermediary agencies and reflect their views on how these obstacles can be reduced in order to promote equality of access with regard to legal aid.

Access

Given the problems of obtaining a solicitor offering legal aid highlighted by the consultation, it was recommended that efforts be redoubled to make sure that there are at least two firms offering legal aid in any one area. If possible, solicitors firms should be incentivised to offer BAME services as currently only 1 in 10 do so. Information providing services such as Citizens Advice Bureaux should be provided with up-to-date information about which solicitors are offering legal aid in their area.

Action 8.1: The LSC to explore means of incentivising solicitors to provide specialist BAME services

Improving location and format of information

The consultation generated wide feedback on the format of information produced by the LSC, and in particular the means of distributing this information. Criticism of existing leaflets centred on the very broad logo and strap line – 'Need help with your problems?' It was argued that this should be more specific e.g. focused on housing, debt, DA, community legal advice etc and that it currently does not focus on legal aid. It was felt that the leaflets and posters display too much information; there are too many words and they are not direct enough. Clear, accessible information needs to be provided by the LSC to answer questions regarding rules, regulations and processes regarding legal aid.

There were numerous suggestions of innovative means of widening BAME women's access to information. The form and location of information should reflect the fact that some DA survivors are accompanied at all times.

It was recommended that the LSC 'campaign' should be widened, to become similar in scale to campaigns for swine flu or no smoking for example, perhaps utilising cinema and bus adverts etc. Numerous other mechanisms for reaching women were proposed – these are listed in Annex C. Of these recommendations, placing information in women's toilets was considered to have the most impact, as well as in those services that women access at a crisis point e.g. hospital, police. It was also generally considered productive for the LSC to try to bring some of the big supermarkets on board for an awareness-raising campaign. Service providers need to be in a position to identify women at risk and proactively signpost them to information that enables them to make an informed choice, rather than just passively making information available.

It was considered extremely important that phone numbers to service providers are untraceable and that they are free (the LSC free phone number is currently not free from a mobile). Solicitors and clients also felt it was very important to have full, up-front information about eligibility, means testing and contributions, which could be quickly and easily calculated on an individual basis.

It was recommended that more emphasis could be placed on raising awareness of LSC branding using the 'picnic table' symbol. LSC partners should be encouraged to display the CLA branding.

Action 8.2: The LSC to produce a clear and simple Q&A style format leaflet

Action 8.3: The LSC to explore innovative new ways of making information more accessible such as in women's toilets and through supermarket campaigns

Action 8.4: The LSC to ensure that when an agency or organisation is involved in leaflet distribution, that they are given accompanying training or awareness-raising regarding the importance of proactively signposting of information

Action 8.5: The LSC to strive towards a free phone number from a mobile and website and phone number that are untraceable

Action 8.6: The LSC to widely promote use of new eligibility calculator tool as soon as it is available

Working through intermediaries (e.g. community based organisations)

Throughout the consultation high value was placed on the support women receive from small third sector organisations, such as voluntary and community based organisations. In the BAME context, it was also felt that the workforce of these types of organisations often reflects the communities they serve.

The Limehouse Review reported that the holistic nature of the service was fundamental to its success. The caseworker would act as a single point of contact and case-manage the client's various problems. They were able to act as advocate on behalf of clients, make enquires, chase up matters and follow up referrals. The 2009 consultation confirmed that where this kind of close relationship of trust is built with a client, showing empathy to her situation, the woman was more likely to pursue her case to an end.

It was recommended that the LSC needs to do more work with such organisations and to fund local voluntary agencies to improve the help and support they can offer. This would include further development of local networks/partnership working at a regional level.

Action 8.7: The LSC has examples of best practice around the country where it is liaising with CBOs and NGOs to boost the impact and reach of their services. These initiatives where the LSC acts as a partner to CBOs or a broker between CBOs and solicitors should be documented, publicised and replicated.

Action 8.8: The LSC should link with existing Home Office Initiatives, Government Equalities Office and EHRC to collaborate and improve services,

especially with regard to specific abuse against women such as honour based violence and human trafficking.

Diversity/Domestic abuse awareness-raising for solicitors

The consultation demonstrated that interaction with a solicitor can be intimidating for many women. There is much that solicitors could do to reduce client anxiety in terms of recognising cultural diversity, cultivating a secure informal atmosphere, taking time to build rapport, 'believing' the clients story, observing proper confidentiality, avoiding a rush to judgement, showing empathy and improving awareness of abuser tactics.

A strong recommendation that emerged from the consultation was the need for funding release for skills and attitude-based training for solicitors around diversity/BAME awareness, but principally around DA awareness. It was advocated that the LSC should fund training support grants for this purpose. This reflected a wider training need reported for all frontline staff (court staff, police. probation etc).

Action 8.9: The LSC to investigate the potential of training in DA and/or diversity for solicitors.

Annex A: Birmingham Event Schedule

**Engaging with BAME Women Experiencing Domestic Violence
In association with Women Acting in Today's Society (WAITS)
Friday 23rd January 2009, 10.30 – 14.00hrs
Room 5 &6, St Philips Chambers, Birmingham**

Purpose of the event

The event will provide qualitative research and build upon the evidence base with regard to barriers for BAME women accessing legal aid. It follows a survey conducted by Women's Resource Centre and a Literature Review conducted by Leicester University.

The focus group aims to gain qualitative information based on BAME women's own perceptions and experiences in accessing legal aid and identify the themes behind some of the issues highlighted.

The information will be used to inform our equality impact assessments (EIA) of Civil legal aid reforms and improve the service delivery of publicly funded legal services.

We aim to engage with a wide range of women from Black, Asian, Chinese and Refugee and Migrant backgrounds

Attendees will have the opportunity to hear about the LSC Client and Public Engagement Strategy.

By the end of the event the outcomes will be:

- A greater understanding and awareness of the barriers/ issue for BAME women experiencing domestic violence
- Ideas for how to improve access to legal aid services for BAME women's
- Attendees will be empowered with information about legal aid services
- Input into the LSC Client and Public Engagement Strategy

Timetable

10.30	Registration	Rachel Davies Legal Service Commission
10.30 - 10.45	Chair's Welcome	Zira Hussain Barrister
10.45 - 11.00	Client and Public Engagement	Liz Long Legal Service Commission
11.00 - 11.15	Question and Answer Session	Zira Hussain Barrister
11.15 - 11.30	Domestic Violence	Marcia Lewinson WAITS
11.30 - 11.50	Breaking the Silence DVD	Ashram Housing Association
11.50 - 12.00	Question and Answer session	Zira Hussain Barrister
12.00 - 12:30	BREAK (light lunch provided)	
12.30 - 13.30	Workshop 1: Barriers for BAME women accessing legal aid	Zira Hussain WAITS (tbc)
	Workshop 2: Improving access to legal aid for BAME Women	Liz Long WAITS (tbc)
13.30 - 13.40	Round-up and further Q&A	Zira Hussain Barrister
13.40 – 14:00	Optional mini tour of St Philips Chambers	
14.00	Close	

Annex B: Cambridge Event Schedule

Domestic Violence Access to Justice– Multi-stakeholder Event
Tuesday, 23 June 2009, 10am – 2pm
Homerton College, Cambridge

Purpose of the event

The event will provide valuable feedback on clients of Women's Aid (WA) & Women's Refuge (WR) accessing legal aid, building on an earlier event held in Birmingham looking specifically at the needs of Black Minority and Ethnic (BAME) victims of domestic abuse.

We will gain qualitative information based on participant's own perceptions and experiences in accessing legal aid and identify the themes behind some of the issues highlighted.

The information will be used to inform our equality impact assessments (EIA) of civil legal aid reforms and improve the service delivery of publicly funded legal services.

We aim to engage with a wide range of professionals from WA and WR as well as partner agencies, such as the Police, Her Majesty's Court Services (HMCS), Crown Prosecution Service (CPS) and some legal aid providers, specialising in domestic abuse.

By the end of the event we will have achieved:

- A greater understanding and awareness of the barriers/ issues for all women experiencing domestic abuse
- Ideas for how to improve access to legal aid services for women especially those seeking assistance through WA/WR
- Participants improved understanding of legal aid services available
- Input into the Legal Services Commission Client and Public Engagement Strategy and local procurement plans for new contracts from April 2010

Timetable

9.30am: Arrive

10am: Introduction and welcome - Tina Fahm, Commissioner for the Eastern Region

10.10am: Speech - Carolyn Regan, Chief Executive, Legal Services Commission

Speech – Bal Howard, Project & Performance Officer, Suffolk Police

Speech – Anne Webber, Solicitor, Anne Webber & Co Solicitors

11.15am: Tea/Coffee

11.30am: Workshop - Themed discussions about accessing legal aid & how best to meet the needs of DA victims

12.30pm: Review including questions from the workshops and round up of the day

1.00pm: Lunch and networking

2pm: Close

Annex C: Suggestion for Improving Services

Focus group respondents proposed the following locations as being the most likely to succeed in delivering information - such as the CLA helpline number - to domestic abuse survivors:

- Information in children's centres, nurseries, prenatal clinics.
- Information in police stations, post offices, GPs and hospitals.
- Information displayed in local papers, in free papers on buses.
- Information displayed in women's toilets.
- Information in churches, mosques and temples.
- Information in hairdressers, gyms, leisure centres, local grocery stores.
- Information on community notice boards.
- Listings in Yellow pages and Thompsons.
- LSC advert to be played before the film at the cinema.
- Leaflets in boxes of sanitary products.
- Posters in pub toilets/advertising on beer mats etc.
- Facebook (different techniques to access young people).
- Advertising on domestic bills, council tax bills etc.
- Leaflets to be placed in children's book bags at schools.

In terms of the format of information it was suggested that the most powerful mechanisms would be:

- Audio materials and DVD, not just leaflets.
- Media campaigns on community radio and local TV channels.
- Access through support groups e.g. visiting speakers.
- Discreet credit card style information cards.
- Display numbers for help in public places.
- Use of case studies as opposed to facts to illustrate the point.
- Publication of survivor stories.
- Use of symbols where literacy is low or English is not widely spoken.
- More posters defining what DA is (some women don't think they are suffering abuse).
- Stronger messages that DA is a criminal offence and more information about non molestation orders.

Annex D: Speaker Biographies

Tina Fahm – Commissioner LSC

Tina was appointed to the Commission on 1st November 2004. Her responsibilities with the Commission include chairing the Provider Diversity Reference Group and membership of the Audit committee and the Human Resources Committee.

Tina is also the Commissioner with a special interest in the LSC's London region and the Cambridge area within the Midlands region. Tina is a governor of the Westminster Foundation for Democracy, a NDPB of the Foreign and Commonwealth Office and serves as the Home Secretary's representative on selection panels for independent members of the Hertfordshire Police Authority.

Tina is a Justice of the Peace and the Director of a management training company.

Carolyn Regan – Chief Executive LSC

Carolyn joined the Legal Services Commission in September 2006. Prior to this Carolyn worked at the NHS, joining as a national management trainee there in 1980.

She held management roles at Middlesex Hospital, Riverside Health Authority and Ealing Health Authority. She became Chief Executive of West Hertfordshire Health Authority in 1996 and of East London and the City Health Authority in 1999.

Carolyn was Chief Executive of North East London Strategic Health Authority from its inception in April 2002 until its integration to NHS London in July 2006. She is also an advisor for Arts and Business and a trustee of Action Space.

WAITS (Women Acting in Today's Society)

WAITS is a women's Birmingham based educational charity established in 1992 on the foundation of community organising and is concerned with women's involvement in public life. WAITS' domestic violence projects provide low risk support, advocacy and befriending with a particular focus on BAME (Black, Asian and Minority Ethnic) and Chinese women.

WAITS work to encourage and empower women through one to one and group work, taking a holistic approach and also offer training for agencies. WAITS co-hosted the LSC consultation event in Birmingham in January 2009 and in conjunction with Ashram have also produced a DVD to enable decision makers and agencies to understand the needs of BAME DV survivors.

Zira Hussain – Barrister, St Philips Chambers

Zira Hussain was called to the Bar in 1998 and has practiced in family law since completing pupillage. She specialises in all aspects of family law with a particular emphasis on ancillary relief work.

St Phillip Chambers is one of the largest barrister chambers in the UK. It was formed in 1998 as a result of a merger between two long-standing chambers. It has quickly gained a reputation for innovative change and become a leading player at the regional and national bar.

Bal Kaur Howard - Project and Performance Officer, Suffolk Constabulary

Bal is currently employed by Suffolk Constabulary in the Domestic Abuse Unit, as a Project & Performance Officer for Honour Based Violence (Forced Marriage, Female Genital Mutilation) and Communities. She has 12 years of sales experience in various industry sectors, such as telecommunications, information technology, software recruitment and utilities. She also has 10 years of experience in the import/export industry.

Bal was born in India and was brought to Britain aged one. She was forced into marriage at the age of 17 in Darlington and forced to sponsor her husband for permanent residency in the UK.

Bal is keen to share her experience to raise awareness and reduce the isolation of victims in order to increase reporting. In Bal's words "I refuse to take my past into the future and regard myself to be an empowered survivor." Bal is also a volunteer at Karma Nirvana since December 2007 after reading Jasvinder Sanghera's book, *Shame*.

Bal advocates on issues of South Asian women and men on domestic violence and honour based crimes, raising awareness and the voices of victims and survivors who experience crimes rooted in the name of honour and giving practical and emotional support.

Anne Webber - Solicitor

Anne Webber and Dawn Casterton belong to a small firm specialising in only family law and have between them 25 years experience of family law. Anne specialises in divorce and children matters.

"We believe our size and the fact that we specialise only in family law, ensures that we provide our clients within Cambridgeshire and beyond with an efficient, cost effective service, tailored to suit each client's individual needs and achieve the best possible resolution for them. "

Annex E: Participant Data

Cambridge Event participants

The event was attended by 45 representatives of the following agencies:

East of England Regional Assembly
Legal Services Commission
Adams Moore Solicitors
Cambridge Women's Aid
Sanctuary Housing
Norfolk County Council
Suffolk Legal Partnership
CJU Manager - Southern Cambridgeshire Police
Ashton Graham Solicitors
Cambridge Women's Aid
Welwyn Women's Aid
Cambridge Housing Society
Domestic Violence Coordinator and IDVA Service Manager Cambridgeshire
County Council
Parent Support Advisers - Cambridgeshire County Council
Det. Superintendent Suffolk Constabulary.
Ashton Graham Solicitors
Cambridge Women's Aid
CPS Cambridgeshire
Cambridgeshire County Council
Norfolk Constabulary
Kerseys Solicitors
Peterborough Women's Aid
Women's Aid
Anglia Ruskin University
Parent Support Advisers - Cambridgeshire County Council
Suffolk Police
Wolverhampton University
Anne Webber Solicitors
Women's Aid
Colchester & Tendring Women's Refuge
Cambridge Probation
Allan Rutherford Solicitors
Domestic Abuse Unit - Cambridge
Cambridge Probation

Birmingham Event participants

There were 12 participants including Chinese, African, Asian, Mixed Race, Irish, Columbian, Spanish and African Caribbean women

Names have been withheld due to confidentiality
