

## PUBLIC PROTECTION? THE IMPLICATIONS OF GRAYLING'S 'TRANSFORMING REHABILITATION' AGENDA ON THE SAFETY OF WOMEN AND CHILDREN

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### **Abstract**

The Coalition Government's new Transforming Rehabilitation (TR) agenda jeopardises the work undertaken with perpetrators of domestic abuse by highly skilled, qualified probation staff. Under new changes outlined by Grayling, Lord Chancellor and Secretary of State for Justice, probation clients who are assessed as posing a medium/low risk of causing harm will be assigned to private sector/voluntary organisations rather than come under the remit of the National Probation Service. This article argues that victims of domestic abuse, primarily women and children, will be placed at an increased risk of harm given this latest TR strategy. The majority of domestic abuse cases will be assessed as posing a medium risk of causing harm and will receive lower levels of intervention by a variety of disparate agencies and organisations. The Ministry of Justice states that the National Probation Service will directly manage offenders who pose a high risk of serious harm to the public, this article will argue that all perpetrators of domestic abuse should be considered as an important exception to this stance, and should remain under the auspices of Probation supervision, irrespective of statistical risk assessment, as has sex offender case management and sex offender treatment programme delivery.

### **Keywords**

Domestic abuse, Transforming Rehabilitation, risk, perpetrator interventions, probation, protection, women and children

## Domestic abuse and the need to protect women and children

This article explores the impact of the Ministry of Justice's Transforming Rehabilitation (TR) agenda in terms of looking at the potential increase in risk to women and children as a result of the transfer of domestic abuse perpetrator cases from Probation Trusts to a variety of private/voluntary organisations. Consideration is given to the difficulties of risk assessment of domestic abuse cases, and the methodology of intervention with court mandated domestic abuse perpetrators in the UK. The majority of domestic abuse cases will be assessed as posing a medium risk of causing harm and under TR and will receive lower levels of intervention by potentially unqualified and inexperienced staff, who will case manage, undertake programme intervention and enforce court mandated sanctions. This article will recommend that all domestic violence cases, or cases where domestic abuse has been a risk factor previously, should remain under the auspices of probation intervention and probation case managed supervision. This is essential to minimise risk and to reduce harm to the public, primarily women and children.

Although this article concentrates on male abuse of women, it is acknowledged that domestic abuse can occur within relationships encompassing all genders, ethnicities, age groups, those experiencing disabilities, across cultural, religious, economic and geographical boundaries (Jewkes, 2002; Walby and Allen, 2004). The work of criminal justice agencies in the UK predominantly looks at male abuse of female victims since most abusive individuals processed through the court system are men.

Domestic abuse is one of the most insidious of all issues within society, making its devastating impact, either directly or indirectly, on significant numbers of the population. There has been ample evaluative research confirming that one in four women experience abuse at some point in their lives (Morley and Mullender, 1994). Domestic abuse accounts for some fifteen per cent of all reported incidents of violence in the UK (Kershaw and Walker, 2007). The impact of domestic abuse on victims and survivors is enormous. Victims experience a huge range of negative outcomes and harm, including all levels of physical injury, psychological harm, emotional damage and, domestic abuse can have a significant impact on that person's ability to be an effective parent, to connect with friends/family or to engage in self-care and employment. Abusive behaviour has what is described as a 'radiating impact,' on the victim themselves, on their children, on family members, friends, colleagues and everyone connected with that person (Riger *et al.*, 2002; Hester *et al.*, 2007; Wood *et al.*, 2011). Domestic abuse is a whole family issue, impacting on the most vulnerable within a family unit, children. Research is unequivocal in showing us that children are greatly affected by directly experiencing domestic abuse, but also indirectly experiencing it by witnessing such abuse within their home environment. Moreover, there is a recognised overlap between domestic abuse and child sexual abuse (Humphries and Mullender, 2000; Mullender *et al.*, 2002; Hester *et al.*, 2007). Children who are sexually abused are, in the main, abused by someone who knows them and this is more often than not within a domestically abusive home environment.

75% of all UK children on child protection registers are affected by domestic violence. Children experience physical injury and sexual abuse, and witnessing domestic violence is emotionally abusive resulting in

psychological trauma, anger, fear, insecurity and guilt. In 40-66% of domestic violence cases, the same violent man is directly abusing the children.' (Edleson, 1999)

The vast majority of individuals who use abusive behaviour to control and dominate within intimate relationships are heterosexual men. Domestic violence amounting to a quarter of all violent crime within the UK (Mirlees-Black *et al.*, 1998), remains primarily a gendered crime (Straton, 1994 and Walby and Allen, 2004), and this assertion is consistently reinforced by findings from the British Crime Surveys of 1995-2007. The current Coalition Government are very aware of these issues, in 2010 the Right Honourable Teresa May issued a press release from the government stating that there were over a million female victims of domestic abuse annually (May, 2010). In 2013, ACPO lead on domestic abuse, Chief Constable Carmel Napier said:

“On average two women a week and one man every seventeen days are murdered by their current or former partner. Around one in four women and one in six men will experience domestic abuse in their lifetime, and according to the 2010/11 British Crime Survey five per cent of men and seven per cent of women experienced domestic abuse in the past year. The same survey also found that women between 16-24 years of age and men aged 16-34 were more likely to suffer relationship abuse than any other age range. (Napier C, 2012)

Most murders in the UK occur tragically within the victim's home, most of these involve men killing their wives and female partners; or parents/guardians killing their children, domestic abuse nearly always lies behind such tragedies (Wilson, 2012). We have seen this recently in a multitude of high profile cases, the angry, embittered, distorted thinking of a man is frequently behind such tragedies; a desperate way of gaining power and control and of a punitive attempt to get back at his partner or ex-partner, resulting in a retributive punishment of ultimate control.

Risk assessment of Court mandated Domestic Abuse Perpetrators  
Under the provisions of the TR agenda, the initial risk assessment of cases will be undertaken by the National Probation Service, using a newly designed risk assessment tool (pending completion). The new tool will serve to restrict cases being re-evaluated as moving dynamically between risk categories, with most cases being assessed as being of medium or low risk, according to Grayling (Ministry of Justice, 2013: 21). In terms of current statistical risk assessment tools utilised by probation, perpetrators of domestic abuse are frequently assessed as posing a medium risk of harm. The difference between a client posing a medium risk or high risk of causing harm is considered in terms of an assessment of imminency. That is, whether the significant harm identified is likely to take place immediately. If this is thought to be the case, the risk assessment will be high. If the imminency of harm is not thought to be immediate, then the risk of harm will be assessed as being at a medium level. Many offenders perpetrating domestic abuse will be assessed as posing a medium risk of causing harm to their (ex) partner or to a future partner. The fact that significant harm will take place if the perpetrator re-offends is

generally not disputed given the emotional/psychological harm caused, as well as the index offence, usually containing physical or sexual assault.

However, there is a potential issue in terms of accurate risk assessment of re-offending when looking at domestic abuse cases. We know that victims of domestic abuse suffer many times prior to having the courage to make their experiences known to others, sometimes over periods of years, and even if they do disclose to those closest to them, they are even less likely to report the abuse to police or to other agencies (Hester, 2009). Therefore, this logically results in far fewer incidences of domestic abuse being formally reported and recorded. Without convictions or cautions recorded against the perpetrator's record, the statistical assessments carried out by probation show a significantly lower risk of re-offending and potentially, if all information is not gathered at the risk assessment stage, can indicate a lower risk of harm than is actually posed. It is widely recognised that criminal justice involvement occurs in only a minority of domestic abuse cases (Hester, 2006; Hester and Westmarland, 2007; Westmarland and Hester, 2007). Although the publicity of domestic abuse within the media has highlighted the issue of domestic abuse in the UK, and has encouraged more confidence in reporting, this issue continues to take place privately and without accurate recording of the levels of abuse. This demonstrates the difficulty in attempting any accuracy in terms of measuring risk of abusive behaviours when occurring within a domestic setting.

Tragically, there have been many such cases that have resulted in disaster in terms of managing a medium/low risk case where domestic abuse is known to be a factor in current or in previous offending behaviour. One example; Claire O'Connor was killed by her partner in the early hours of 1st January 2012 in Warwickshire. Mr Mann, who had previously domestically abused Ms O'Connor, hid her body in the boot of her own car until admitting the crime the following day. He was, at the time of killing his partner, under the supervision of probation and was not assessed as posing a high risk of harm (Gibbons, D, 2013). This is one of many cases where a woman has been killed at the hands of someone not thought to pose a high risk of harm.

Working with domestic violence perpetrators in the community, by probation partnerships or by voluntary/charity organisations.

In responding to domestic violence and its impact, perpetrator intervention emerged in the UK in the late 1980s and since 2000, court-mandated men have been referred into criminal justice system perpetrator programmes run by probation (Bowen, 2011). Domestic violence perpetrator programmes were developed in the UK, imported primarily from American feminist models, that looked to work with evidence-based approaches to criminal justice intervention and connected with the 'What Works' agenda in the UK. Well established programmes such as the Integrated Domestic Abuse Programme (IDAP) are now a firm part of probation intervention. Probation Trusts within England and Wales have gone on to develop effective partnership initiatives to address crime, including domestic abuse, and have encouraged new approaches, innovation and joint working protocols. An example is Northumbria Probation Trust's 'Solo project,' winner of a 2012 Howard League for Penal Reform Community Programme Award. This project works with perpetrators of domestic violence so as to ensure greater safety for women and children

(Howard League, 2012). Solo is a one to one perpetrator programme, delivered as part of a Community Order, Suspended Sentence Order or as part of Licence Conditions on release from prison. Specially trained probation staff work with perpetrators to deliver the initiative. This project is delivered within a multi-agency, risk management framework and is essential in any probation delivered intervention. Perpetrators undertaking the course are flagged on police systems and information sharing protocols are in place to ensure that any police call outs or arrest information is shared with the Probation Offender Manager (Northumbria Probation Trust, 2012). Solo is supported by a Women's Safety Worker, where contact and support is offered to the partner or ex-partner of the participating perpetrators. In this instance, this service is provided by Barnardo's on behalf of Northumbria Probation Trust.

Probation have routinely involved partner agencies with regard to providing support/integrated aspects of working with perpetrators of domestic abuse. Joint working is not a new concept to probation, neither is working in innovative ways with other agencies. Partners can be from voluntary agencies, charities or local specialist groups. A strength of probation involvement is the level of information sharing protocols firmly in place with both statutory and private agencies/organisations. Additionally, probation involvement has the benefits of robust case management systems that are not restricted by funding constraints and are integrated firmly within the Multi-Agency Risk Assessment Conference (MARAC) involvement. During a fringe meeting at the recent National Association of Probation Officers (NAPO) Annual General Meeting in Llandudno 2013, probation staff discussing domestic abuse spoke of how often probation was the only agency attending MARAC who represented both the perpetrator and victim, the only agency with a thorough perspective from both parties within the abusive relationship. Staff spoke about the value of this in terms of information sharing and effecting evidence led risk management (Napo AGM, 2013). This may be diminished if the work with domestic abuse is fragmented and disbursed throughout a variety of organisations nationally.

Group work programme approaches are methods of intervention with abusive men to address abusive behaviours (Respect, 2000). However, as Moran notes, 'Domestic violence perpetrator programmes remain a controversial and often contested form of intervention as far as responses to men's violence against women is concerned.' (Morran, 2011: 23). A perpetrator programme is a programme of group work sessions designed to assist men to stop being violent and abusive, to help them to learn to relate to their partners using respect and equality. An accredited programme is a programme that is evidence based and congruent with the "What Works" literature and is accredited by the Correctional Services Accreditation Panel (CSAP) which is tasked with assessing programmes for accreditation and promoting standards for the quality of delivery. Probation staff have, to date, worked with perpetrators of domestic abuse primarily using an 'accredited programme' approach coupled with experienced case management by qualified probation staff. Innovative approaches are still being trialled and evaluated within probation areas, using a variety of accredited programmes, one to one projects, and with intensive case management to motivate, reinforce and develop abusive men in their efforts to make positive attitude and behavioural change.

In 2010 the Ministry of Justice, National Offender Management Service (NOMS) published information regarding 'What Works with Domestic Violence Offenders?' (Ministry of Justice, 2010). NOMS felt that programmes should be accredited by CSAP and be designed to follow "What Works" principles. Three offending behaviour programmes for perpetrators were accredited by CSAP, these were the Integrated Domestic Abuse Programme (IDAP), Community Domestic Violence Programme (CDVP) and the prison based Healthy Relationships Programme (HRP). All programmes were integrated in design, including a strong multi agency approach, with multi agency risk assessments, and support for the female partner by way of a Women's Safety Worker. Many voluntary or private sector organisations use similar cognitive behavioural programmes or the standardised Duluth based group work programmes to address domestic abuse (Bowen, 2011), but they do so frequently in a non accredited way, without treatment management and using group work facilitators that are not trained to work specifically with abusive men and not within a criminal justice setting. This then clearly contradicts the NOMS 'What Works with Domestic Violence Offenders?' guidance. There are avenues for accreditation that programme providers can achieve in the community. Organisations can work with Respect, the charity and membership organisation that can provide 'Respect Accreditation' for perpetrator programmes in the UK, but there are few accredited organisations currently offering Respect accredited provision for perpetrators of abuse (Respect website, 2013). Domestic violence perpetrator programmes, that have accreditation in the community, are rare. This indicates that should the TR agenda be carried out as planned, future work with the majority of perpetrators may be carried out by organisations without accredited interventions and without evidence based evaluation.

Domestic violence perpetrator programmes are only part of the picture though. Morran found that those men attending programmes had often only minimally absorbed elements of the programme and therefore did not sustain permanent change when subject to short intervention periods (Morran, 2006). Research has shown that desistance is a process that varies from case to case, requiring considerable time, necessitating positive reinforcement and skills training. It is arguably the ongoing specialised case management of domestic abuse perpetrators, by fully qualified staff, that allows abusive men to effect change and to put into practice skills learnt by the completion of perpetrator programmes (Burnett and McNeil, 2005). The probation model of high level training in the form of specific domestic abuse work, motivational interviewing, effective offender engagement, dealing with involuntary clients and in working with the complexities of dealing with those who have been mandated by the court to attend interventions all contribute to the efficacy of programme interventions. It is this high level skill and knowledge base that will be absent when reassigning cases of domestic abuse to the private/voluntary sectors. Additionally, where financial considerations are linked to delivery, limiting time to engage, the ability to assist a man to effect change is also potentially hindered. This expert provision will not always be evident if this work is outsourced to private/voluntary sector organisations who are constrained by funding issues and profit maximisation. Interventions with abusive men require personalisation, and professional support by case managers trained in working with involuntary clients (Trotter, 2007) and evidence supports that standardised programmes alone cannot meaningfully address the complexities of the lives of perpetrators and how they desist from abusive behaviours (Morran, 2013).

Looking outside of criminal justice in terms of the TR agenda and the potential to outsource court mandated perpetrator interventions to other agencies and organisations. Most organisations are not currently adapted to working with this category of client. The majority of the existing community level work with perpetrators is carried out by relatively small organisations, charities and latterly by social enterprises; the voluntary aspect of attendance being of significant importance to many of these organisations in terms of accepting men onto programmes or interventions. Intervention work with perpetrators of domestic abuse is a relatively new area of work in terms of non-statutory organisations running voluntary perpetrator programmes. Indeed, specialist provision in the UK for addressing abusive behaviour by men towards women has only been running over recent years and has had very limited funding (Blacklock, 2001; Coy *et al.*, 2009). These will be the very organisations that the government will encourage to bid for mandatory criminal justice provision for domestic abuse perpetrators in the new arrangements under TR, probably as Tier 2/3 suppliers. Many Tier 2/3 suppliers are likely to be organisations whose priorities have been offering support for women and children as the funding and expertise in working with male perpetrators has not been readily available. There is some training available to voluntary agencies such as the 6 day Respect training (Respect, 2000) or 5 day Sea Change training programme (Seachange, 2013), but many organisations find the cost of such training prohibitive on restricted budgets. However, the in-depth desistance based probation case manager, report author and facilitator programme training is not readily available to agencies outside of the criminal justice sector.

Already, within the Coalition Government's Violence Against Women and Girls Strategy (HM Government, 2013), there has been very limited consideration of perpetrators with barely any governmental funding to support engagement and specific interventions with abusive men. Over £40million has been allocated for specialist services to assist women and children, but little has been allocated to working with perpetrators (HM Government, 2013). This has resulted in agencies and small organisations fighting fierce competition for modest pockets of funding, resulting in provision moving away from specialist services to those that are the cheapest, or those that are without cost. Clearly then, there will be conflict where small organisations are vying for the same small pockets of funding, and who have a complete lack of experience in dealing with enforcement of attendance, involuntary clients and of coercion in achieving completion of interventions.

Having regard to the privatisation of other public services, including prison privatisation, it appears logical to equate privatisation with financial saving. That it is associated primarily with cost savings and the reduction of expenditure from public funds. Accordingly, private sector companies already involved with criminal justice contracts are competing explicitly for contracts on the grounds of a reduced cost to the public purse. G4S, for example, believes that 'there are a number of areas where the private sector can deliver further cost savings to the Government,' including probation service areas where it is looking to increase its share of the market (Tobin, 2010). Therefore, to move interventions to private sector organisations, financial provision of such services is likely to preclude the time consuming practice and expertise required to work with the complexities of domestic abuse perpetrators as this *de facto* equates to being financially more expensive to provide. They are likely to reduce the numbers of experienced staff working in the area of domestic violence to enhance profit margins for shareholders within the private

organisation. This can only have a detrimental impact on work with domestic violence perpetrators, resulting ultimately in continued or enhanced risk to women and children living with such men.

## Conclusion and recommendations

Breaking the cycle of crime will mean fewer victims in the long term, but we will not forget our primary responsibility for public safety now. This is a key role that is rightly fulfilled by the public sector. We will forge a new National Probation Service, drawing on the expertise and experience of its staff, focused on assessing risk, and managing those who pose the greatest risk of serious harm to the public. (Ministry of Justice, 2013).

The Ministry of Justice highlights the need to use staff with expertise and experience to manage those who pose the greatest risk of harm. Under new TR proposals, this will not include the majority of domestic abuse perpetrators, who will be managed and worked with by a variety of private companies and other agencies throughout the UK and throughout the 21 CRC areas. Expertise and experienced staff when working with court mandated perpetrators of domestic violence are predominantly located within probation at the current time. If Probation Trusts are dissolved and this work is assigned to a whole raft of other agencies, the expertise will be lost.

The perpetration of domestic abuse has a catastrophic impact on women, on children and on communities. Perpetrators of domestic abuse, or criminal cases in a domestically abusive context, should be considered by the Ministry of Justice as being amongst 'those who pose the greatest risk of serious harm to the public' (ibid). This will ensure appropriate levels of case management is maintained, that thorough risk assessment is undertaken and that the risk management of some of the most dangerous offenders, by virtue of the devastating and generally unrecorded impact of abuse perpetrated against women and children, are supervised appropriately and safely.

Grayling, Lord Chancellor and Secretary of State for Justice, appears to be facilitating the imminent outsourcing of criminal justice sanctioned domestic abuse perpetrators to a plethora of varying organisations. There is a risk in this approach and that risk will be taken by the women and children connected with the abusive men they are in contact with. He has advised of a new risk management tool that will assess that most offenders, (including domestic abuse perpetrators) will pose a medium or low risk to the public and those cases will be directed to the private sector to be managed, monitored and rehabilitated. The professional knowledge, highly experienced probation practitioners and the impact of probation intervention in both case management and treatment of convicted domestic abusers will be restricted to only a minority of high risk cases. This TR approach will potentially result in disaster, resulting in the increased risk posed to vulnerable women and children. This article argues that risk assessment of domestic abuse perpetrators is flawed in that only a minority of abusive incidents, recorded by way of criminal justice sanction, will contribute to risk assessments. This is unhelpful in making a judgement as to who may seriously harm their partner and when that harm may occur,



all cases involving domestic abuse have the potential to result in serious harm taking place.

This article recommends that all cases involving domestic violence, or where domestic abuse has been a risk factor previously, should be considered as an important exception in relation to the separation and prioritisation of work under the TR process. All work involving domestic abuse should remain under the auspices of probation intervention and probation case managed supervision. To distribute this work nationally to a variety of organisations, undertaking a variety of intervention packages, accredited, or more likely not accredited, is likely to have a significantly detrimental impact on the lives of vulnerable women and children. In order to properly protect the lives of women and children in England and Wales, perpetrators should be case managed and supervised by highly skilled, trained professionals and the interventions undertaken by agencies, whether within probation or by partnership agencies, need to be delivered in a well sequenced, integrated manner monitored and case managed by probation. It is acknowledged that in order to undertake this work a more substantial number of experienced staff will need to be retained within the auspices of the probation service than is currently envisaged. However, without this there is likely to be an increased risk of harm posed to women and children as a result of the implications of the Ministry of Justice's 'Transforming Rehabilitation' agenda.

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