

Executive

9 December 2021

Report of the Director for Public Health

Portfolio of the Executive Member for Housing and Safer
Neighbour Neighbourhoods / Executive Member for Health and
Adult Social Care

Domestic Abuse Act 2021

Summary

1. The purpose of the report is to update on the introduction of the Domestic Abuse Act 2021, the new statutory responsibilities for local authorities under the Act and the proposed governance arrangements for a new statutory Domestic Abuse Local Partnership Board for City of York.
2. Domestic abuse is a significant public health issue having a major impact on the health and wellbeing on those directly affected and their families. Strategies to tackle it have tended to focus on victim support and crime reduction rather than prevention. The recent transfer of responsibility for domestic abuse from the Director of Environment, Transport and Planning to the Director of Public Health will allow for a more holistic approach across the city and the development of a strategy focusing on prevention, strengthening the support for victims of abuse and ensuring access to appropriate accommodation.
3. The Department of Levelling Up, Housing and Communities issued national guidance to local authorities to publish their draft strategy for Domestic Abuse Safe Accommodation by 26th October 2021 with the final strategy published by 5th January 2022. The council has worked in partnership with North Yorkshire County Council to produce a draft joint City of York and North Yorkshire Domestic Abuse Safe Accommodation Strategy which is currently out for consultation. The intention is for this to be an interim strategy for 12 months with safe accommodation incorporated into a new Domestic Abuse Strategy in due course.
4. The report is not intended to cover the work that is already happening on domestic abuse. This will be a separate report that will come to Executive in due course to present proposals for a new domestic abuse strategy with an implementation plan.

Background

5. The Domestic Abuse Act received Royal Assent becoming law on 29 April 2021. The Act aims to:

- Raise awareness and understanding about the devastating impact of domestic abuse on victims and families;
- Further improve the effectiveness of the justice system in providing protection for victims of domestic abuse and bringing perpetrators to justice;
- Strengthen the support for victims of abuse by statutory agencies.

6. The Act will:

- Create a statutory definition of domestic abuse, emphasising that domestic abuse is not just physical abuse but can also be emotional, controlling or coercive and economic abuse;
- The definition also provides that a child who sees or hears, or experiences the effects of, domestic abuse and is related to the person being used or the perpetrator is also to be regarded as a victim of domestic abuse;
- Establish in law the office of Domestic Abuse Commissioner and set out the commissioner's functions and powers;
- Provide for a new Domestic Abuse Protection Notice and Domestic Abuse Protection Order;
- Place a duty on local authorities in England to provide accommodation based support to victims of domestic abuse and their children in refuges and other safe accommodation;
- Provide that all eligible homeless victims of domestic abuse automatically have 'priority need' for homelessness assistance;
- Ensure that where a local authority, for reasons connected with domestic abuse, grants a new secure tenancy to a social tenant who had, or has had, a secure lifetime or assured tenancy (other than an assured short hold tenancy) this must be a secure lifetime tenancy;
- Prohibit perpetrators of abuse cross-examining their victims in person in the civil and family courts in England and Wales.

- Create a statutory presumption that victims of domestic abuse are eligible for special measures in the criminal, civil and family courts;
- Clarify the circumstances in which a court may make a barring order under section 91 (14) of the Children Act 1989 to prevent family proceedings that can further traumatise victims;
- Extend the offence of disclosing private sexual photographs and films with intent to cause distress (known as the “revenge porn” offence to cover threats to disclose such material);
- Create a new offence of non-fatal strangulation or suffocation of another person;
- Clarify by restating in statute law the general proposition that a person may not consent to the infliction of serious harm and, by extension, is unable to consent to their own death;
- Extend the extraterritorial jurisdiction of the criminal courts in England and Wales, Scotland and Northern Ireland to further violent and sexual offences;
- Provide for a statutory domestic abuse perpetrator strategy;
- Ensure domestic abuse offenders to be subject to polygraph testing as a condition of their licence following their release from custody;
- Place the guidance supporting the Domestic Violence Disclosure Scheme (“Clare’s law”) on a statutory footing;
- Prohibit General Practitioners and other health professionals in general practice from charging a victim of domestic abuse for a letter to support an application for legal aid;
- Provide for a statutory code of practice relating to the processing of domestic abuse data for immigration purposes

7. The Act also introduces the Domestic Abuse Commissioner role in government to help drive consistency and better performance in the response to domestic abuse across all local areas and agencies. It is assumed that local authorities will be subject to some form of inspection on the quality of local services for support to victims of domestic abuse and their families.

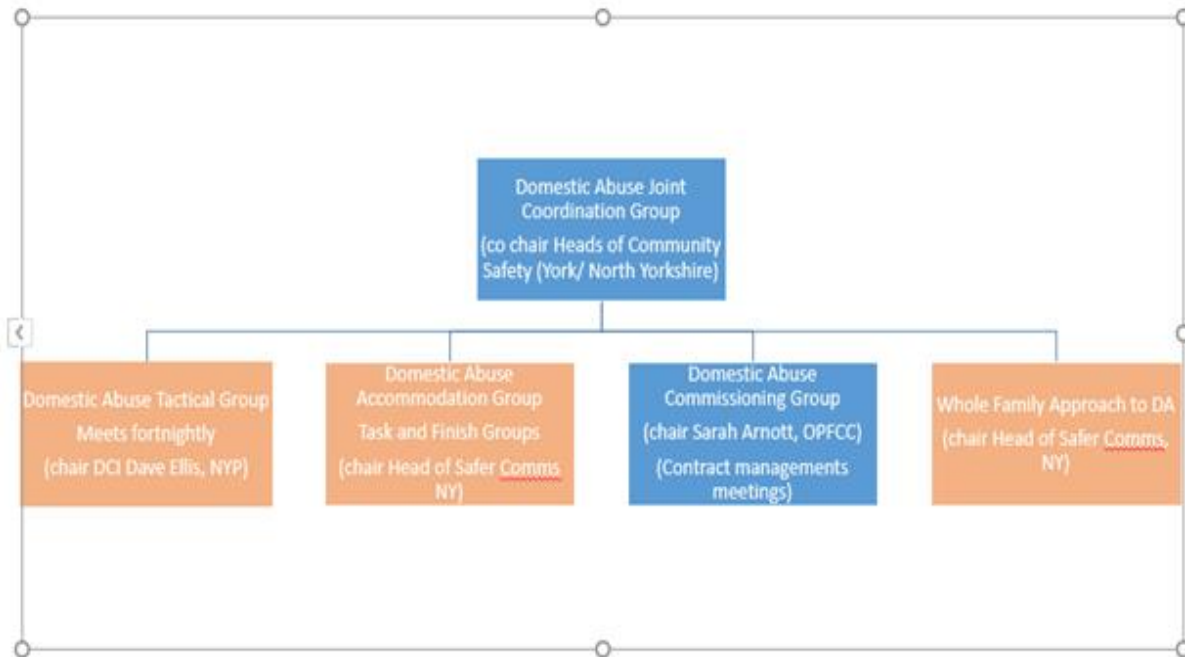
Responsibilities of the Local Authority

8. The Act places a statutory duty on upper tier and unitary authorities (level 1 councils) relating to the provision of support to victims of domestic abuse and their children residing within refuges and other safe accommodation.
9. It also places a duty on each level 1 council in England to:
 - Establish a multi-agency Domestic Abuse Local Partnership Board;
 - Assess the need for accommodation-based domestic abuse support in their area for all victims and their children, including those who come from outside the area;
 - Develop and publish a strategy for the provision of such support to cover their locality, having regard to the needs assessment;
 - Implement the strategy including the use of commissioning / decommissioning decisions;
 - Monitor and evaluate the effectiveness of the strategy;
 - Report back to central government.
10. This statutory duty will come into force following publication of statutory guidance and regulations.

Domestic Abuse Local Partnership Boards

11. Currently the Domestic Abuse Joint Co-ordination Group for York and North Yorkshire fulfils this function in shadow form. This multi-agency group reports to the Safer York Community Safety Partnership for City of York and the North Yorkshire Community Safety Partnership. The Joint Co-ordination Group has representation from North Yorkshire County Council, City of York Council, NHS, North Yorkshire Police, Office of the Police, Fire and Crime Commissioner, criminal justice, safeguarding partnerships for York and North Yorkshire and local providers of domestic abuse services.
12. The current domestic abuse partnership arrangements are set out below:

Current DA Partnership Arrangements



13. It is recognised that with the introduction of the Act it is timely to review the current arrangements to ensure fit for purpose in delivering the council's new statutory duties.

Consultation

14. An independent external assessment of the council's readiness to effectively undertake its responsibilities and requirements in the Domestic Abuse Act 2021 was commissioned earlier this year leading to the publication of a report published in July 2021. This report is attached as Annex 1.
15. This work involved consultation and engagement with a wide range of stakeholders in York including City of York Council officers across Directorates, representatives of partners agencies on the Safer York Partnership Board, Safeguarding Children Partnership, Safeguarding Adults Board, York Health and Wellbeing Board, Office of the Police, Fire and Crime Commissioner for North Yorkshire and a number of voluntary and community sector agencies.
16. The report set out a number of recommendations for the council to consider including options for a new governance structure. These are explored further in the options section of this report.
17. The draft City of York and North Yorkshire Domestic Abuse Safe Accommodation Strategy was published in draft to meet the government

deadline of 26th October 2021. This will be followed by a 10 week consultation period with final publication by 5th January 2022.

Options

18. There are four options for consideration:

Option 1: Do nothing.

Option 2: Establish joint North Yorkshire and City of York Domestic Abuse Local Partnership Board.

Option 3: Establish City of York Domestic Abuse Local Partnership Board.

Option 4: Establish City of York Domestic Abuse Local Partnership Board together with joint strategic commissioning across City of York Council, North Yorkshire County Council and Office of Police, Fire and Crime Commissioner for North Yorkshire.

Analysis

19. **Option 1** – Do Nothing.

This option is not recommended because it is accepted that the current Domestic Abuse Joint Co-ordination Group for City of York and North Yorkshire does not fulfil the requirements of the Domestic Abuse Act 2021 and requires review.

20. **Option 2** – Establish joint North Yorkshire and City of York Domestic Abuse Local Partnership Board.

It is possible that the existing Domestic Abuse Joint Co-ordination Group for City of York and North Yorkshire can evolve to become the new statutory Domestic Abuse Local Partnership Board serving both local authorities. The risk here is that the agenda might be more heavily focused on the county council and the districts of North Yorkshire given that this is larger and substantially better resourced. The needs of City of York could easily be overlooked. Therefore, this option is not recommended.

21. **Option 3** - Establish City of York Domestic Abuse Local Partnership Board.

As a unitary authority the council could make a decision to establish a stand-alone Domestic Abuse Local Partnership Board and break away from the current joint commissioning arrangements with North Yorkshire. This option is not attractive to partner agencies who have said in response

to consultation that their preference is to ensure continued commonality with regard to the standards set, the approaches expected of teams and services working across the boundaries between North Yorkshire and York. Furthermore, the needs of the victims and their families in domestic abuse situations must come first. The need for good cross-boundary working relationships is key to keeping them safe, for example, their safety and security might lie in being able to place them in another authority's safe accommodation. Therefore this option is not recommended.

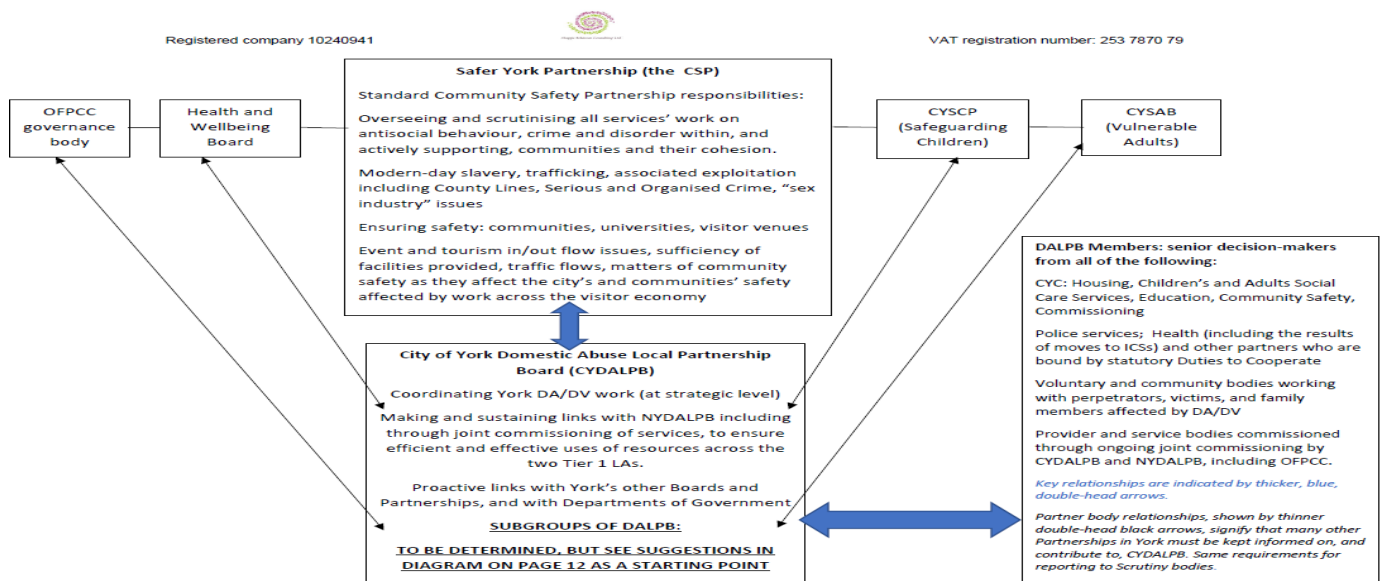
22. **Option 4** - Establish City of York Domestic Abuse Local Partnership Board together with joint strategic commissioning across City of York Council, North Yorkshire County Council and Office of Police, Fire and Crime Commissioner for North Yorkshire.

The structure diagram below is the preferred option highlighted in the consultation report on the feedback from the consultation.

In this option, the council would establish a City of York Domestic Abuse Local Partnership Board which would:

- Provide strategic leadership and co-ordination of the domestic abuse work across City of York
- Establish and maintain sustainable links with the North Yorkshire Domestic Abuse Local Partnership Board, including through joint commissioning of services, to ensure efficient and effective use of resources across both councils.
- Establish and maintain proactive links with York's other Boards and Partnerships and with central government departments.

Proposed governance arrangements and establishment of a City of York Domestic Abuse Local Partnership Board



This is the recommended option.

Council Plan

- The Domestic Abuse Act 2021 and the establishment of a Domestic Abuse Local Partnership Board will support the council plan vision to help to make communities safer, improve the health and wellbeing of residents and protect the most vulnerable by keeping children and adults safe from harm and improving services for people experiencing domestic abuse.

Implications

Financial

- The council has received a grant of £334,506 from central government for 2021/22 to fulfil the functions of the new statutory duty.
- No funding has been provided beyond 2021/22. The government have indicated that any further funding would be confirmed as part of the Comprehensive Spending Review.
- The grant terms do not include a requirement for spend to be completed by 21 March 2022 so the plan is to commit the grant over the period up to 30 September 2022 to reflect the time required to complete the needs assessment, develop a strategy as well as further commissioning activity.

Human Resources (HR)

- There are no human resources implications from this report.

One Planet Council / Equalities

28. The needs of people with protected characteristics under the Equality Act will be assessed as part of the needs assessment. An Equality Impact Assessment will be published along with the needs assessment.

Legal

29. The Domestic Abuse Local Partnership Board is a statutory board of the council with requirements to deliver specified elements of the Domestic Abuse Act 2021.
30. It is an expectation in the Act that the members of the Domestic Partnership Local Partnership Board will include, as a minimum:
- a) A representative of the relevant local authority;
 - b) At least one person appearing to the authority to represent the interests of victims of domestic abuse;
 - c) At least one person appearing to the authority to represent the interests of children of domestic abuse victims;
 - d) At least one person appearing to the authority to represent the interests of charities and other voluntary organisations that work with victims of domestic abuse in its area;
 - e) At least one person appearing to the authority to represent the interests of persons who provide, or have functions relating to, health services in its area;
 - f) At least one person appearing to the authority to represent the interests of persons with functions relating to policing or criminal justice in its area.
31. The further specifics of the Act, and further details as to the local authority responsibilities under the Act, will be provided in forthcoming Statutory Guidance and Statutory Regulations.
32. Legal advice will be sought as and when appropriate as the arrangements are developed and implemented.

Crime and Disorder

33. The City of York Domestic Abuse Local Partnership Board will be established as a sub-group of the Safer York Partnership.

Information Technology (IT)

34. There are no IT implications from this report.

Risk Management

35. No government funding has been confirmed beyond 2021/22. The needs assessment in consultation with the City of York Domestic Abuse Local Partnership Board, will determine commissioning arrangements from 2022/23 onwards.
36. It is anticipated that the Act will increase and widen the reporting of domestic abuse and increase demand on a range of services including specialist accommodation based and community-based domestic abuse services, criminal justice agencies, adult and children's social care, safeguarding and homelessness provision. The impact of this will be monitored through existing forums and the new Domestic Abuse Local Partnership Board.

Recommendations

37. The Executive are asked to:
- Note the council's new statutory duties under the Domestic Abuse Act 2021.
 - Approve the proposed governance arrangements set out in option 4.
 - Approve delegation of Chair of the York Domestic Abuse Local Partnership Board to the Director of Public Health.
 - Comment on the draft City of York and North Yorkshire Domestic Abuse Safe Accommodation Strategy currently out for consultation.

Reason: to ensure that the new statutory duties and responsibilities of the council are delivered.

Contact Details

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Report
Approved



Date 17/11/2021

Specialist Implications Officers

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Wards Affected: *List wards or tick box to indicate all*

All

For further information please contact the author of the report

Background Papers

MHCLG Draft Guidance (June 2021) Delivery of support to victims of domestic abuse, including children, in domestic abuse safe accommodation services
Draft statutory guidance (publishing.service.gov.uk)

Annexes

Annex A

Maggie Atkinson Consultancy Ltd July 2021. Readiness, governance, delivery models, joint or single authority working and requirements on local authorities and partners by the Domestic Abuse Act 2021.

Annex B

City of York and North Yorkshire County Council Domestic Abuse Safe Accommodation Draft Strategy