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Human Rights Act Reform Team
Ministry of Justice

By email only: HRAReform@justice.gov.uk

Dear Sir/Madam

1. Please accept this letter as the Centre for Women's Justice response to the government's consultation on proposals to reform the Human Rights Act 1998.

About us

2. Centre for Women's Justice (CWJ) is a lawyer-led charity focused on challenging failings and discrimination against women in the criminal justice system, particularly where women and girls have been victims of crime.

3. CWJ aims to help women and girls who are subject to male violence access legal remedies to defend and enhance their rights. Women as victims, defendants, and witnesses suffer very significant structural disadvantage within the criminal justice system and often the Human Rights Act is their only means of seeking justice.

4. We conduct strategic litigation in both public and private law matters, as well as acting in in both inquiries and inquests. We also act in interventions, both as ourselves, and on behalf of other organisations concerned with male violence against women and girls (VAWG). We provide training to frontline women's services across England and Wales on legal remedies available to victims of male violence. We also work closely with women's sector groups, providing legal advice and assistance to service users of frontline services. Between them, our lawyers have decades of experience of using the Human Rights Act 1998 (HRA) to assist clients. While the work at CWJ is focused on acting for victims of domestic and/or sexual violence, for example relating to decisions not to prosecute their assailants or challenges to wider policy decisions that affect the client group as a whole, all of our solicitors have a background in private practice bringing public and private law claims in which the HRA has been used in other areas also.

CWJ
Centre for Women's Justice

Background to our response

5. Our client group, including the service users of the frontline services we advise, have been immeasurably assisted by the HRA. Prior to its introduction, this group - comprising victims of domestic and/or sexual violence, victims of trafficking and victims of child sex abuse – had almost no remedies available to them that could be enforced in the domestic courts because there is no liability in negligence where victims of crime are failed by the criminal justice system. Nor is there any enshrined right in common law to a prompt investigation enabling meaningful participation of victims (including families of the bereaved) into serious failings and other violations by state actors. Moreover, it has only been with the assistance of the European Court of Human Rights (ECtHR), particularly in its findings of positive obligations, that the rights of this group have been fully understood by the domestic courts and are now enforceable by individuals seeking justice for failings by various UK State bodies, which can improve the situation and protect women and girls more widely. CWJ and the lawyers that work with us have been at the heart of some key legal challenges relying on the HRA to vindicate the rights of women and girls subject to male violence.

6. We have considered the consultation paper carefully. In summary, it appears that the Ministry of Justice is proposing a radical solution, to a problem where there is no evidence that a problem exists in the first place. We note that the Independent Human Rights Act Review Panel, chaired by Sir Peter Gross, sought evidence about the functioning of the HRA from practitioners and members of the public on 13 January 2021. We, along with many others, responded to that call for evidence. It was suggested that this evidence would provide the basis for any proposed changes to the HRA 1998. This is not the case. The present proposals are entirely outwith the evidence gathered.

7. Indeed, Sir Peter himself stated on 1 February 2022 that he does not consider that the government's consultation on reforming the HRA reflects his report, when he gave evidence to the Justice Committee. He outlined that the present consultation paper is not "a responsive document" and identified a number of gaps and deficiencies. It is notable that he outlined that where the present consultation paper disagreed with the panel's findings and/or recommendations, insufficient information has been given as to why. Of even greater concern is that he outlined significant issues on which the government has made proposals, which appear to have no evidence base at all, aside from vague assertions within the document.

8. CWJ considers that the present questions, as well as having no evidence base (the "case for change" is wholly unevidenced), are drafted in a way which is leading. The questions do not properly reflect the functioning of the HRA. They altogether fail to engage with and consider who really uses the HRA or why, including the wider positives that arise when they do so. The paper is focused on the handful of cases which the present government dislikes the outcomes of, for example on behalf of "serious criminals and terrorists" some of which are no longer

even relied on since the case law has moved on. It entirely fails to properly consider the protection the HRA offers to 'ordinary' members of society who need it, including our client group, victims of serious crime, whom the government has repeatedly claimed to be concerned for. It also fails to recognise the positive impact on public administration, for example by ensuring more consistent, fairer and lawful decisions are made by public authorities from the outset, which protect individuals from harm.

9. While it is reassuring that the consultation proceeds on the footing that the UK will remain a signatory to the European Convention on Human Rights (ECHR), this does mean that some of the proposals make little sense. It would mean that some of the proposals would themselves be incompatible with the ECHR. It also follows that it makes little sense to repeal the HRA as litigation would be required in the ECtHR to resolve the matters.

10. The proposal does not outline how a new Bill of Rights would function as a whole. The consultation fails to recognise that the Human Rights Act 1998 is primary legislation drafted and passed by Parliament, which largely incorporates the ECHR into UK law and thus allows individuals to bring challenges against public bodies in the domestic courts, instead of having to enforce those rights abroad in the ECtHR. It is, in essence, an "enabling" Act, allowing for the process of balancing and enforcing ECHR rights to be quicker and cheaper for all parties and rooted in domestic considerations by domestic courts. It was carefully drafted to provide UK courts with the ability to consider domestic legislation alongside Convention rights and to make decisions within the extensive margin of appreciation afforded to all signatory States. It expressly states that ECtHR decisions must be taken into account, rather than followed. It plainly upholds parliamentary sovereignty. It is therefore of great concern that this consultation is taking place at all and undermines the government's stated intention of focusing on British made laws and Courts determining outcomes. It is clear that if these proposals are followed through, they will create a new era of litigation on issues already settled, much of which may have to be conducted in the ECtHR. The proposals will also undermine the rights of some of the most vulnerable people in society, which includes victims of VAWG.

11. In summary, we reject the purported basis for this consultation, the suggestion that there is any need to replace the HRA with a new "Bill of Rights" and the proposals altogether. Indeed, in our view, our client group, victims of crime whom the government claim to want to help, will be placed in greater danger, should these proposals go ahead.

12. We outline below our responses to the questions asked. Please note that where the questions are not within our experience and/or expertise, we have not responded. For ease of reference, we have set out the question to which we are responding in bold and italics, and have kept your own numbering.

Centre for Women's Justice

Question 1

13. In our view, this proposal is not necessary and should not be pursued. The Courts already draw on a wide range of law when making their decisions and the case for legislative change on this issue has simply not been made out in the consultation paper. In 2017, Lord Reed, now the president of the Supreme Court, outlined that this was a growing trend and that it was welcomed by the Court. Our solicitors have, for example, been in litigation relying on Commonwealth cases (Australian and Canadian) in argument before the Supreme Court and Court of Appeal. In the circumstances, this proposal is wholly unnecessary and the practice is already permitted by the Courts, with no hindrance from the HRA.

14. Further, CWJ considers this proposal to potentially create unwanted litigation. To elevate findings from other jurisdictions, in what appears to be an attempt by the government to water down the perceived "influence" of the ECtHR, is likely to result in less certainty and ultimately more challenges brought against the UK both here and in Strasbourg, particularly where decisions depart from that jurisprudence. In our view, the lack of certainty, should the UK attempt to distance itself from Strasbourg jurisprudence and rely on other jurisprudence, will create uncertainty for public authorities and potential litigants, creating more, not less, litigation. Given that one of the aims of a new Bill of Rights appears to be a desire for less litigation, and more certainty, the current proposal would appear to work against that.

15. In CWJ's experience, section 2 of the HRA functions well. The requirement to "take into account" relevant Strasbourg jurisdiction is just that; there is no evidence of the UK Courts following ECtHR judgments wholesale where they conflict directly with UK common law or parliament's will. Even in the rare cases in which findings are made which outline that legislation is in breach of the HRA, the Courts have been extremely cautious, and when such findings are made, even more cautious in setting out how the matter should be rectified, leaving such decisions to parliament.

16. There are cases in which the application of Section 2 (whether explicitly set out or otherwise) has immeasurably assisted our client group, victims of violence and abuse, in ways that the government has later confirmed to be correct and fair. For example, in *JT v First-Tier Tribunal*, the Court of Appeal found that the relevant Criminal Injuries Compensation rule, passed by parliament, breached JT's human rights. The rule excluded victims of abuse from compensation if they lived with their abuser at the time. The original rule was set out in that way, because the government was trying to prevent abusers from profiting from their abuse. However it had failed to appreciate the situation JT found herself in: she was a child victim of sex abuse by her stepfather from the age of 4, she thus had no choice but to live with him at the time of the abuse and despite a change in the rule, she found herself precluded from compensation because the abuse had taken place prior to 1979, an issue the amended rule had failed to consider. 94% of cases which were excluded by the rule were in relation to child sex abuse.

17. The Court of Appeal took into account some Strasbourg jurisprudence, which in our view was vital to its findings. It thus corrected parliament's, presumably unintended, error. The present government has since acknowledged this error, and has confirmed the rule will be changed. It is unclear whether or how this would have happened without section 2 HRA.

18. Finally, the proposals are at odds with remaining a signatory to the ECHR. Findings which are at odds with ECtHR decisions, but outside the already wide margin of appreciation afforded all signatory states, could create a situation which takes the UK wholly out of step with the principles of the ECHR. In particular, the proposal to exclude the UK from the positive obligations developed by the court in Strasbourg would take the UK so far outside of well-established core principles in ECtHR decision-making, that it is incompatible with being a signatory.

19. The consultation relies heavily on the principle of subsidiarity, that provides leeway in the ways that different member states apply the Convention. However, subsidiarity only stretches so far, and does not extend to fundamental principles that are deeply embedded in the ECtHR's approach. This is clearly illustrated in a very recent case involving violence against women, *A and B v Georgia* (10 Feb 2022) where a woman was murdered by her partner and the ECtHR considered state failings under Article 2. At para 40 the Court considered the general approach to subsidiarity and noted that this will only go so far because: "*The principle of subsidiarity does not mean renouncing all supervision of the result obtained from using domestic remedies, otherwise the rights guaranteed by the Convention would be devoid of any substance (see, for instance, Nikolova and Velichkova v. Bulgaria, no. 7888/03, § 49, 20 December 2007)*." If the UK were to adopt such a radically different approach to positive obligations this would be unworkable, and would also create a potentially significant number of claims against the UK at the ECtHR.

Question 2

20. In our view, case law demonstrates that the Supreme Court is indeed the ultimate judicial arbiter of our laws. The UK Courts can and do depart from Strasbourg decisions where that is appropriate. As set out by Lewis Graham, a legal academic at the University of Cambridge,[1] there are numerous bases on which the UK Courts have chosen to depart from ECtHR decisions, including when they have decided that the ECtHR decision is simply incorrect. This is another example within the consultation of a solution to a non-existent problem.

Question 3

21. The right to trial by jury already exists in common law and is clearly set out in criminal procedure in the UK. Article 6 HRA provides sufficient protection to those seeking trial by jury

[1] https://ukconstitutionallaw.org/2019/02/04/lewis-graham-hallam-v-secretary-of-state-under-what-circumstances-can-the-supreme-court-depart-from-strasbourg-authority/

and works in a way which allows signatory States sufficient flexibility and sovereignty to set out the process.

22. It is not at all clear what the government considers a qualified and codified right to trial by jury would add, or what problems currently arise without one. We seek clarity on this but as it stands, we broadly disagree that this proposal is necessary.

Question 8

23. CWJ unequivocally rejects the idea that the State should pass legislation which has the effect of limiting what human rights claims are brought against itself, let alone that there is a real issue of “non genuine” human rights matters being litigated. The concept of what a “genuine human rights matter” is, has simply not been defined. It is a term frequently used within the consultation paper, and was raised at the meetings with interest groups such as ours offered by the government, but again with no explanation of what it meant. Significantly, no evidence is provided that “non-genuine” claims are causing any difficulties in the Courts, or for defendants more broadly. Of course, there are claims which fail, but that is the reality of any enforceable rights and it is not evidence of a problem with the classification of the rights themselves.

24. In our view, any matter which breaches the ECHR is a genuine human rights matter and Claimants must already meet the ‘victim test’ provided by s7(1)(b) of the HRA to bring a claim. To suggest there should be additional hurdles, is to limit access to justice. It is for the Courts to make a finding as to whether there has been a breach and the extent of that breach. It would be against the spirit of the ECHR for a State to legislate in a way that would decide for itself when it believes it has acted lawfully and should be held to account, rather than the Courts.

25. Should a defendant consider an issued claim not to be a “genuine human rights matter” (by which we assume is meant that it is unmeritorious), it is already entitled to apply for a strike out, which can be done early and thus at limited cost. Indeed CWJ solicitors have experience of the Metropolitan Police Service (MPS) attempting to strike out private law HRA cases brought by victims of rape and victims of police perpetrated abuse, in the face of significant failings by the force. In those cases, the MPS was provided the opportunity to make their arguments. The (failed) attempts to halt claims at an initial stage added very significantly to costs to the public purse and delays. What is relevant, however, is that: this opportunity exists; the Courts have the power to strike out if there are plainly no grounds to proceed; and there is no evidence to suggest that public bodies are averse to seeking strike out where they so wish. It is thus unclear what additional advantage the government believes these present proposals would add.

26. CWJ also wholly disagrees that a condition for bringing a private law HRA claim, should be that the individual has suffered a "significant disadvantage" as a result of their human rights being breached. Any breach by the State of an individual's human rights is significant and should be open to potential enforcement. The HRA is the foundation of ensuring that the State's conduct and dealings with individuals are checked and rights can be enforced when it exceeds its powers. It is the foundation of an individual's power against authority, which until recently was considered a Conservative and conservative principle. Whether the disadvantage is "significant" is a matter for remedy and should not be a condition for bringing a claim. Indeed, compensation for HRA claims takes this into account. The remedies provide only for "just satisfaction" which takes into account the disadvantage suffered, and damages are not automatic. Remedies are for the court's discretion in HRA claims, unlike in tortious claims. The principles in *Anufrijeva v Southwark London Borough Council* [2003] EWCA Civ 1406 apply, which outline that compensation is of secondary, if any, importance to the issue of ending the infringement of an individual's human rights.

27. It is also inevitable that should the government seek to introduce a Bill setting out these vague and nebulous concepts of what constitutes a "genuine" human rights claim and/or what constitutes a "significant disadvantage" this will lead to greater litigation, not less, potentially for many years while individuals, lawyers and the Courts try to establish its meaning and boundaries. It will plainly create satellite litigation, driving up time and costs in resolving the overall claims which would become an unnecessary share of the Court's resources.

28. More broadly, the CWJ does not agree that a permission stage for private law HRA claims is necessary or workable. A permission stage places a greater burden on claimants, will create a barrier to accessing the courts, and make it harder for individuals to enforce their rights and increase costs overall. For our client group, who already experience significant barriers to access to justice (they often suffer from trauma arising from their treatment, their case may be complicated by discrimination, they may have been criminalised by their abusers) we reject the introduction of a further barrier. It is also significant that they may be expected to conduct the permission stage in advance of receiving disclosure, for example where there is an Independent Office for Police Conduct (IOPC) investigation or an ongoing inquest. A permission stage will prevent them from accessing their rights, even if, years later, they find the disclosure which demonstrates that they ought to have been granted permission when they first applied.

29. With respect to public law claims, it is unclear if the government is proposing an additional permission stage, or adding these concepts to the permission stage which already exists in judicial review matters which raise HRA matters. In either situation, again CWJ rejects this proposal and highlights, again, that there is no evidence it is necessary. The present permission stage already filters out plainly unmeritorious claims. Further, there is already a higher legal threshold for individuals to argue human rights matters. Section 7(1) of the HRA provides that a person may argue a human rights matter only where he or she is or would be a victim of the

unlawful act. This is much stricter than the test for standing in judicial review, which requires only a 'sufficient interest' in the matter under s.31 of the Senior Courts Act 1981.

Question 9

30. CWJ rejects the proposal to introduce a permission stage, and the concept of "significant disadvantage" as set out above. In relation to this particular question, in our view this proposal does not go far enough to mitigate the impact on access to justice that a permission hurdle would have and the new complexity the first limb would add. It only adds further unnecessary complexity, satellite litigation and costs.

31. Human rights claims are meant to provide individuals with redress for breaches of their own rights. Some claims will also raise issues of overriding public importance, but while not all will, this does not mean that the breach being litigated is not significant to the individual. The proposed exemption fails to recognise that the fundamental purpose of human rights protection is to protect individuals from abuses of state power.

Question 10

32. As above, CWJ rejects the idea that the courts are affected by "non-genuine" human rights issues and notes the government has failed to define any. This question, and its framing, are disingenuous.

Question 11

33. This section of the consultation is, for CWJ and our client group, the most concerning. The positive obligations arising from Articles 2, 3, 4 and 8 (sometimes read with Article 14) are by far the most important feature of the ECHR and the HRA for our client group, and offer the most – sometimes only - protection to women and girls. Significantly, such positive obligations not only give rise to the ability to challenge failures when they take place, but actually seek to prevent them. Any attempt to diminish or remove such obligations will absolutely put victims at greater risk.

34. The interpretation of negative obligations as imposing positive obligations on the State, largely by the ECtHR, has been of most assistance to our client group. For example, Article 3 has been interpreted to mean that States have an obligation to have effective criminal systems in place to investigate serious offences such rape committed by a private individual. These judgments have been taken into account by our domestic courts. We have seen no evidence that ECtHR judgments were simply followed, rather, we have noted that they assisted domestic courts in understanding the ECHR and considering how these aspects should be applied here, with full regard to domestic legislation, the wide margin of appreciation offered to member States and to parliamentary sovereignty.

35. Much of our work assisting survivors of domestic and sexual violence relies on these findings of 'positive obligations' (usually those arising under Articles 2, 3, 4 and 8) which have since been interpreted by domestic courts to include not only a systemic duty (namely to have a system of laws), but also an operational/investigative duty (namely to take steps such that the system is effective). It is important to note that there are no such duties under the common law and until the HRA, our client group had no domestic remedy available to them to rectify or seek justice over investigative failings. The government has repeatedly stressed its commitment to addressing VAWG over many years, with a national VAWG Strategy since 2010, a focus on policing and prosecution of domestic abuse and rape by the Inspectorates of police and CPS, the recent Rape Review 2021, a wide-reaching report following the death of Sarah Everard by HM Inspectorate of Constabulary, Fire & Rescue Services, and many other policy initiatives. This proposal to curtail positive obligations flies directly in the face of the broader policy objective of addressing VAWG and undermines the ability of victims and survivors to secure protections and improved state responses and accountability.

36. We list below some of the cases and issues that are of greatest significance to our client group. The principles arising have since been relied on repeatedly in private and public law claims including those which settle before trial, sometimes even before proceedings have been issued, by women seeking justice and accountability. Sometimes this has resulted in fresh or re-opened criminal investigations of people accused of extremely serious crimes including rape, child sexual abuse and trafficking which can not only lead to justice for the victims, but also to greater public safety where those assailants are found guilty. The cases are set out chronologically and this list is not meant to be exhaustive.

37. *Osman v UK* [1998] ECHR 101 is a case which was heard in the ECtHR because the HRA was not in force at the time of the application, so the matter could not be considered domestically. However, it is included here because it is a case from which a number of important duties have arisen and the HRA has meant that the findings and boundaries of Osman have since been considered and refined in domestic courts as public bodies' duties. It is extraordinary to CWJ, that the case has been used by the government to suggest that positive obligations to prevent murders is problematic or an unnecessary burden on the State. It flies in the face of every government statement over the last year indicating a determination to tackle violence against women and criminal justice failings.

38. The Osman case confirmed that there is a positive obligation upon the State to seek to prevent loss of life where the authorities 'knew or ought to have known at the time of the existence of a real and immediate risk to the life of an identified individual from the criminal acts of a third party and failed to take measures within the scope of their powers which, judged reasonably, might have been expected to avoid that risk.' This is not an over onerous burden. Indeed the ECtHR made clear that the duty must be applied in a way that recognises the limitations on what public authorities can be expected to do, stating that:

"*the difficulties involved in policing modern societies, the unpredictability of human conduct and the operational choices which must be made in terms of priorities and resources, such an obligation must be interpreted in a way which does not impose an impossible or disproportionate burden on the authorities.*"

39. The operational duty can also be used to try to prevent serious violence and even murder of women from known threats. For example, where the police are failing to act on a serious and credible threat to a woman's life, women can and have relied on this positive obligation to challenge the inaction of the police or any other public authority who may be in a position to take steps to protect her.

40. The consultation paper suggests that the "threat to life" notices which have followed Osman are an operational burden on the police, outlining that 770 such notices were issued in 2019 by the 4 biggest forces. What it fails to outline is whether that resulted in people not being killed; which would surely be a positive outcome. Indeed, while the paper focuses on such notices being given to those who are purportedly involved in gang violence (implying that their lives are less worthwhile than any others) it fails to mention that such notices are also used for victims of domestic violence, honour based violence and stalking.

41. Some of the frontline domestic violence services we work with have confirmed to us that "threat to life notices" are indeed used in domestic violence matters and that they have undoubtedly saved women's lives. In one example shared with us from Birmingham and Solihull Women's Aid, the woman was able to rely on the notice to find immediate alternative housing for her and her children to protect all their lives from her violent partner. The Henna Foundation informed us that these notices are of particular assistance to women and girls at risk of so called "honour" based violence. The removal of this positive obligation arising from the case of Osman, will plainly put more women and children's lives at risk.

42. The premise of this question is that positive obligations are a burden and drain on society's resources, when in our experience the opposite is the case: positive obligations can greatly enhance the quality of public services and enable them to address the needs of some of the most vulnerable in society. Nowhere is this more apparent than in the transformative impact of the positive investigative duty on the way that inquests are conducted.

43. It would not be an overstatement to say that the HRA has revolutionised the way that inquests into state-related deaths are carried out. Many such 'Article 2 inquests' now result in families of those who have died at the hands of the state or as a consequence of state failings, being able to participate in open hearings and expose wrong doings and cover ups such as in the Hillsborough inquest. It has also enabled Coroners' recommendations to prevent future deaths. In the sphere of violence against women, such inquests can help identify police failings to use their powers to enforce non molestation orders and other measures that might

otherwise have prevented homicide. The Domestic Abuse Commissioner has recently established a domestic homicide oversight mechanism to build on Coroners' recommendations, as well as those of others, to address the enormous toll of women killed every year by partners, ex-partners and other men. Many of these deaths are avoidable where the deceased or the perpetrator were in contact with public services before the death, for example police, probation and local authority services. The positive obligation under Article 2 feeds directly into saving lives and no civilized society can tolerate this level of killings of women because they are women. Removing this duty would be a hugely retrograde step.

44. Paragraph 229 of the consultation states that positive obligations are 'common sense' but if that were the case then litigation would never be necessary and this fails to address the issue of ensuring they are justiciable. Changes to the Coronial system have come about precisely because positive obligations are justiciable, as a result of a series of landmark judgments both in Strasbourg and in the UK courts shortly after the coming into force of the HRA.

45. In *Jordan v UK* (2003) 37 EHRR 2 the Strasbourg Court set out the standards that an Article 2 investigation should meet, which apply to both the pre-inquest investigation and the inquest itself. These include institutional independence of the investigating authorities, so that most domestic homicides where there was police contact prior to the death are carried out by the IOPC, rather than the police force concerned. They also include the principle that an investigation must be effective in the sense of determining key issues of state responsibility for a death, and that the next of kin must be involved so that their legitimate interests are safeguarded. Where there is possible state involvement that may have contributed to the death, families can rely on the state to hold an inquest which addresses those key issues of its own volition, without families having to initiate legal proceedings themselves. After a criminal trial for murder in a domestic homicide families can and do approach the Coroner to ask for an inquest to be resumed where there appear to have been state failings, which naturally will not have been explored in the criminal trial.

46. In the first case addressing the positive duty in the context of an inquest, in *R (Middleton) v HM Coroner for Western Somerset* [2004] 2 AC 182, the House of Lords accepted that inquests need to be carried out in such a way that they comply with the Article 2 investigative duty, because in the UK context they are the way in which the state discharges this duty. The House of Lords stated that compliance with the investigative obligation "must rank among the highest priorities of a modern democratic state governed by the rule of law." This built upon the judgment of the House of Lords in *R v SS Home Dept ex parte Amin* [2003] UKHL 51 which elaborated on the essential elements of the investigative duty. These judgments laid the groundwork for all the Coronial developments in almost two decades that have followed.

47. With Article 2 as the driver, a wide range of reforms have been introduced, so that 'Article 2-compliant' inquests are now very different to other inquests in terms of their scope, length and procedure. In Article 2 inquests juries return narrative verdicts which reach findings on

the key factual issues in dispute, the most critical element of the inquest process. Non-Article 2 inquests are limited by narrow short-form verdicts and a very restrictive approach based upon the judgment in *R v HM Coroner for Humberside ex parte Jamieson* [1995] 1 QB 1 which leaves many families feeling deeply frustrated by the narrow scope of the inquest. There is now a well-established process for disclosure of documentation in advance of the inquest to the family's lawyers, where pre-HRA there was no right to disclosure and they would arrive at court knowing little about what witnesses were going to say and what the primary materials showed. Families can now make submissions to Coroners at pre-inquest hearings about which issues, witnesses, experts and materials may be relevant. In this way, and many others, they are able to participate in the process of establishing the key issues around how their loved one died.

48. Most importantly, again as a result of rights being justiciable, following the Court of Appeal decision in *R (Khan) v SS Home Dept* [2004] 1 WLR 971, legal aid became available under the exceptional case funding scheme for Article 2 inquests. Previously families were either unrepresented or sometimes able to obtain limited pro bono representation, often from very junior barristers. In serious cases they are now able to secure representation from experienced specialist barristers and achieve some degree of level playing field within the inquest process. The relevant state bodies will invariably be legally represented and, despite the inquisitorial nature of the Coroner's Court, they frequently adopt a 'damage limitation' approach that presents a barrier to lesson-learning. Families have the opportunity to obtain assistance from experienced lawyers to ensure that the Coroner considers key issues they wish to raise, to question witnesses thoroughly and to achieve some measure of accountability where there are state failings.

49. On the basis of the changes above, many inquests in femicide cases have resulted in findings which bring to light ways in which the deceased women have been let down, and most importantly try to build better protections for women for the future. The three case studies below illustrate how inquests have contributed and dovetailed with positive wider changes in the protection of women's lives from male violence. To seek to remove these in the name of cost-cutting is unforgiveable and flies in the face of the Government's stated commitment to tackling VAWG, addressing the most fundamental right of all, the right to life. The removal of positive obligations as a legal duty would result in the erosion or loss of the lesson-learning power of inquests, just at a time when the newly created Domestic Abuse Commissioner is starting to harness her power to promote greater change.

50. Domestic Homicide Reviews (DHRs) are no substitute for inquests when it comes to lesson-learning in domestic homicide cases. Their processes are far more limited and, in many cases, key issues are not addressed at all, or recommendations are not acted upon. DHRs are conducted by a Chair and a panel who are entirely reliant upon the public authorities themselves for information about the public authorities' own conduct. Each public authority involved in the death prepares its own summary of relevant facts for the DHR and the primary

underlying evidence is not looked at. Whilst some are highly critical, it can be easy to brush matters under the carpet as the public authority is essentially marking its own homework. DHRs are a paper exercise, so that the Chair prepares a report based upon the information they receive. Unlike at an inquest, the Chair is not able to question witnesses, to probe the meaning of things said and claims made. It is an entirely different process to a court room where witnesses on oath must answer searching questions about evidence put before them, which has been gathered in a detailed investigation. Also families have little input into DHRs, they may meet the Chair but usually not the panel and whilst they may be asked what their concerns are, they do not generally have lawyers involved and are simply not in a position to probe what is being done by those responsible for the DHR. The entire process is a far more limited exercise.

51. Below are three femicide cases which illustrate how inquests can identify critical wider issues around how systems can be improved to better protect women from fatal violence. Bereaved families want to understand what happened to their loved ones, but more than anything they want lessons to be learnt so that other families do not have to suffer the same devastating loss.

52. Anne-Marie Nield

Anne-Marie died on 8 May 2016 during a sustained assault by her partner, who had previously subjected her to non-fatal strangulation. Officers who dealt with the previous incidents failed to appreciate the significance of strangulation as a risk factor, and graded the risk as standard rather than high. There was no support offered to her and no referral to the multi-agency risk assessment panel.

53. The DHR, dated December 2016, identified a significant number of errors and omissions made by police, but did not address the issue of non-fatal strangulation at all. The Coroner did explore the issue of non-fatal strangulation as an important risk factor when it was raised by the family at the inquest, and officers who dealt with Anne-Marie were questioned about their understanding of it. In her Prevention of Future Deaths report the Coroner noted that there is no reference to non-fatal strangulation within the police force domestic abuse policy, and that police officers involved with Anne-Marie failed to appreciate the significance of non-fatal strangulation as a specific risk factor for domestic homicide. In response the police force confirmed that the policy would be amended. Anne-Marie's case was widely cited in the campaign for a stand-alone offence of non-fatal strangulation, which resulted in an amendment to the Domestic Abuse Act 2021 which introduced this new offence.

54. Emma Day

Emma was murdered by her ex-partner on 26 May 2017, who stabbed her repeatedly in the street when she was collecting their children from school. There was a history of domestic violence and controlling and coercive behaviour and escalating threats following her separation from him in 2016. There was a Non-Molestation Order (NMO) and a Prohibited

Steps Order in respect of the children but Children's Social Care did not have copies of these orders and the police did not mention them in a report to social services about the children.

55. The DHR recommended that the Home Office and Ministry of Justice (MoJ) implement a system whereby protective orders can be put directly onto the Police National Computer (PNC). By the time the inquest took place the Coroner noted that evidence from police was that this recommendation had not been adopted. The Coroner made a Prevention of Future Deaths report in August 2021 to the Home Secretary, Justice Minister and Commissioner of Police to highlight concerns about disclosure of orders and the PNC. This chimed with a report the same month from HM Inspectorate of Constabulary, Fire & Rescue Services (HMICFRS) which was the outcome of a police super-complaint by CWJ about police failures around protective orders, where HMICFRS made a similar recommendation that the Home Office and MoJ should review the mechanism for informing the police of NMOs and propose remedies for improvement.

56. Lisa Skidmore

Lisa died on 24 November 2016 during a sustained and brutal sexual attack by an intruder who entered her home. The perpetrator was a prolific sex offender who at the time of the attack was under the supervision of the National Probation Service and the local police force. He had convictions dating back to the 1980s and on three occasions had broken into the homes of women who he had raped or sexually assaulted. He had a life sentence and was released on life licence in July 2016. He was assessed as Tier 4, meaning high risk of serious harm, and managed by Probation on multi-agency public protection arrangements (MAPPA) Level 1.

57. Internal reviews following the death by MAPPA and Probation identified critical failures by the agencies responsible for managing the perpetrator's risk. This included that six weeks before the killing he informed probation that he was having thoughts and feelings that were triggers for his previous offending. He told his police offender manager that he was noticing open windows and fighting thoughts of re-offending. Yet no steps were taken to convene an emergency MAPPA meeting or recall him to custody.

58. The information provided to the family from internal reviews was limited and they made representations to the Coroner to resume the inquest. The Coroner found that there had not been an independent investigation into the death which meets the requirements of Article 2, and a 10 day inquest took place before a jury at which the evidence surrounding the roles of state agencies was explored in detail. The inquest enabled the family to have access to the underlying evidence from the previous reviews and another review by HM Inspectorate of Probation. In oral evidence at the inquest witnesses conceded that had they been aware of the information that was not passed on, the perpetrator would have been recalled. Witnesses also confirmed that there was no adequate risk assessment or conditions for monitoring. Most importantly, four probation officers gave evidence that the Government's "Transforming Rehabilitation" reforms had resulted in an already over-stretched probation service being

unable to operate adequately or manage risk properly. The head of Probation for England and Wales gave evidence in respect of systems failures and gave an unqualified apology to the family.

59. In relation to Article 2, the government should also consider *Michael v Chief Constable of South Wales* [2015] UKSC 2, a case in which Ms Michael's parents and two young children brought claims for damages both in negligence and under the HRA for breach of a public authority's duty under Article 2 to protect Ms Michael's right to life when she was murdered by her ex-partner, having already called the police to ask for protection, stating that her ex-partner had threatened to return to her home to kill her. The Chief Constable applied for both claims to be struck out. The application was refused at first instance. The Court of Appeal then reversed the decision in relation to the negligence claim, holding that there should be summary judgment in favour of the police. However, they upheld the decision to allow the Article 2 claim to proceed to trial. The majority of the Supreme Court concluded that while the police owe no duty of care in negligence to members of the public who suffer harm at the hands of criminals, the police may still be liable for a breach of Article 2 and such claims can be brought in the domestic courts under the HRA. The police may be held liable to victims (or their families) for clear failures to prevent a potentially fatal incident of domestic violence of which they have received specific warning.

60. This case can and has been relied on by our client group where the State has failed to act on threats to kill. It is hoped that the police's better understanding of what the duty entails, as clarified by the Supreme Court, will mean that such urgent calls will be acted on quickly, and lives may be saved. This case also illustrates how without the HRA there would not be any legal route to accountability for such victims in the domestic courts.

61. Another significant case from which positive obligations derive which is of particular significance for women and girls, relates to Article 4 in the matter of *OOO and Others -v- Commissioner of Police of the Metropolis* [2011] EWHC 1246 (QB). This was a civil claim in which it was found that the police have a legal duty to conduct an effective investigation into trafficking under Article 4. The case concerned the failure of the police to investigate, for 2.5 years, the allegations made by two young girls that they had been trafficked and were being held in domestic servitude. This argument could not have been brought without ECHR rights, and could not have been brought in the domestic courts without the HRA. That the government is considering overturning positive obligations, will leave victims of trafficking at risk of even greater harm, and traffickers at greater likelihood of escaping justice.

62. The case has been used by women and girls who have been trafficked for various forms of exploitation to try to ensure that the police take steps to protect them and investigate their traffickers. We have been involved in assisting victims raise it in representations when they believe the police are failing to investigate when allegations are made, to try to ensure that traffickers are brought to justice.

63. Another Article 4 positive obligation case is that of *EK (Article 4 ECHR: Trafficking Convention)* [2013] UKUT 00313 (IAC). It involved a woman known as EK who was trafficked to the UK from Tanzania in 2006 for domestic servitude. Contrary to UKBA guidance she was not given information on her rights upon entry to the UK. After an initial escape, she was internally re-trafficked. In 2010 she was referred through the National Referral Mechanism as a victim of trafficking and assisted to raise an asylum claim. In the Upper Tribunal, EK argued that the failure to give her information at entry had amounted to a breach of Article 4 and that this had contributed directly to her vulnerability to trafficking, and to the damage caused to her health.

64. The judgment established that in cases where the UK has breached its obligations under Article 4, a duty of reparation is owed and that this impacts directly on any decision to remove an individual from the UK. It is hoped that, following the judgment, such initial failures are less likely to occur. The case can be used by victims and survivors of trafficking to enforce their rights, including assisting them to seek asylum to protect them from further trafficking and harm.

65. Another important case on positive obligations is *Waxman (R) (on the application of) v Crown Prosecution Service* [2012] EWHC 113. This was a judicial review claim challenging the decision of the Crown Prosecution Service ('CPS') not to prosecute her stalker of 12 years for harassment. The Court held that in certain circumstances Article 8 can impose a positive obligation to provide an effective criminal remedy, and vulnerable individuals are particularly entitled to effective protection. The State therefore owed Ms Waxman a duty under Article 8 to take proper measures to protect her and was in breach of its duty in failing to pursue the prosecution.

66. This case has been of particular assistance to victims of stalking, as it can be relied upon to try to ensure that police take steps to protect victims of stalking and that prosecutions are taken forward where possible. Frontline support workers and lawyers working with CWJ have repeatedly relied on this judgment and the duty to protect under Article 8 to secure an improved police response in stalking cases where there has been inaction in response to reports of harassment and stalking of women by ex-partners. This is not about damages, this is about securing women's safety.

67. For our client group, one of the most important positive obligations has arisen following the decision of *Commissioner of Police of the Metropolis (Appellant) v DSD and another (Respondents)* [2018] UKSC 11. This is a case in which two of our solicitors were involved, our Director having been the claimants' solicitor. The claimants were two women, one of the first and one of the last victims of John Worboys, the so-called "black cab rapist", who is believed to have attacked over 100 women. In the High Court, they sought a declaration and damages on the basis that the police had failed at both a systemic and an operational level to investigate

their claims of sexual assault, arguing that Articles 3 and 8 imposed a positive duty on the State to conduct an effective investigation.

68. On appeal, the Commissioner attempted to argue that, (1) the investigative duty was limited to alleged mistreatment by state actors or where there was state complicity in the actions of non-state actors, and (2) a violation of the investigative duty could only be founded if there were systemic failings at the policy and structural level. These arguments were both rejected. The police also sought to argue that the case was an attempt to circumvent previous decisions by the Courts which held that the police were immune from prosecution in negligence for failed investigations. However, the Courts rejected this argument also recognising that rights under the ECHR (enforceable under the HRA) are separate arguments to those raised in negligence.

69. All courts, up to and including the Supreme Court (in 2018) held that Article 3 imposed a positive duty on police forces to conduct an adequate and effective investigation into allegations of inhuman or degrading treatment by third parties and that "egregious" and significant errors in an investigation can give rise to a claim. It is important to note that the Supreme Court set this high threshold so that it will only be in the most serious cases that public authorities would be found liable for breaches, and the caselaw has built into it a balance between the rights of individuals and the obligations imposed on state bodies.

70. DSD & NBV's case was a significant victory for victims of VAWG, particularly rape and sexual assault, in seeking to hold the police – and other public bodies – to account for serious investigatory and systemic failures. Until this claim it had not been definitively confirmed in the UK courts that the investigative duty could arise in respect of inhuman/degrading conduct perpetrated by a private citizen and this would not have been possible without the HRA.

71. Had it not been for this case being brought, it is unlikely that it would have been possible to challenge the widely condemned decision of the parole board to release John Worboys in 2018 in *R (DSD & Anor) v The Parole Board of England and Wales [2018] EWHC 694 (Admin)*. Our lawyers, acting for the same two victims who had brought the Article 3 claim described above, were armed with all the information about the extent of his offending which the Divisional Court recognised should have been taken into account by the Parole Board when considering the extent of the risk he posed to women.

72. The HRA claim against the Metropolitan police commissioner has led to police forces better resourcing sexual crime units and is one on which victims often rely to try to ensure proper investigation where there are severe delays or failings in ongoing investigations. From the consultation paper, it appears that the government's position is that this creates an administrative burden on the police, and prevents them from making operational and resourcing decisions as it chooses. In our view, any such an imposition is unequivocally a good thing. Falling charging and conviction rates in rape and the numerous failures we see in our

practice will worsen when there is no duty for the police or CPS to consider their positive obligations when making their decisions or deciding how to resource policing. Indeed, an early claim brought against the Commissioner under Article 3 and 8 which settled, was in part brought as a result of the borough choosing to remove all qualified detectives from the rape unit and placing them in the car crime unit, as it assisted with their overall clearance rate. All rapes around that time were investigated by unqualified, untrained, and poorly supervised police officers. That is, sadly, the reality of the supposed common-sense approach that the consultation paper suggests would replace the positive duties arising under Article 3 and 8 for rape victims.

73. The Government should also consider that the positive obligations to victims of rape and sexual assault arising under Articles 3 and 8 are not creating significant amounts of after the event litigation. In our practice, we note that it is often used in Victim's Right to Review (VRR) applications when highlighting investigative deficiencies to challenge decisions not to prosecute when evidence has been ignored, wrongly dismissed, or failed to be gathered. The positive obligations are also relied on by our client group to re-open criminal investigations where cases have been closed earlier following inadequate investigations, sometimes in response to judicial review pre-action protocol letters. The positive obligation helps to ensure that there are better investigations and better charging decisions and thus to ensure that assailants are prosecuted when they should be. The prosecution of assailants not only provides justice to the current victim, it may also prevent there being further victims, and thus ensuring greater public safety.

74. The above cases and examples demonstrate the vital importance of positive obligations which arise from the HRA. CWJ rejects entirely the notion that these important and protective measures should be removed for the sake of State convenience when it will put lives at risk and endanger public safety. To do so would be at odds with the government's stated commitment to tackling violence against women and girls.

75. The consultation paper does not make clear what the government is proposing in respect of positive obligations. How would it overturn all positive obligations in already decided cases? Is the government proposing to set out in the Bill that no further positive obligations can be found by UK Courts? Without details, it is difficult to properly address this issue. In any event, it seems impossible that any such proposal would not run counter to remaining a signatory to the ECHR and would not lead to successful litigation to overturn it.

76. Finally, we wish to address a point made by a Ministry of Justice official at a group meeting which CWJ attended. It was suggested that positive obligations needed to be "restrained" on the basis that it was creating a "culture of fear" within public authorities who are concerned at their decisions falling foul of their obligations and the threat of litigation hanging over them. There has been no evidence provided to support the assertion that there is a culture of fear. However, if what is being said is that public authorities are having to carefully consider their

decisions to ensure that they do not breach an individual's human rights, then in our view this is a good situation. The way to prevent human rights litigation is not to breach those rights in the first instance. If public authorities are being forced to consider whether their conduct may fall foul of protecting a woman from being murdered or not having her assailant escape justice, then this is something to be lauded, not overturned. We note that many professionals operate in a legal environment where there are basic standards expected of them. Doctors and lawyers, for example, can face claims for negligence if they fall below expected standards. That does not mean that they are unable to do their jobs due to a 'culture of fear', and provides protections for members of the public who rightly expect minimum standards, which is in the wider public interest.

Question 12

77. CWJ considers that there is simply no case for repealing altogether or repealing and replacing section 3 HRA, and the government has failed to provide any evidence as to why such a radical change removing important rights that go to protecting the safety of the public is required. The power in section 3 HRA for UK courts to interpret primary legislation in a way which is compatible with the HRA is helpful and the Courts have been cautious in their application. It is of particular note that the IHRAR panel, which considered this issue in detail, including a review of the case law and the evidence submitted by a wide range of respondents, stated that section 3 should not be repealed.

Question 16

78. The Judicial Review and Courts Bill has not even been through parliamentary stages yet. It is thus not yet law, and may not be. Further, as it has not been passed, its operation cannot be assessed to consider how it functions.

79. CWJ did not support the proposal for suspended and prospective quashing orders in judicial reviews during the consultation for that Bill. We do not support the proposal being extended to HRA matters. The suggestion appears to be that despite a court finding that a public body has violated an individual's human right, that finding should have no immediate practical consequences for the public body and no immediate, if any, relief for the person whose rights have been breached. This would be a serious reduction in human rights protection.

Question 21

80. CWJ disagrees with both options and notes that they reduce the protections provided by the HRA. It is disheartening to note that these proposals suggest that the government does not consider other ways to ensure public authorities feel confident in ensuring they act in compliance with the HRA and is instead seeking to introduce legislation which would make it

extremely difficult, if not impossible, for an individual to challenge the decision of a public body on a human rights basis. For our client group, we can see that this could lead to them losing the opportunity to challenge poor decision making surrounding the charging of their assailants, even if positive obligations remain in place.

Question 23

81. CWJ does not consider there is any need to provide guidance to the UK courts on how to balance qualified and limited rights. It is notable that IHRAR considered these issues in detail, and concluded that UK courts have "developed and applied an approach that is principled and demonstrates proper consideration of their role and those of Parliament and the Government."

Questions 24 and 25

82. Our work does not focus on immigration law and to that end, we do not have from our own practice an authoritative response to these questions. However we are aware that some victims of VAWG may be affected by these proposals, especially those who are criminalised as a result of being abused. It is notable that the majority of women serving prison sentences are victims of male violence, at least 57% are victims of domestic abuse and many commit offences in response to violence and due to coercion by their abusers.

83. As such, we have contacted lawyers who work directly in this field. We confirm that we have read, agree with, and adopt, the submissions of the Joint Council for the Welfare of Immigrants (JCWI) to these questions.

Question 26

84. CWJ does not consider that there needs to be a codified list of factors in considering the award of damages in Human Rights Act claims. Damages are awarded in line with what the Court considers to constitute "just satisfaction," indeed where there has been a declaration, that can be used to decide that no or extremely minimal compensation will be awarded in conjunction with that relief. The principle of just satisfaction allows the court to consider any and all factors that either party raises when they set out their representations as to what level of damages are appropriate. There is no evidence that this process is not working and this proposal appears to be an attempt to seek to limit damages, and thus the consequences for a public authority, even though they have been found to have breach an individual's human rights.

85. Should the government proceed with this Bill and this proposal, then of greatest significance should be that any factors listed should be non-exhaustive and none should be decisive. Ultimately, a reduction in consequences for breaching human rights, reduces the incentive of

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the State to act lawfully in the first instance and this question ignores that a breach of an individual's human rights should be recognised and compensated. It is wholly improper for the government, branches of which may themselves be found to have breached an individual's human rights, to seek to limit the consequences for itself.

Question 27

86. CWJ is deeply concerned with this section and question. We disagree with the suggestion that an individual's conduct is relevant to the State infringing their rights and thus any remedy they are entitled to for such a breach. An individual's conduct, or even misconduct, is not equivalent to a public authority acting unlawfully and this proposal may create a two-tier system, of those individuals whose rights the State feels more able to violate. This proposal fundamentally undermines the concept of universal human rights, and implies that some human beings are less deserving of human rights than others.

87. For our client group in particular, we have concerns that either option proposed will unfairly disadvantage them as a number of this group have convictions, often as a result of the violence and abuse they have suffered. There is growing agreement in academic circles that being a victim of child sex abuse increases the propensity of victims to later commit offences. We work with a number of women who have a criminal record because of alleged offending that directly results from their experience of domestic abuse and other forms of VAWG. Some have been controlled and coerced into offending by their abusers and were unable to rely on duress because it is unsuited to the context of domestic abuse. Others faced untrue counter-allegations, including some from police officer perpetrators of domestic abuse. Others who used force against their abuser in self-defence have been convicted of violent offences because the application of the law of self-defence discriminates against women[2]. This includes women whose abusers are police officers or ex-police officers, who are able to use their contacts and knowledge of the system to their advantage in order to criminalise their victim and extend their power and control over them, as seen in CWJ's super-complaint about the failure to tackle police officer-perpetrated abuse.[3] We also work with women who were groomed from a young age and prostituted by their abusers, and now have criminal records as a result.

88. It cannot be right that those who offend or allegedly offend in the context of coercion, abuse, exploitation and in self-defence, should be penalised by the reduction or exclusion from compensation, particularly in circumstances where the state has often already failed to protect them. It is clear that the government has failed to consider the impact of this proposal on victims of VAWG.

[2] CWJ (2021) Women who Kill: How the state criminalises women it might otherwise be burying'; CWJ (2022) Double standard: ending the unjust criminalisation of victims of violence against women and girls [forthcoming]

[3] HM Inspectorate of Police and Fire & Rescue Services (2020) Police super-complaints: force response to police perpetrated domestic abuse

89. With respect to Option 1, this does not seem necessary. As set out elsewhere in our response, the Courts already have the necessary discretion to consider all relevant factors when deciding on what remedies are appropriate and there is no automatic entitlement to an award of damages. The very wide concept of what constitutes "just satisfaction" which is applied in each individual case, provides the necessary scrutiny of a claimant's conduct within the circumstances of the breach being litigated.

90. With respect to option 2, CWJ wholly disagrees that a Claimant's conduct outside the circumstances of the claim are in any way relevant to what damages they ought to receive as a result of the State breaching their human rights. This approach has already been taken in other areas of compensation such a Criminal Injuries Compensation, which has had a profoundly unfair impact on victims of VAWG. By way of example, we currently act for a woman, currently in her 40s, who despite having been only 8 when she was sexually abused by her teacher, has been precluded from compensation for a minor offence she committed decades later. It is illustrative of the types of issues and unfairness arising should option 2 be proceeded with. This option risks creating a class of people whose rights and protections from the State are lower than others.

Question 29

91. As we have highlighted above, particularly in the section dealing with the proposed removal of positive obligations, the impact of these proposed reforms on women and girls will be extremely harmful. Legal challenges relying on the HRA have created huge improvements for women and girls seeking to vindicate rights such as the right to State protection from rape and domestic violence. We are also aware the HRA has provided improved vindication of rights for those with disabilities, for those from black and minoritised communities, and indeed those with each of the protected characteristics as set out in the Equalities Act. We cannot see any way in which the negative impact by implementing the proposed Bill of Rights could be mitigated.

Conclusion

92. CWJ's overall view is that after over twenty years since the Human Rights Act passed and the development of jurisprudence in the UK in relation to the interpretation of the ECHR within a UK context, we now have a very developed and well understood human rights framework. The government has failed to present any compelling evidence which shows that this framework is in need of reform. To the extent that there are ambiguities around the application of qualified rights, that is because there will always be a difficult exercise to balance the wider needs of the public with the human rights of individual citizens. However, the UK Courts have shown themselves more than capable of meeting this task and the government has not provided any, or any persuasive, evidence to suggest otherwise.

93. We strongly oppose the proposal to scrap a workable statutory human rights framework and replace it with something which appears to reduce mechanisms for enforcing rights where there are State failings and will inevitably create great uncertainty and come at a huge cost. Given our work with women and girls subjected to male violence, an issue upon which this government has strongly committed to tackling, we are astonished that the changes proposed appear to be aimed at limiting accountability of organisations such as the police when they fail.

94. Since the establishment of CWJ we have seen increased awareness of the extent of VAWG and failures of key criminal justice agencies to adequately tackle the scale of this problem. For example, we have seen a collapse in the volume of prosecutions for rape, the increase in instances of domestic violence under lockdown, a number of horrific murders by offenders released from prison not properly supervised by probation and the phenomena of police perpetrators of abuse towards women exposed, following the horrific murder of Sarah Everard. The government has expressed its determination to tackle this problem, yet some of the proposals set out in this consultation will, we believe, make the problem worse. These proposals are thus not just unnecessary, we consider them to be dangerous.

Yours faithfully

Centre for Women's Justice