



**DOMESTIC VIOLENCE AND THE  
MALE VICTIM:  
A STUDY OF THE PREVALENCE OF DOMESTIC VIOLENCE IN  
HOMOSEXUAL MALE PARTNERSHIPS, AND THE LAWS AND  
SOCIAL POLICIES THAT EXIST TO CONTROL AND PREVENT IT**

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**Abstract**

Gay men's domestic violence (DV) is not a new problem, just a newly recognised one. DV has been seen as a 'gendered' issue that only affects heterosexual couples where a female is always perceived as the victim, with the perpetrator always a male. Victims, especially males, find it hard to seek help and advice, and struggle to report this such crimes. This article explores the problem of violence in the home and how it affects same-sex relationships, focusing primarily on homosexual males. It examines the current incidence of DV and includes comparisons with lesbian and heterosexual couples. Modern day perceptions are investigated with a brief history of the law and assessment of legislation testing whether it provides a suitable and adequate framework in relation to the reporting and prosecution of DV in England and Wales.

**Keywords:** Domestic Violence, Domestic Abuse, Male Victims, Intimate Partner Violence, Violence Against Men, Gay Male Victims

**Introduction**

The emergence of Domestic Violence(DV) as a public concern is relatively recent. Previously it was regarded as a private matter that should be resolved in the home discouraging any outside involvement.<sup>2</sup> The majority of DV takes place against women which is not to say that men are never subject to it.<sup>3</sup> DV and abuse accounts for a significant proportion of dark crime, mainly because victims are wary of reporting it. This is more prevalent in the homosexual male sphere. The evident underreporting restricts knowledge about the nature of DV, its victims and the problematic construction of DV as a 'gendered, heterosexual phenomenon that is

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<sup>2</sup> Erin Pizzey, 'Chiswick Women's Aid: A Refuge from Violence' (1975) 95(6) *Journal of the Royal Society for the Promotion of Health* 297.

<sup>3</sup> Jonathan Herring, *Family Law* (8<sup>th</sup> edn, Pearson 2017) 302.

predominately physical in nature'.<sup>4</sup> Such views serve to marginalise victims of same-sex DV, even though prevalence rates are estimated to be on a par with heterosexual DV.<sup>5</sup>

It was the refuge movement and the growth of feminist writing, in particular *Scream Quietly or the Neighbours Will Hear* by Pizzey, that made DV a public issue.<sup>6</sup> More recently, DV has become recognised as not merely a private issue but a much wider social problem.<sup>7</sup> Most academic research focusses on the 'gendered' nature of DV where the female is the victim and the male is almost always the perpetrator with less focus on the homosexual, same-sex side of the problem. In 2015, only 3% of total research related to intimate partner violence within the lesbian, gay or bisexual sphere.<sup>8</sup> This discussion aims to assess the adequacy of the law and policies surrounding DV and the directions towards which the current law and procedures could be steered to protect vulnerable male victims and prosecute perpetrators in an easier, simplified and accessible way. Island and Letellier comment that the problem is almost totally ignored by the media, and often by the victims themselves.<sup>9</sup>

DV includes Domestic Abuse (DA) meaning that statistics include all forms of DA and DV. Currently DA is seen as psychological, financial and emotional, whereas DV is seen as physical and sexual. Both terms will be used throughout this thesis. There is no statutory definition of DV although the Government has included one in the forthcoming Domestic Abuse Bill:

Any incident or pattern of incidents of controlling, coercive or threatening behaviour, violence or abuse between those aged 16 or over who are or have been intimate partners or family members regardless of gender or sexuality.<sup>10</sup>

This can encompass but is not limited to the following types of abuse: Psychological, Physical, Sexual, Financial, Emotional. Interestingly the definition includes 'regardless of gender or sexuality'.

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<sup>4</sup> Catherine Donovan and Marianne Hester, 'I Hate the Word 'Victim': An Exploration of Recognition of Domestic Violence in Same-Sex Relationships' (2010) 9(2) *Social Policy and Society* 279.

<sup>5</sup> Pam Elliot, 'Shattering Illusions: Same-Sex Domestic Violence' (1996) 4(1) *Journal of Gay and Lesbian Social Services* 1.

<sup>6</sup> Erin Pizzey, *Scream Quietly or the Neighbours Will Hear* (Pelican 1979).

<sup>7</sup> Nicola Groves and Terry Thomas, *Domestic Violence and Criminal Justice* (Routledge 2014) x.

<sup>8</sup> Katie Edwards et al, 'Intimate Partner Violence Among Sexual Minority Population: A Critical Review of the Literature and Agenda for Future Research' (2015) 5(2) *Psychology of Violence* 112.

<sup>9</sup> David Island, and Patrick Letellier, *Men Who Beat the Men Who Love Them: Battered Gay Men and Domestic Violence* (Routledge 2012).

<sup>10</sup> Pat Strickland and Grahame Allan, *Domestic Violence in England and Wales*, House of Commons Library Standard Note SN/HA/6337, 21 June 2017 5.

## 1 History, Incidence and Comparisons

One of the earliest reported cases of DV was that of Margaret Neffeld of York. In 1395 she produced witnesses before an ecclesiastical court to show that her husband had attacked her with a dagger, wounding her and breaking her bones. The court decided that this was acceptable, 'reducing her from errors,' and she was forced to continue living at home.<sup>11</sup> As marriage was a religious union, ecclesiastical courts were the only place with power to order judicial separation. Many such actions were unsuccessful.<sup>12</sup> Writing in the 1760s, William Blackstone noted that, under 'the old law' [medieval law], a husband 'might give his wife moderate correction'.<sup>13</sup> Courts would only step in if violence resulted in actual bodily harm. Prior to the mid-1800s, most legal systems viewed wife beating as a valid exercise of a husband's authority depicted, for example, in *Punch and Judy* shows.<sup>14</sup> The phrase 'rule of thumb', rumoured to have come from a statement by Sir Francis Buller, an eighteenth-century judge, apparently condoned violence towards women suggesting a man may beat his wife with a stick no wider than his thumb.<sup>15</sup> The first known use of the term 'domestic violence' in a modern context, meaning violence in the home, was in an address to Parliament by Jack Ashley MP in 1973<sup>16</sup> in response to constituency letters he received about battered wives. He characterised DV as a subject cocooned in prejudice and buried in fear. Over half of these letters complained about a failure by the police to act leading Ashley to propose several changes to policing and legislation though reform did not occur until the early 2000s.

For several decades, violence which took place in relationships was considered a private matter, rather than a crime. Historically, DV has been viewed as a heterosexual family issue with limited concern directed towards violence in same-sex relationships.<sup>17</sup> A 1999 analysis of studies on DV concluded that lesbians and gay men are equally likely to abuse their partners.<sup>18</sup> DV has been viewed by feminists as 'a manifestation of patriarchal power',<sup>19</sup> characterising the phenomenon as something acted out by men upon women, therefore ostracizing male

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<sup>11</sup> Michael Freeman, *Domestic Violence* (Routledge 2016) xvi.

<sup>12</sup> Carolyn Dinshaw and David Wallace *The Cambridge Companion to Medieval Women's Writing* 47.

<sup>13</sup> William Blackstone, *Commentaries on the Laws of England* (Adelaide University Press 2014) 445.

<sup>14</sup> Neil Gaiman and Dave McKean, *The Tragical Comedy, or Comical Tragedy, of Punch and Judy* (Bloomsbury Publishing 2006) 37.

<sup>15</sup> James Clapp and Others, *Law Talk: The Unknown Stories Behind Familiar Legal Expressions* (Yale University Press 2011) 222. A cartoon published in November 1782, lampooned Judge Buller as 'Judge Thumb'.

<sup>16</sup> HC Deb 16 July 1973, vol 860, cols 218-28.

<sup>17</sup> Jeffrey Aguinaldo, 'Partner Abuse in Gay Male Relationships: Challenging 'We are Family' (MA thesis, Wilfred Laurier University 2000) 12.

<sup>18</sup> Leslie Burke and Diane Follingstad 'Violence in lesbian and gay relationships: Theory, prevalence, and correlational factors' (1999) 19(5) *Clinical Psychology Review* 487.

<sup>19</sup> Kristin Anderson 'Theorising gender in intimate partner violence research' (2005) 52(11) *Sex Roles* 853.

victims. In the 1980s there was considerable criticism of the policing of DV, few perpetrators were prosecuted, or even arrested.<sup>20</sup> The Government responded by improving guidance, notably in the Home Office Circular on Policing Domestic Violence,<sup>21</sup> which states that DV complaints should be dealt with in the same way as a violent crime committed by a stranger. The Family Law Act 1996 improved upon previous civil law remedies against DV, following a report by the Law Commission that 'they were complex, confusing and lack integration'.<sup>22</sup> Civil remedies include non-molestation orders - for one party not to molest the other – and occupation orders.<sup>23</sup> Herring argues that non-molestation orders merely delay treating DV as a crime.<sup>24</sup> Occupation orders under section 33 Family Law Act 1996 are more severe removing an abuser from the home and can give the victim the right to enter or remain in the property. One of the reasons for minimal protection for gay men and women stems from the fact that, for a several decades, homosexual relationships were not legally recognised. March 2019, the ILGA<sup>25</sup> have reported there to be 70 countries in the world where homosexual acts are still criminalised.<sup>26</sup> Britain was no trail blazer for decriminalisation, only partially doing so 50 years ago with the Sexual Offences Act 1967, which decriminalised homosexual activities in private between consenting men over the age of 21. In contrast, lesbian activities were never criminalized. Until 1994 there was no such offence of male rape.<sup>27</sup> Male rape became a criminal offence under sections 142 and 143 of the Criminal Justice and Public Order Act 1994.

DV is not just a problem we face in the United Kingdom. In 1993, the United Nations published a resource manual<sup>28</sup> urging countries to begin to treat DV as a criminal act, and that the right to a private family life<sup>29</sup> will not include the right to abuse other family members. An issue in relation to the same-sex side of the legal argument is that in many countries, the operating definition is overwhelmingly one of male violence against a female partner. For them this is

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<sup>20</sup> Pat Strickland, *Labour policy on domestic violence – 1999-2010*, House of Commons Library Standard Note SN/HA/3989 22 May 2012.

<sup>21</sup> Sharon Grace, *Policing Domestic Violence in 1990s* (HMSO Books 1995) p.vii.

<sup>22</sup> Law Commission, *Family Law Domestic Violence and Occupation of the Family Home* (Law Com No 207, 1992) para 1.2.

<sup>23</sup> Family Law Act 1996, s.42.

<sup>24</sup> Jonathan Herring, *Family Law* (8<sup>th</sup> edn, Pearson 2018) 307.

<sup>25</sup> In March 2019 The International Lesbian, Gay, Bisexual, Trans and Intersex Association noted 70 countries where homosexual acts are still criminalised, 6 punishable by death, Lucas Mendos, 'State-Sponsored Homophobia' *ILGA* (13<sup>th</sup> edn, 2019) 15, 16.

<sup>26</sup> Lucas Mendos, 'State-Sponsored Homophobia' *ILGA* (13<sup>th</sup> edn, 2019) 15.

<sup>27</sup> Laura Hammond, 'Perceptions of Male Rape and Sexual Assault in a U.K. Male Sample: Barriers to Reporting and the Impacts of Victimisation' (MA thesis, University of Huddersfield 2016) 5

<sup>28</sup> United Nations, *Handbook for Legislation on Violence against Women* (UN No ST/ESA/329, 2009).

<sup>29</sup> European Convention on Human Rights (ECHR) Article 8 .

the problem.<sup>30</sup> If, as research suggests, violence in same-sex relationships happens at a frequency equal to or greater than that of heterosexual couples, it could be argued that the direction of current policies and practices are unsuitable, and in need of fundamental transformation. A further problem faced by the LGBT population is societal attitudes, and the slow rate in which change is made. Russia, for instance, has recently introduced new laws to stop the publicity of 'gay propaganda'. In August 2018 a schoolboy aged 16 was reportedly given a fine for the first time under these strict rules.<sup>31</sup> The rules were signed into law by Vladimir Putin apparently to 'protect' vulnerable children from seeing homosexuality as being a norm in society.

The Crime Survey of England and Wales (CSEW) publishes annual estimates of DV occurrences, but the unwillingness of victims to speak about their experiences makes it difficult to find truly accurate figures. One of the latest reports show that 13.6% of men have experienced DV equivalent to an estimated 2.2million male victims between the ages of 16 and 59.<sup>32</sup> A staggering 713,000 men experienced DV in the last year, with the police recording 1.1million DV-related incidents.<sup>33</sup> On average the police receive a DV-related call every 30 seconds, yet it is estimated that only 24% of DV crime is reported.<sup>34</sup> The overwhelming majority of cases are not prosecuted; fewer than 10% of incidents that are reported will end in conviction. In the year ending March 2016 there were 1.03 million incidents reported, of which 421,000 were deemed by the police to be criminal offences. Yet there were only 75,235 convictions.<sup>35</sup> This highlights that, even though the police deem there to be criminal offences occurring in a large percentage of reported DV, it remains unpunished. In the latest CSEW to the year ending March 2018<sup>36</sup> DV occurrences are still alarmingly high. An estimated 2 million adults were affected by DV, with 695,000 of them being male. A substantial 599,549 were recorded by the police; an increase of 23% from the year before. The survey again states that women are twice as likely to experience abuse. The differences between the experiences of male and female victims are starting to become more apparent.

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<sup>30</sup> Russel Dobash and Emerson Dobash, 'Women's Violence to Men in Intimate Relationships (2004) 44 *British Journal of Criminology* 325.

<sup>31</sup> Tom Barnes, 'Teenager becomes first minor prosecuted under Russia's anti-gay 'propaganda' laws' *The Independent* 11 August 2018.

<sup>32</sup> House of Commons Library Standard Note SN/HA/6337 21 June 2017 6.

<sup>33</sup> Office for National Statistics, *Domestic Abuse in England and Wales: year ending March 2017*, 23 November 2017.

<sup>34</sup> Her Majesty's Inspectorate of Constabulary (HMIC) 'Everyone's Business: Improving the police response to domestic Abuse, 2014 5.

<sup>35</sup> Office for National Statistics, *Domestic Abuse in England and Wales: year ending March 2016*, 8 December 2016

<sup>36</sup> Office for National Statistics, *Domestic Abuse in England and Wales: year ending March 2018*, 22 November 2018.

Offences that are DV-related will be recorded in the respective category of the specific offence committed, for example, assault with injury. This is because (with the exception of coercive and controlling behaviour<sup>37</sup>) there is no specific criminal offence of DV. The offence of coercive or controlling behaviour was introduced under the Serious Crime Act 2015, criminalising for the first time non-physical abuse in the domestic context.<sup>38</sup> In 2018, Jordan Worth was the first female to be sentenced to seven and a half years imprisonment under this new legislation after severely abusing her partner, Alex.<sup>39</sup> The Home Office has only been collecting data from the police in relation to offences linked to DV since April 2015 therefore it is not possible to determine how many crimes were DV-related prior to this date.<sup>40</sup> A Panorama programme, 'Can Violent Men Change?',<sup>41</sup> exposed the reported statistic that one in four women and one in six men are affected by DV in their lifetime. This statistic was the only mention of male victims in the entire feature-length programme, potentially increasing knowledge of DV in heterosexual relationships, but again ignoring male victims almost completely.

## **2 Shattering Illusions: Domestic Violence as a Taboo Topic: Myths and Misconceptions**

'Violence in any relationship spills out into the streets and poisons us all'.<sup>42</sup>

Most people know that DV occurs. Few want to know details, and even fewer want anything to do with it.<sup>43</sup> As with heterosexual couples, there are common myths and misconceptions that surround the issue of same-sex and homosexual DV. These myths prevent people from recognising and labelling DV, even if it were to happen in front of them. Myths ultimately serve as powerful forces that may keep gay men with abusive partners. While both men and women may experience DV, findings suggest that gender is a 'significant risk factor'.<sup>44</sup> The latest release from the Office for National Statistics (ONS) on DA in England and Wales<sup>45</sup> indicates that women are almost twice as likely to have experienced DA than men (7.9% compared with 4.2%). Donovan and Hester found that gay men are significantly more likely to experience

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<sup>37</sup> Serious Crime Act 2015 (c.9) s.76.

<sup>38</sup> Charlotte Bishop and Vanessa Bettinson, 'Evidencing domestic violence, including behaviour that falls under the new offence of 'controlling or coercive behaviour' *International Journal of Evidence & Proof* 2018 3.

<sup>39</sup> BBC Three, 'I stayed with my abusive girlfriend out of fear she would kill me' *BBC Three* 18 February 2019.

<sup>40</sup> ONS: *Domestic Abuse to March 2017* 12.

<sup>41</sup> BBC Panorama 'Can Violent Men Change', *BBC One* 8 October 2018.

<sup>42</sup> Island and Letellier, *Men Who Beat the men Who Love Them* xix.

<sup>43</sup> *Ibid* 15

<sup>44</sup> Nicola Groves and Terry Thomas 'Domestic Violence and Criminal Justice' 19.

<sup>45</sup> ONS: Domestic Violence Year ending March 2018.

physical, and especially sexual, violence, while lesbians are more likely to be affected by emotional abuse.<sup>46</sup> A report produced by Galop (a LGBT charity) indicates that myths are based on misconceptions of what constitutes partner abuse.<sup>47</sup> These, if believed, hide the occurrence of DV towards a heterosexual male and especially homosexual relationships.

***Myth: 'Men are not Victims of Domestic Violence'***

DV is not a gender issue it is a power issue, a legal issue and a mental health issue. A recent article in *The Telegraph*, 'Why there is a domestic violence problem among gay men in Britain',<sup>48</sup> shows that DV occurrences are alarmingly high in the gay male community. A Stonewall health briefing on DA indicates that a greater number of gay and bisexual men have experienced DA since the age of 16 than both men and women in general. A worrying 49% of gay and bisexual men in the UK report experiencing DA.<sup>49</sup> To make matters worse, these men are statistically less likely to seek support. A male survivor of DV stated in the briefing:

'I don't deny that more females are victims of domestic abuse, but it's a crime that can affect anyone. The media need to give the male victims more coverage and a more balanced view of what domestic abuse is'.<sup>50</sup>

***Myth: 'It is not domestic violence when two gay men fight. It is just boys being boys.'***

The idea of boys being boys comes from a larger cultural notion that it is acceptable for men to be violent. Omar in her thesis on masculinity and the acceptance of violence introduces two hypotheses.<sup>51</sup> One is that men who measure as more 'masculine' will be more accepting of violence. The second is that situational contexts are important for the acceptance of violence.<sup>52</sup> She concludes that her study shows a relationship between masculinity and the existence of violence does in fact exist.<sup>53</sup> There is clearly nothing acceptable or normal about violence in intimate relationships. 'Boys being boys' may have been acceptable in the playground, and case law suggests that 'horseplay' can be justified.<sup>54</sup> However, adults wishing to inflict injury

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<sup>46</sup> Catherine Donovan and Marianne Hester, *Domestic Violence and Sexuality: What's love got to do with it?* (Policy Press 2007) 29.

<sup>47</sup> 'Myths and stereotypes about violence and abuse in same-sex relationships' *Galop* <[www.galop.org.uk/wp-content/uploads/For-Service-Providers-Myths.pdf](http://www.galop.org.uk/wp-content/uploads/For-Service-Providers-Myths.pdf)> Accessed 02 March 2019.

<sup>48</sup> Louis Staples, 'Why there is a domestic violence problem among gay men in Britain' *The Telegraph* 17 May 2017.

<sup>49</sup> Stonewall, 'Domestic Abuse: Stonewall Health Briefing' (2012) 7.

<sup>50</sup> Theo Merz, 'I'm a big, strapping bloke. Who would believe I was a victim of domestic abuse?' *The Telegraph* 12 September 2016.

<sup>51</sup> Audrey Omar, 'Masculinity and the acceptance of violence: a study of social construction' (MA thesis, University of Iowa 2011).

<sup>52</sup> *Ibid* 1.

<sup>53</sup> *Ibid* 36.

<sup>54</sup> *R v Jones* [1987] Crim LR 123.

on each other can rarely be classed as normal or acceptable behaviour. Unfortunately, this myth is pervasive in the gay male community with many gay men viewing violence by their partners as the norm and acceptable.<sup>55</sup>

***Myth: 'Lesbian and gay domestic violence is sexual behaviour: The victims like it.'***

DV is not sexual behaviour. In relationships where sadomasochism (SM) occurs there is usually mutual agreement regarding limits and boundaries, even when pain is involved. *R v Brown*<sup>56</sup> confirmed the definition of what is not consensual. For policy reasons, the courts will not allow certain types of injury and pain to be consensual. It is worth noting that *Brown* was homosexual SM, and the decision was influenced by the fact that the acts occurred between men. The more recent case of *R v BM*<sup>57</sup> reinforces this policy. The appeal in *BM* was dismissed because the Court of Appeal could see no good reason why body modification should be exempt from the general rule that the consent of an individual to injury provides no defence to the person who inflicts that injury, especially if the violence causes actual bodily harm or a more serious injury,<sup>58</sup> emphasising that DV cannot be consensual, especially when injury is inflicted to the victim. Island and Letellier mention that this myth is pervasive in the gay community because it allows them to dismiss or trivialise DV.<sup>59</sup> DV is abuse, manipulation and control that is unwanted by the victim and therefore cannot be consensual.

***Masculinity and the likelihood of violence in Intimate Partner Violence***

Cultural preconceptions define women's gender roles as being caregivers or mothers. These ideas shape the common image of a woman to be feminine and vulnerable, as these stereotypes perceive them to be affectionate and non-violent. Haynes asserts that these roles are reinforced by gender schemas; as individuals we have associated and conditioned femininity and masculinity with certain roles therefore society has created a gendered lens of a victim and a perpetrator.<sup>60</sup>

Men are at a lower risk of physical harm caused by their partner as, on average, men are physically stronger than their female counterparts. The typical masculine gender perception

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<sup>55</sup> Island and Letellier, *Men who beat the men who love them* 17.

<sup>56</sup> *R v Brown* [1993] 2 All ER 75.

<sup>57</sup> *R v BM* [2018] EWCA Crim 560.

<sup>58</sup> *Ibid* [45].

<sup>59</sup> Island and Letellier, *Men who beat the men who love them* 20.

<sup>60</sup> Ruth Haynes, 'Violence is Violence: Comparing Perceptions of Intimate Partner Violence in Homosexual and Heterosexual Relationships' (2016) 2(2) *Journal of Applied Psychology and Social Science* 6.



gives greater import to male violence than female violence.<sup>61</sup> Dobash and Dobash state that violence against men by women is as a result of women's self-defence. This is perceived from the ideology that violence towards men results from trauma and abuse that the woman is already experiencing.<sup>62</sup> This argument severely undermines the fact that both women and gay men can be violent, turning it into a patriarchal argument that creates misconceptions and further weakens the impact of male victimisation.<sup>63</sup>

Heteronormativity equally plays a role in the same-sex DV sphere. Shelton suggests that perpetrators of DV regularly exploit normative ideas about gender and sexuality to explain and justify their abusive behaviour.<sup>64</sup> They even use it to prevent victims from accessing support services. Shelton adds that scholars, advocates and advocacy organisations have explored DV, but many of these continue to centre gender in their analyses. The assumptions advocates make about individuals involved in DV marginalise victimised men and trans, nonbinary and gender non-conforming victims leading to heteronormative advocacy efforts.<sup>65</sup>

*Caceres* is one of the very few cases involving a homosexual couple that has been appealed to the Court of Appeal on the argument that the defendant's sentence was unduly excessive. A year into the relationship, the defendant became abusive towards the victim regularly assaulting him with fists and weapons. In 2009, the victim made his first complaint against the defendant but the violence continued. In November 2010, the defendant punched the victim in the eye resulting in long-term loss of peripheral vision. In January 2011, the victim was hit with an iron across the head, which resulted in a large cut to the skull that required stitches. The victim left their shared home and slept rough for a night before reporting to the police the following day. In court, the defendant pleaded guilty to grievous bodily harm (GBH) and actual bodily harm (ABH), two counts of common assault and one count of criminal damage. He denied that any of his actions had been intentional and had all been committed during 'equal fights'<sup>66</sup> and that in fact the victim had been controlling and abusive towards him. The judge described the defendant as a 'bully'. He was received a total of four years and two months

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<sup>61</sup> Lucy Berliner, 'Domestic Violence. A Humanist or Feminist issue?' (1990) 5(1) *Journal of Interpersonal Violence* 128.

<sup>62</sup> Emmerson Dobash, and Russell Dobash, 'Women's Violence to Men in Intimate Relationships. (2004) 44(3) *British Journal of Criminology* 342.

<sup>63</sup> Patrick Letellier, 'Twin Epidemics: Domestic Violence and HIV Infection Among Gay and Bisexual Men' (1996) 4(69) *Journal of Gay and Lesbian Social Services* 69.

<sup>64</sup> Samuel Shelton, 'A Queer Theorist's Critique of Online Domestic Violence Advocacy: Critically Responding to the National Coalition Against Domestic Violence Web Site' (2018) 65(10) *Journal of Homosexuality* 1275.

<sup>65</sup> *Ibid* 1276

<sup>66</sup> *R v Caceres* [2014] 1 Cr. App. R. (S.) 23 [10].

imprisonment. The appeal was dismissed because the court was unable to see his trail of thought. The defendant had made the victim's life worse, forced him out of a home and inflicted injury. Hickinbottom J stressed that, although he was confined to sentencing for specific offences, he was entitled to, and indeed bound, to consider the aggravating factor that each offence was not individually isolated.<sup>67</sup> He added that the sentencing guidelines on DV stress that violence in the home is no less serious than violence elsewhere.<sup>68</sup> The court confirmed the sentence was not manifestly excessive and to some this may even seem too lenient.

### ***Public Perceptions of the Victim and Perpetrator***

Seelau and others suggest that women are more likely than men to believe the account of a victim and to recommend legal system interventions. DV perpetrated against women is perceived to be more serious warranting intervention, than that against men.<sup>69</sup> Seelau confirms that this is because DV against men is inconsistent with gender stereotypes, and DV abuse cases involving male victims or female perpetrators may not receive equitable treatment within the criminal justice system. Island and Letellier discuss patterns in gay and lesbian relationships being similar to those in heterosexual couples, where DV tends to recur, escalate and become increasingly violent, often resulting in physical injuries.<sup>70</sup> Seelau refers to a published article by Harris that compares perceptions of gay male DV to perceptions of heterosexual DV.<sup>71</sup> Participants read a vignette of an abuse incident involving a husband battering his wife, a wife battering her husband, or a gay man battering his partner. The perceptions of the gay male scenario did not conform to perceptions of the other two. Participants disliked the gay male batterer as much as the husband who beat his wife. However, they disliked the gay victim more than either heterosexual victim and saw both incidents as less violent and in less need of police intervention. Harris suggested that this was because participants' judgments may have been affected by anti-gay attitudes. This pattern suggests that men in abusive relationships, homosexual or otherwise, are likely to receive less sympathy from the general public. Seelau concludes this is most problematic for gay relationships where both the victim and the perpetrator are men. Further, the participants also believed that more direct intervention by the police was warranted where the victim was female. The results indicated that abuse perpetrated against women is perceived to be more serious than abuse against men.<sup>72</sup>

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<sup>67</sup> Ibid [16]

<sup>68</sup> Ibid

<sup>69</sup> Eric Seelau *et al*, 'Gender and Role-based Perceptions of Domestic Abuse: Does Sexual Orientation Matter?' (2003) 21(2) *Behavioural Sciences & the Law* 199.

<sup>70</sup> Island and Letellier 'Men Who Beat the Men who love them' 15.

<sup>71</sup> Richard Harris, and Cynthia Cook, 'Attributions about spouse abuse: It matters who the batterers and the victims are' (1994) 30(7) *Sex Roles* 553.

<sup>72</sup> Seelau, Gender and role-based perceptions, 210.

Haynes in 2016 compared perceptions of IPV in homosexual and heterosexual relationships. She stated that IPV is a gendered problem, and consequently same-sex male victims have not been included in the core of most research. This has resulted in marginalisation and disempowerment, highlighting once again that participants were more likely to report IPV when the victim is a female in a heterosexual relationship. The participants were also more likely to blame a male perpetrator. Haynes suggests it falls to a gendered problem where men are labelled as 'dangerous' offenders and that women are 'vulnerable' victims.<sup>73</sup> She agrees with the majority that, in terms of attention, there is a clear inclination towards the abuse of women by men. This indicates that there is little acceptance and acknowledgement of male victims.<sup>74</sup> A recommendation is made that IPV should be conceptualised as a human problem, and not a gendered issue.

As seen throughout history, LGBT individuals have faced oppression and discrimination. Homosexuality has been classified and declassified as a mental illness, as a crime and as an act against God.<sup>75</sup> Public attitude and perceptions of the LGBT population continue to stigmatize them from society. The British Social Attitudes Survey on Homosexuality<sup>76</sup> shows that attitudes towards same sex couples in the UK is changing. In 2012, 28% of respondents still disapproved of gay or lesbian relationships. Ultimately this has had significant implications and repercussions on how it is understood and perceived by the general public, almost always resulting in homonegativity. In 2019 some schools even decided to boycott LGBT lessons due to parental disagreement with the syllabus.<sup>77</sup>

### ***Official Perceptions of the Victim and Perpetrator***

Ignorance and discrimination can be seen in the actions and conduct of police officers, who may label IPV as 'bidirectional' where both people in the relationship are the perpetrators and the victims.<sup>78</sup> By labelling both 'as bad as each other', the police can trivialise the situation. Potoczniak et.al. propose that homonegativity exists amongst law enforcement, medical personnel and social service professionals. The authors argue that this homonegativity is a

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<sup>73</sup> Ruth Haynes, 'Violence is Violence: Comparing Perceptions of Intimate Partner Violence in Homosexual and Heterosexual Relationships' (2016) 2(2) *Journal of Applied Psychology and Social Science* 2.

<sup>74</sup> *Ibid* 5.

<sup>75</sup> *Ibid* 8.

<sup>76</sup> A Park, and R Rhead, 'Homosexuality' British Social Attitudes (30<sup>th</sup> edn, 2013).

<sup>77</sup> Nazia Parveen, 'Parents complain to Manchester schools about LGBT lessons' *The Guardian* 19 March 2019.

<sup>78</sup> Kris Henning *et al*, 'Treatment Needs of Women Arrested for Domestic Violence: A Comparison with Male Offenders' (2003) 18(8) *Journal of Interpersonal Violence* 840.

possible source of the common myths and misconceptions, especially in same-sex DV. Professionals who assist gay victims of DV may view LGBT people as immoral because of their own religious beliefs or conservative socio-political beliefs.<sup>79</sup> Kulkin's review of research on violence in same-gender couples indicates that over the past several decades DV has become a major concern for many social workers and other mental health care practitioners.<sup>80</sup> The article stresses that a major limitation of many recent studies is the inattention given to DV in same-gender relationships. Homosexuals are often reluctant to report abuse because they believe it to be a private concern. Thus, same-sex DV is often underreported because the victims fear coming out and do not want to bring added subjugation and discrimination upon the LGBT community.<sup>81</sup> Kulkin and others suggest that, even when reported, it not only exposes their sexual orientation but places them in a potentially homophobic legal system.<sup>82</sup> As pointed out by the authors, the finding of any studies addressing the issue of DV among gay male couples is limited. Klinger submits that recognition of DV in the LGBT community might jeopardize the positive steps taken to combat homophobia.<sup>83</sup>

A consultation launched in March 2018 by Prime Minister Theresa May<sup>84</sup> sought to allow the justice system more powers and to seek views on measures to be included in the government's draft Domestic Abuse Bill. May introduced the consultation with: 'Victims can be young and old, male and female... we seek to put an end to this abhorrent crime for good'. Justice Secretary David Gauke added: 'we continue to improve the way DA is dealt with throughout the justice system, but there is undoubtedly more we can do'. This will hopefully allow the Bill to pass with Royal Assent and make all important changes to legislation which will provide the justice system with increased powers to prosecute and prevent. The consultation aimed to make DA everybody's business and to prevent it by challenging the acceptability of abuse, addressing the underlying attitudes and societal norms that exist to perpetuate it.<sup>85</sup> Tragically, 13 men were killed by a partner/former partner in 2016/17.<sup>86</sup> A fall in referrals of cases to the Crown Prosecution Service (CPS), identified in 2015/16, has had

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<sup>79</sup> Michael Potoczniak *et al*, 'Legal and Psychological Perspectives on Same-sex Domestic Violence: A Multisystemic Approach' (2003) 17(2) *Journal of Family Psychology* 255.

<sup>80</sup> Heidi Kulkin *et al*, 'A Review of Research on Violence in Same-Gender Couples: A Resource for Clinicians' (2007) 53(4) *Journal of Homosexuality* 72

<sup>81</sup> *Ibid* 75

<sup>82</sup> *Ibid*

<sup>83</sup> R Klinger, 'Gay Violence' (1996) 2(3) *Journal of Gay and Lesbian Psychotherapy* 119.

<sup>84</sup> 'Government takes action to tackle domestic abuse' (GOV.UK, 8 March 2018)

<[www.gov.uk/government/news/government-takes-action-to-tackle-domestic-abuse](http://www.gov.uk/government/news/government-takes-action-to-tackle-domestic-abuse)> accessed 18 February 2019.

<sup>85</sup> HM Government, *Transforming the Response to Domestic Abuse: Government Consultation (full version)* (2018) 5.

<sup>86</sup> ONS: Domestic Abuse year ending March 2017.

an impact on the volumes of prosecutions and convictions in 2016/17.<sup>87</sup> Over a period of ten years (2007-2017), the volume of DA referrals from the police fell by 6%, with a corresponding fall of 3.3% of suspects charged.<sup>88</sup> The CPS have worked closely with the National Police Lead on DA to identify reasons for the fall and they continue to address ways to ensure referrals are made appropriately. The Government are rightly proud of the progress made. However, there is more to be done.<sup>89</sup>

The Victims' Commissioner, Baroness Newlove, responded to the Government consultation, noting that DA has a devastating impact that not only reverberates within families but across society.<sup>90</sup> Newlove is driving for change, mentioning the fact that DA and DV are hugely underreported, with only 20% of victims feeling able to report their abuse.<sup>91</sup> Statistics are woefully underestimating the actual problem. Newlove argues that the new Government proposals, whilst welcomed and supported, in some respects do not go far enough. She believes there is more that the courts could do to deter perpetrators from abusing, especially if punishments were harsher. She would like all court orders to come with the power of arrest, and that victims should also have the right to request a sentence for DV to be reviewed if there is reason to believe it is unduly lenient. Fourteen recommendations are set out in detail in the response; however, the author will only consider recommendations 13 and 14 as these relate directly to DV perpetrated against men.

Recommendation 13: Introduction of 'Ending Intimate Violence Against Men and Boys' strategy.<sup>92</sup> Newlove purposefully aimed to keep the submission gender neutral in recognition that victims can be of either sex, as too can the perpetrator. She states that current policy and the framework from the consultation places all victims of DA as a victim of Violence Against Women and Girls (VAWG) even when the victims are male. The Mankind Initiative,<sup>93</sup> who support male victims, are clear that this puts male victims at risk of being ignored by policy. Newlove calls on government to introduce a parallel 'Ending Intimate Violence Against Men and Boys strategy' to run alongside (VAWG) policy so that the particular needs of victims within a same-sex relationship are considered.

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<sup>87</sup> Crown Prosecution Service (2016-17). Violence against women and girls report, 10<sup>th</sup> edition 6.

<sup>88</sup> *Ibid.*

<sup>89</sup> Her Majesty's Government, *Transforming the Response to Domestic Abuse* (2018) 8.

<sup>90</sup> Victims' Commissioner, *Victims' Commissioner for England and Wales' response to the 'Transforming the Response to Domestic Abuse' government consultation* (2018) 1..

<sup>91</sup> *Ibid.*

<sup>92</sup> *Ibid* 12.

<sup>93</sup> The Mankind Initiative is a registered charity set up to support male victims of domestic abuse.

Recommendation 14: Research into risk assessment methods and its impact on risk levels assigned to victims who are male and/or perpetrator is female. Newlove mentions an issue where historically, male victims have been assessed by agencies using assessment models that categorises them as being low risk purely because it is a common misconception that men are able to shoulder more abuse. This should not lessen the impact of the abuse and the support services required to respond to violence. Newlove concludes that she would like to see the government commission research into whether the current assessments are capturing the true picture and risk in relationships where the perpetrator is not male and/or the victim is not female.<sup>94</sup>

## **2 Assessing the Effectiveness of Law and Policy Post-2004**

Currently there is no specific criminal offence of DV.<sup>95</sup> In a review of DV policies in England and Wales, Matczak suggests that recognising DV as a crime has become an increasingly important part of government policy on crime control.<sup>96</sup> The criminal justice system may step in by applying a criminal sanction for a range of offences such as murder, rape, manslaughter, assault or even threatening behaviour.<sup>97</sup> A new criminal offence was introduced under section 76 Serious Crime Act 2015, namely coercive or controlling behaviour with a maximum penalty of five years' imprisonment, a fine, or both.<sup>98</sup> Matczak argues a problem with criminal law and DV is that the system may be seen by the general public as being more concerned with punishing an offender rather than helping a victim. She suggests that criminalisation may be at the expense of preventative measures. However, criminal justice interventions are necessary, and further remedies in relation to prevention and support to victims are needed.<sup>99</sup> In December 2015 the Home Office published statutory guidance on controlling or coercive behaviour in an intimate or family relationship.<sup>100</sup> The guidance points out that this new offence closes a gap in the law around patterns of controlling or coercive behaviour in an ongoing relationship.<sup>101</sup> Men are becoming 'increasing victims' of coercive control',<sup>102</sup> resulting from the reforms of the Serious Crime Act 2015, and the new definition of controlling behaviour.<sup>103</sup>

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<sup>94</sup> Victims Commissioner Response (2018) 13.

<sup>95</sup> Strickland, *'Domestic Violence in England and Wales'* 9.

<sup>96</sup> Anna Matczak, *et al*, 'Review of Domestic Violence Policies in England and Wales' (Kingston University and St George's, University of London 2011) 10.

<sup>97</sup> *Ibid* 11.

<sup>98</sup> Strickland, *'Domestic Violence in England and Wales'* 9.

<sup>99</sup> *Ibid* 12.

<sup>100</sup> Home Office, (2015) 'Controlling or Coercive Behaviour in an Intimate or Family Relationship: Statutory Guidance Framework'.

<sup>101</sup> *Ibid* 2.

<sup>102</sup> Gabriella Swerling, 'Men Becoming 'Increasing Victims' of Coercive Control, Legal Experts Claim' *The Telegraph* 10 March 2019.

<sup>103</sup> *Ibid*.

If criminal law fails, a civil law remedy may be available. The Domestic Violence, Crime and Victims Act 2004 (DVCVA), was hailed by the Home Office as ‘the biggest piece of legislation on domestic violence in over 30 years’.<sup>104</sup> The Act was introduced to extend protection offered by civil law to victims of DV. This resulted in any breach of a ‘non-molestation’ order under Part IV of the Family Law Act 1996 becoming a criminal offence, dealt with by the criminal courts as opposed to civil courts. It also extended the availability of injunctions to same-sex couples.<sup>105</sup> Hitchings, in an article on blurring boundaries between civil and criminal law, indicates that this gives victims of DV less choice.<sup>106</sup> She suggests that the main aim of civil law is to regulate and improve matters for the future, whereas criminal law punishes past behaviour.<sup>107</sup> She indicates that criminal law is taking precedence over the civil jurisdiction and victims’ needs are overlooked in favour of increased ‘justice’ and retribution.<sup>108</sup> Hitchings concludes that a victim is now placed in a position where they cannot make a true choice. For example, a victim may not wish to criminalise their partner, they may just want a police officer to diffuse the situation. Unfortunately, the DVCVA fails to recognise individual needs of a victim, treating them as if the state knows best.<sup>109</sup> She suggests that the law, instead of empowering the victim, is actually disempowering them through a lack of choice foisted upon them, either through financial issues, practical enforcement problems, or the fact that the law fails to recognise the reluctance of victims on many levels. In *Lomas v Parle*<sup>110</sup> LJ Thorpe raised the issue that an appeal shows the unsatisfactory nature of the present interface between the criminal and family courts, the overlap is expensive, wasteful and time-consuming, adding that it is stressful for a victim to be moved from court to court in order to obtain redress.<sup>111</sup> This was a heavy criticism of the current DV regime. Thorpe suggested that the DVCVA was the perfect opportunity for a reconsideration of the present dual system and to look toward the possibility of integrated courts.<sup>112</sup> Specialist Domestic Violence Courts (SDVCs) were introduced in 2006.<sup>113</sup> A review by the CPS concluded that these have been more successful in bringing increased numbers of perpetrators to justice.<sup>114</sup> The courts give

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<sup>104</sup> Home Office, (2005) ‘Domestic Violence, a National Report. London Home Office 3.

<sup>105</sup> Matczak, ‘Review of Domestic Violence’, 10.

<sup>106</sup> Emma Hitchings, ‘A Consequence of Blurring the Boundaries – Less Choice for the Victims of Domestic Violence’ (2005) 5(1) *Social Policy and Society* 91.

<sup>107</sup> *Ibid.*

<sup>108</sup> *Ibid* 93.

<sup>109</sup> *Ibid* 100.

<sup>110</sup> *Lomas v Parle* [2004] 1 All ER 1173.

<sup>111</sup> *Ibid* [52].

<sup>112</sup> *Ibid* [51].

<sup>113</sup> Crown Prosecution Service, ‘Specialist Domestic Violence Courts Review 2007/08: Justice with Safety’ (2012) 1.

<sup>114</sup> *Ibid* 41.

victims increased levels of support, with specialists including police, CPS and court staff. Cases are clustered together and all elements are looked at on an individual basis.<sup>115</sup> Currently SDVCs only operate in some England and Wales Courts and usually only once or twice a week for a set time.<sup>116</sup>

The Government amended the Protection from Harassment Act 1997 in 2012 introducing two new explicit offences of stalking by virtue of section 111 Protection of Freedoms Act 2012: 'Stalking' which is pursuing a course of conduct which amounts to harassment and also amounts to stalking<sup>117</sup> and 'Stalking' involving fear of violence, alarm or distress.<sup>118</sup> Victims of DV now have another course of action in the courts. If guilty, a sentence of ten years' imprisonment can be imposed for stalking offences. This is a welcome move but may add to the already difficult to define issue of DV where offences are recorded under their own respective category, making it problematic to find statistical data. In June 2017, the Queen's Speech confirmed that a draft Domestic Abuse Bill (DAB) would be introduced in the 2017/19 parliamentary session.<sup>119</sup> The main elements were to establish a DV and Abuse Commissioner and most importantly to define domestic abuse in law. On 21 January 2019, the Government published its draft DAB.<sup>120</sup> At 50 pages long it is the largest overhaul of legislation on DV since the DVCVA. These changes have been welcomed by many, but charities like SafeLives have urged the Government to go further to drive real and systematic change. The charity has published a 'Ten-point Plan for Change'<sup>121</sup> and produced an 'Alternative White Paper on Domestic Abuse'.<sup>122</sup> SafeLives believe that training is key to reducing incidence of DV across the country as confirmed by a Police Inspector who took part in their training programme: 'If we had this training a few years earlier we undoubtedly would have saved lives and prevented domestic abuse homicides'<sup>123</sup>

The Home Office, in a report into the economic and social costs of DA, revealed that the crime cost England and Wales £66 billion in 2016/17<sup>124</sup> underlining the economic implication. The

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<sup>115</sup> Police and Crime Commissioner, 'Specialist Domestic Violence Courts – How special are they?' (2018) 6.

<sup>116</sup> Her Majesty's Court Service, 'Specialist Domestic Violence Courts Review 2007-08: Justice with Safety' (2008) 44.

<sup>117</sup> s.111(2)(a).

<sup>118</sup> s.111(4)(a).

<sup>119</sup> The Queen's Speech 2017, 'Lobby Pack' Prime Minister's Office 37.

<sup>120</sup> Her Majesty's Government, 'Transforming the Response to Domestic Abuse: Consultation Response and Draft Bill' (2019) 96.

<sup>121</sup> SafeLives, 'Ten Point Plan for Change' (2019).

<sup>122</sup> SafeLives, 'Our Alternative White Paper on Domestic Abuse' (2019).

<sup>123</sup> Ibid 6.

<sup>124</sup> Home Office, 'The Economic and Social Costs of Domestic Abuse: Research Report 107' (2019) 6.



Government has been criticised for only introducing special measures to protect DV victims in criminal courts but failing to do so in family courts.<sup>125</sup> One benefit from the new law is that perpetrators will no longer be able to directly cross-examine victims. In a Lords' debate there were arguments to indicate that the DAB requires some redrafting.<sup>126</sup> Baroness Williams suggested that the Bill does not introduce any new because most of them are already offences that are settled in law.<sup>127</sup> On 28 February 2019 a message from the Commons expedited a Joint Committee of Lords and Commons to be appointed to consider and report on the DAB. The DAB 2019 is a landmark piece of legislation that is scheduled to receive royal assent but has not yet been enacted although Scotland has already passed the Domestic (Abuse) Scotland Act 2018.

Domestic Violence Protection Orders (DVPOs) were rolled out across England and Wales in March 2014.<sup>128</sup> DVPOs were a new power introduced by the Crime and Security Act 2010.<sup>129</sup> These enable the police to put in place protection for a victim in the immediate aftermath of a DV incident. Alongside this, the Domestic Violence Disclosure Scheme (DVDS) was also introduced often referred to as Clare's law in memory of murder victim Clare Wood, who was killed by her violent ex-boyfriend in Salford in 2009.<sup>130</sup> Clare had made several complaints to the police about him before her death.<sup>131</sup> The defendant George Appleton, had a history of violence against women but was still able to get into her home and kill her. The scheme allows the police to disclose information to the public on previous violent offending by a new or existing partner. There are two types: the 'right to ask', which is triggered by a request from the public, and the 'right to know', whereby the police make a proactive decision to inform to protect a potential or future victim. Home Office guidance produced in 2016.<sup>132</sup> covered what checks were to be completed and minimum standards that needed to be met. When the DAB becomes legislation then the DVDS will become entrenched in law. In May's consultation, it was proposed that a new notice and a new order were to be introduced by the DAB. These were the creation of a new Domestic Abuse Protection Notice (DAPN) to be available to the

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<sup>125</sup> Maya Oppenheim, 'Domestic Abuse Bill: New Legislation Does Not go Far Enough to Tackle Problem, Campaigners Say' *The Independent* 21 January 2019.

<sup>126</sup> HL Deb 31 January 2019 vol 795.

<sup>127</sup> Ibid.

<sup>128</sup> HC Deb 25 November 2013 5-6WMS.

<sup>129</sup> Crime and Security Act 2010 s.24.

<sup>130</sup> Pat Strickland, (2013) 'Clare's law: the Domestic Violence Disclosure Scheme. House of Commons Library Standard Note SN/HA/6250 1

<sup>131</sup> BBC News, 'Salford murder victim Clare Wood was not protected' *BBC News* 23 May 2011.

<sup>132</sup> Home Office, (2016) Domestic Violence Disclosure Scheme (DVDS) Guidance 5.

police and a new Domestic Abuse Protection Order (DAPO) to enable the courts wider powers in a range of circumstances.

### **3 Responses and Prosecution: Why the Law finds Domestic Violence Intractable**

The police have a chequered history when it comes to DV. For instance, in the 1980s they were criticised for giving DV a low priority and almost regarding it as not 'real' crime.<sup>133</sup> Whittaker believed the police had 'always been reluctant to become involved in domestic disputes.'<sup>134</sup> MacQueen suggests that as DV and DA are intimate crimes that take place within the private sphere of the home, such a 'private' matter may inhibit police reporting.<sup>135</sup> The police are the most visible and available service to tackle DV and abuse. Groves and Thomas indicate that their service has slowly improved over the last 30 years, but criticisms are still made.<sup>136</sup> Some of these are identified in the Independent Police Complaints Commission (IPCC) review on investigations. These include the need for increased usage of external experts, particularly in health, discrimination and gender-based violence.<sup>137</sup> Hoyle and Sanders note that prior to the Home Office Circular (60/1990) on DV, it was argued that police services did not take seriously their response to crimes between intimates.<sup>138</sup> The authors go on to suggest that in the early 1990s, police officers and prosecutors generally saw the CJS as an extremely clumsy tool for dealing with DV.<sup>139</sup> They conclude that attempting to reduce DV through rehabilitation, rather than through punitiveness, is consistent with the wishes of the victim who are often more concerned to stop the violence rather than punish the perpetrator.<sup>140</sup>

A 2014 report by Her Majesty's Inspectorate of Constabulary (HMIC) on the police response to DA<sup>141</sup> found that overall police response to victims of DA still falls short of what is expected and is not good enough.<sup>142</sup> The main findings indicated that DA was a priority on paper but, in the majority of forces, not in practice. Victims told HMIC that they did not always feel believed

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<sup>133</sup> Nicola Groves, and Terry Thomas, *Domestic Violence and Criminal Justice* (Routledge 2014) 64.

<sup>134</sup> Ben Whittaker, *The Police in Society* (Saxon Books, London 1982) 71.

<sup>135</sup> Sarah MacQueen, and Paul Norris, 'Police awareness and involvement in cases of domestic and partner abuse' (2016) (26)1 Policing and Society 60.

<sup>136</sup> Groves, *Domestic Violence* 85.

<sup>137</sup> IPCC, (2014) 'Review of the IPCC's work in investigating deaths' London: IPCC March (2014) 54.

<sup>138</sup> Carolyn Hoyle, and Andrew Sanders, 'Police Response to Domestic Violence: From Victim Choice to Victim Empowerment' (2000) 40(1) *British Journal of Criminology* 16.

<sup>139</sup> *Ibid* 17.

<sup>140</sup> *Ibid* 33.

<sup>141</sup> Her Majesty's Inspectorate of Constabulary, 'Everyone's Business: Improving the Police Response to Domestic Abuse' (2014).

<sup>142</sup> *Ibid* 6.

or were not taken seriously and felt judged.<sup>143</sup> A male survivor commented that victims from minority communities may be subject to more intense pressure from their families or the wider community:

'There is a massive amount of shame. I didn't tell anyone, I couldn't because they would not believe me.... I'm not stupid but I got myself in this situation. And domestic violence is something that men do to women, it's not something that gay people do.'<sup>144</sup>

Duke and Davidson argue that people in same-sex relationships may also feel that they have a duty to represent the LGBT community in a positive manner, and if that relationship is abusive then it is proof that homosexuality is inherently wrong, immoral or otherwise flawed.<sup>145</sup>

Pattavina suggests that many resources offered to victims of DV are not offered to victims of DV in same-sex relationships<sup>146</sup> and that law enforcement officers do not treat DV in same-sex relationships as seriously as DV or abuse in heterosexual relationships.<sup>147</sup>

This goes some way in showing why some gay men do not report DV for fear of being 'outed' and disbelieved. The report concludes that in the multi-agency and police landscape, major challenges remain.<sup>148</sup> A 2017 report by the same body still argues that there is room for improvement.<sup>149</sup> Many officers have positive, caring and empathetic attitudes towards victims but some still have a negative approach to those who are most vulnerable. HMIC are concerned that some forces may be suppressing demand because they have insufficient officers available to respond to calls of DV resulting in lengthy and unnecessary delays and increased risk to the victim.<sup>150</sup> It highlighted variations in the extent to which criminal investigations are closed without offenders being charged or brought to justice. Alarming, in one force, nearly two-thirds of investigations did not proceed because of 'evidential difficulties'.<sup>151</sup> HMIC show that there is generally a poor understanding of why such variations exist. Some forces still do not collect reliable data so struggle to understand the level of crime related DA occurring in their respective counties. There is continued concern at the falling levels of arrest in DA cases and variation from force to force.<sup>152</sup> The report suggests that

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<sup>143</sup> Ibid 9.

<sup>144</sup> Ibid 33.

<sup>145</sup> Alysondra Duke, and Meghan Davidson, 'Same Sex Intimate Partner Violence: Lesbian, Gay, and Bisexual Affirmative Outreach and Advocacy' (2009) 18(8) *Journal of Aggression, Maltreatment and Trauma* 796.

<sup>146</sup> April Pattavina et al, 'A Comparison of the Police Response to Heterosexual Versus Same-Sex Intimate Partner Violence' (2007) 13(4) *Violence Against Women* 375.

<sup>147</sup> Ibid 377.

<sup>148</sup> Her Majesty's Inspectorate of Constabulary, 'Everyone's Business' 127.

<sup>149</sup> Her Majesty's Inspectorate of Constabulary, 'A Progress Report on the Police Response to Domestic Abuse (2017).

<sup>150</sup> Ibid 7.

<sup>151</sup> Ibid 8.

<sup>152</sup> Ibid 9.

delays in deployment of officers is potentially putting victims at increased risk, one survivor commented: 'When I called, the police said that an officer would be with me by 10pm. No one came but they text me, and then arrived two days later.'<sup>153</sup> HMIC continue to encourage forces to attend as quickly as possible but understands the implications of police cuts.<sup>154</sup> The 2017 report concludes with worrying findings that show inconsistency across the service in understanding and provision of the response to DV. At a time of significantly increased demand and the proposed legislative changes, the police now more than ever need to understand their role in protecting and supporting victims of DA and violence.<sup>155</sup>

SafeLives have worked tirelessly with HMIC and the College of Policing to develop a new DA programme of training, 'Domestic Abuse Matters', which aims to increase knowledge, understanding and awareness for front line police responders in the areas of controlling and coercive behaviour.<sup>156</sup> Respondents in a follow-up report highlighted that they would be more open-minded, empathetic and considerate towards victims being more prepared to give time to victims and gather a broader range of evidence.<sup>157</sup> Training will continue to be important in the fight to reduce DV occurrences. But despite the new DAB going through Parliament there are existing powers that the police are simply not using especially since changes to the pre-charge bail regime in April 2017 which introduced onerous requirements on the police when bail is granted, it seems officers are avoiding these by releasing suspects without bail leaving complainants exposed during police investigations.<sup>158</sup> Nogah Ofer, solicitor from the Centre of Women's Justice (CWJ) stated: 'Women don't need new laws to protect them, just for the existing laws to be properly implemented'<sup>159</sup> If this is the case then these systematic failures are putting vulnerable victims at even more danger of continued violence, stalking or harassment from perpetrators irrespective of gender or sexuality.

A freedom of information request made to Devon and Cornwall Police in 2015 disclosed that, despite the high figures estimated, there were only 23 reported cases that year in the county that involved male on male DV or abuse.<sup>160</sup> This is seemingly out of proportion, unless gay men deal with the situation themselves or just do not report the incident. The most common

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<sup>153</sup> Ibid 21.

<sup>154</sup> Ibid 22.

<sup>155</sup> Ibid 72.

<sup>156</sup> SafeLives, 'Domestic Abuse Matters: Police Responders and Champions Training' (2018) 7.

<sup>157</sup> SafeLives, 'Domestic Abuse Matters: Police Responders and Champions Training: Six Month Follow-up (2018) 3.

<sup>158</sup> Nogah Ofer, 'Too many rape and abuse victims are being let down by the police' *The Guardian* 21 March 2019.

<sup>159</sup> Ibid.

<sup>160</sup> Freedom of Information Act Request 6264/15 (Devon and Cornwall Police).

offence groups were assault with or without injury. The force also highlighted that the DA policy and working practices must adhere to the Equality Act 2010 and that they strive to provide an appropriate quality of service according to individual needs. Surprisingly, the force does not record victim or perpetrator sexual orientation. This could be a reason why official statistics on homosexual victims are limited. A 2018 request was also made,<sup>161</sup> and the results show a substantial increase in numbers of male-on-male abuse reported to the police. There were 99 reported cases from January to December 2018 potentially showing that the force has implemented changes to procedures and have made it easier for men to come forward and report.

In September 2017, the CPS published its 2017-2020 strategy on VAWG that includes male victims. In the opening statement it was noted that this strategy is an overarching framework to address crimes that have been identified, but not exclusively committed by men against women.<sup>162</sup> The disproportionate volume of female victims led to this title yet it is recognised that abuse of both male and female victims have their roots in society's attitudes about expected gendered roles and behaviour. The CPS acknowledge that these offences can and are carried out by women onto men and in same-sex relationships. The CPS also produced a position statement to the public on male victims. The approach set out by the CPS aims to secure justice and support to *all* victims and apply policies fairly and equitably to all perpetrators and victims of crime – irrespective of their gender.<sup>163</sup> The CPS publicly stated it is 'looking to ensure its response is effective to the specific needs of male victims',<sup>164</sup> although arguably 'looking' may not be seen by some as enough. Baroness Newlove's recommendations are addressing the gender issue, but why not have a violence against men and boy's policy? Further, why should male victims be feminised by the wording in the current CPS strategy? The CPS concluded that ending violence against women and girls, including responding to male victims of VAWG crimes, requires the cooperation and engagement of multiple sectors of society.<sup>165</sup>

The CPS recently launched a pilot scheme indicating that prosecution rates in some areas have improved by almost 10% where witnesses were enabled to give evidence from behind a screen. The scheme is now to be rolled out across England and Wales.<sup>166</sup> This is clearly a

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<sup>161</sup> Freedom of Information Act Request 1009/19 (Devon and Cornwall Police).

<sup>162</sup> Crown Prosecution Service, 'Violence Against Women and Girls: Strategy 2017-2020' (2017) 1.

<sup>163</sup> Crown Prosecution Service, 'Public Statement on Male Victims for Crimes Covered by the CPS Violence Against Women and Girls (VAWG) Strategy (2018) 1.

<sup>164</sup> Crown Prosecution Service, 'Public Statement' 1.

<sup>165</sup> Crown Prosecution Service, 'VAWG Strategy 2017-2020' 4.

<sup>166</sup> Owen Bowcott, 'CPS to extend effective domestic violence prosecution scheme' *The Guardian* 18 December 2018.

step towards the CPS and police reducing DV occurrences by reducing the onerous and stressful duties of victims at trials. Both the police and the criminal justice system are increasingly prepared to tackle the issue of DV and abuse head on, legislative framework and policies are in place to support this.

## **Conclusion**

One of the main issues highlighted is the reluctance for gay men and heterosexual men to report DV and abuse. Legislation and policy are changing and that can only be seen as a good thing. Media, police and policy makers have hailed new legislation as being the best yet. However, it is clear there are still issues that need to be tackled. The new DAB finally puts into law a definition of domestic abuse, which will go some way in ensuring that it is better understood by policy makers, police forces and the wider population but the reluctance to report cannot be controlled by legislation. The fact that DV is a crime needs much more advertisement, whether via television, news and the media, or just talking about it. If a perpetrator could potentially be placed on a register or even be imprisoned for a longer period of time it may discourage them from inflicting violence upon their victims. There could be potential for abusers to attend classes that could stem the problem, again turning to education. An abused partner may not wish to punish their husband or wife, they may in fact want to help them to overcome whatever it is that makes them do it in the first place.

Homophobia and homonegativity still exist making it difficult for gay men to seek help. Charities continue to lobby to help stop hate crime and violence towards the LGBT community. Education is important in stemming the problem of homophobia and demonstrating that DV and abuse is not ok, nor will it ever be. The decriminalisation of homosexual acts in England and Wales just over 50 years ago and the changes to legislation since has gone some way in reducing the stigma against gay men. But more needs to be done to highlight something that estimates say happens at an equal or even higher rate than within heterosexual couples. Island and Letellier's 1991 book is still the only one on gay DV to date. Potentially this is an area that future and current academics can delve into. More research is slowly appearing on the subject and this article has attempted to highlight the lack of and, more importantly, to raise awareness of such an evidently existent issue. Wright suggests that until society actively accepts that anyone irrespective of gender or sexuality can be a victim then male victims will continue to underreport their experiences conforming with the majority of research that the real problem is societal attitudes. DV is a fundamental issue that needs more research, and that increased protection for citizens is required, especially those that are potentially being ignored by policy and procedure.

And a final comment from *Island and Letellier*<sup>167</sup>

'Gay men's domestic violence is hard to face. It is a brutal and ugly problem. It is a painful reminder that some gay men abuse, injure, and kill the men they love. As a community, we often do not want to believe that this happens. But it does... How many more bruises, screams in the night, or trips to the hospital are we willing to tolerate before we take gay men's domestic violence seriously?'

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<sup>167</sup> Island and Letellier, *Men Who Beat The Men Who Love Them* 285