

Domestic Abuse Draft Statutory Guidance (September 2021)

6. Do you have any comments on Chapter 1 ('Objectives') in terms of content or clarity? Please enter "No" if you do not have an opinion. *

The Disabilities Trust agrees with the objectives set out in Chapter 1 and welcomes the articulation of three key objectives within the guidance. In particular, we support the emphasis on raising awareness, protecting and supporting victims and transforming the justice response to support victims throughout the criminal pathway.

7. Do you have any comments on Chapter 2 ('Understanding Domestic Abuse') in terms of content or clarity? Please enter "No" if you do not have an opinion

With an estimated 1.6 million women (aged 16 to 74 years) experiencing domestic abuse in 2019 (Office of National Statistics, 2019), The Disabilities Trust welcomes the Domestic Abuse Act 2021 and adjoining statutory guidance to improve the country's awareness of this horrible crime and support for those affected.

From our work published in 2019, Making the Link, we are increasingly aware that there may be an elevated risk of brain injury for those experiencing domestic abuse, which we feel should be acknowledged within this guidance.

Regarding Chapter 2, we welcome the inclusion of the complex vulnerabilities which can be experienced by survivors of domestic abuse, including mental health problems, substance misuse and contact with the Criminal Justice System (CJS). The Disabilities Trust, however, recommends additional emphasis on these comorbidities, including the link between domestic abuse and brain injury, including a sub-section specifically on brain injury.

Caused by either sustaining a blow to the head, also known as a TBI (e.g. due to domestic violence, road traffic accidents or a fall) or through an illness which affects the brain (e.g. a stroke or meningitis), brain injuries can be considered a 'hidden epidemic' as many of its symptoms can be difficult to detect or may be misinterpreted as 'challenging' or 'difficult' behaviour. Behavioural, cognitive and emotional symptoms can be overlooked, but can nevertheless be potentially life changing, adding to the complex vulnerabilities experienced by survivors. Symptoms can include, but are not limited to:

- poor memory,
- lack of concentration or inability to multitask,
- slowness to process information,
- poor impulse control
- risk taking behaviour
- co-morbid anxiety and depression
- fatigue or difficulty falling asleep
- lack of insight (i.e. where a person might not realise they have a problem).

Research conducted by The Disabilities Trust at HMP/YOI Drake Hall between 2016-2018, as part of our Brain Injury Linkworker service found the leading cause of brain injury amongst women was domestic violence (62%). The Disabilities Trust also found:

- 33% sustained their first brain injury before committing their first offence
- 75% of women had a prior mental health diagnosis
- 96% of women at HMP/YOI Drake Hall reported they had experienced domestic abuse victimisation

To read our Making the Link report visit: <https://www.thedtgroup.org/media/163462/making-the-link-female-offending-and-brain-injury-final.pdf>

Following the publication of these distressing findings, to further understand the complex vulnerabilities faced by women in the CJS, The Trust conducted additional analyses looking at our results through a domestic abuse 'lens'. Results showed:

- 75% of women referred to our Linkworker service had a prior mental health diagnosis
- Of those with a traumatic brain injury, 40% had a mental health diagnosis, and women with a brain injury were seven times more likely to have a mental health diagnosis compared to those without
- 61% of those with a brain injury caused by domestic violence reported having self-harmed, compared to women who reported other causes of brain injury (29%)

You can read this additional analysis in full at:

<https://www.thedtgroup.org/media/163732/the-impact-of-brain-injury-and-domestic-abuse-a-further-analysis.pdf>

The above research supports international research highlighting the co-morbid complexities experienced by survivors of domestic abuse, including poor mental health and adds to growing research exploring the link between domestic abuse and brain injury. These cognitive, behavioural and emotional difficulties may also impact individuals' chances of engaging with supporting services, which we feel should also be acknowledged within the guidance.

As such, we recommend the inclusion of brain injury caused by domestic abuse in the subsection: 'Intersectionality and related considerations', in particular drawing attention to the potentially "hidden" symptoms of brain injury, which may impact on a survivor's ability to engage with support services.

8. Do you have any comments on Chapter 3 ('Impact on Victims') in terms of content or clarity? Please enter "No" if you do not have an opinion.

As illustrated in our response to question seven, The Disabilities Trust urges the inclusion of brain injury as a possible impact for survivors of domestic abuse in Chapter 3. For instance, the cognitive issues mentioned in this chapter (paragraph 173), could also be caused by a possible brain injury, alongside additional physical, emotional and behavioural symptoms. Even mild symptoms of brain injury can result in potentially life-long consequences; as such we recommend extending the 'issues' mentioned to include behavioural and emotional challenges, with brain injury as a possible cause.

The Disabilities Trust welcomes the inclusion of the link between domestic abuse, trauma and contact with the Criminal Justice System (CJS) in paragraph 175, however, feel additional information is needed to illustrate the emerging link between domestic abuse, brain injury and offending.

Whilst the prevalence of brain injuries amongst the general population is considered to be between 2-36%, research conducted by The Disabilities Trust at HMP/YOI Drake Hall found a disproportionately high number of women reported histories indicative of brain injuries at 64%. Moreover, nearly all women (96%) said their injuries were traumatic in nature, with the leading cause reported to be domestic violence (62%).

In light of this, The Disabilities Trust undertook additional analysis to examine the link between brain injury and domestic abuse, in order to understand the specific needs of these women.

Results showed the complex experience and vulnerability of women who had suffered the trauma of both a brain injury and domestic abuse with 61% of those with a brain injury caused by domestic violence reporting having self-harmed, compared to women who reported other causes of brain injury (29%). In addition, 40% of those with a TBI had a mental health diagnosis and women with a brain injury were seven times more likely to have mental health diagnoses than those without.

In light of these findings, we recommend the guidance also highlight that alongside other frequently reported factors such as substance misuse and unstable housing, the need to support women holistically, not just within the CJS, is fundamental to improving their lives, including recognition and support for brain injury.

9. Do you have any comments on Chapter 4 ('Agency Response to Domestic Abuse') in terms of content or clarity? Please enter "No" if you do not have an opinion.

The possibility of a brain injury could also be acknowledged in paragraph 198 wherein it lists possible reasons why survivors may not seek help from agencies.

For instance, lack of insight after of brain injury can leave individuals unaware of their symptoms or the extent to which they are affected by them. This could impact survivors' ability and willingness to seek support, alongside additional symptoms such as poor memory, problems with initiation and lack of concentration, which could also impact survivors' ability to remember and attend appointments.

We agree, however, with the inclusion of a multi-agency response to domestic abuse to address the complex vulnerabilities experienced within this group. In 2019, The Disabilities Trust convened a roundtable, gathering experts such as academics and representatives from leading domestic abuse charities and the NHS to discuss the needs of women who may have experienced both domestic abuse and brain injury. Key themes derived from the roundtable, included:

- Acknowledging the complexity of causality; for example, symptoms of brain injury can be similar in presentation to the impact of trauma, mental health or substance misuse.

- Disclosure, recognition and screening of brain injury, which is important to ensure sessions and discussions are focused on their trauma, history and disclosure of abuse
- The impact of brain injury in support, including recognition that cognitive functioning and how well someone's brain is working, directly impacts their ability to process the complexities within their life positively or adaptively.
- Education and service provision, with a recommendation for all approaches to utilise a 'TBI lens' to maximise success.

To find out more about our expert roundtable visit:

<https://www.thedtgroup.org/media/163863/brain-injury-domestic-abuse-an-invisible-impact-final.pdf>

The above considerations could be included under the sub-section 'Health professionals' to ensure health professionals are aware of how a potential brain injury could impact those they support and the way in which they deliver services.

The Disabilities Trust is pleased to see a section on 'Criminal justice system and women' in this chapter, with our research showing the leading cause of brain injury amongst women at HMP/YOI Drake Hall was domestic abuse (62%).

To further ensure the awareness of brain injury and availability of support within the Criminal Justice System (CJS) for those who may have a brain injury caused by domestic abuse, The Disabilities Trust supported an amendment to the Domestic Abuse Bill brought forward by Chris Bryant MP to introduce new brain injury screening questions to those who report domestic abuse. Whilst the amendment wasn't adopted, The Disabilities Trust were pleased that following a meeting with Victoria Atkins MP, Minister for Safeguarding, a standard question on brain injury sustained through violence was introduced in the mandatory health screen for all prisoners in England from April 2021. Subsequently, we recommend that this screening for brain injury upon entry to prison be illustrated within the guidance.

We would also recommend brain injury be listed in the series of statistics following paragraph 293, which emphasises the complex vulnerabilities of women who have experienced domestic abuse within the CJS to further help professionals 'make the connections between the abuse and trauma they have faced'.

We also endorse the inclusion of the statement "where professionals identify that girls and young woman in contact with the criminal justice system have experienced/are at risk of domestic abuse, all efforts should be made to identify support which is both age-appropriate and gender-sensitive." However, support which is trauma-informed is also important and as part of our Brain Injury Linkworker service, The Disabilities Trust has supported men and women in 13 prisons across England and Wales with a brain injury.

The findings from an independent evaluation of our service in HMP/YOI Drake Hall by Royal Holloway (University of London) detailed how the support of the linkworkers improved the women's mood and self-esteem, as well as enhancing their confidence and positivity. The evaluation also found that the service seemed to support women's engagement in their sentence plan, offered practical guidance for staff working with women with a brain injury, and alleviated pressure from other service provisions (e.g. mental health).

Finally, for chapter 4, for the subsection 'criminal justice system - police' we recommend adding a bullet point on brain injury beneath paragraph 306. Awareness of brain injury could further enable police to adopt a trauma-informed and trauma-responsive approach for those who have experienced domestic abuse. To help officer identify behaviours which may be caused by brain injury and adapt their behaviour to support better interactions, we worked jointly with Devon and Cornwall Police to shape and create a simple tool to support officers to ask, understand and adapt to brain injury.

Our new pathway tool takes staff through the crucial stages of recognising possible behaviours caused by brain injury, such as poor memory, aggression, and irritability to asking the right questions through an appropriate screening tool, such as our Brain Injury Screening Index. A link to our toolkit can be found here:

<https://www.thedtgroup.org/media/164372/brain-injury-pathway-toolkit-the-disabilities-trust.pdf>.

10. Do you have any comments on Chapter 5 ('Working Together to Tackle Domestic Abuse') in terms of content or clarity? Please enter "No" if you do not have an opinion

As illustrated in our responses to the previous questions, we welcome the emphasis in this guidance on providing a multi-agency response, which enables agencies to work together to share information 'to ensure they are able to draw on all available information held within each agency to build a full picture of the victims'.

As such, in order to ensure those who read the guidance are aware of the importance of considering brain injury in their response to domestic abuse, we recommend including brain injury in the bullet point under paragraph 394. The inclusion of brain injury expertise and support will further enable the development of assessments which recognise the range of needs a survivor may have.

11. Do you have any comments on Chapter 6 ('Commissioning Response to Domestic Abuse') in terms of content or clarity? Please enter "No" if you do not have an opinion.

No

12. Are there any overarching ways you think the guidance could be improved? Please provide comments. Please enter "No" if you do not have an opinion.

Throughout the guidance, we recommend the inclusion of brain injury as further complex vulnerability experienced by survivors domestic abuse. The Disabilities Trust is keen for readers of this guidance to understand that brain injury, potentially caused by blows to the head, neck or face or through non-fatal strangulation could result in long-term behavioural, cognitive and emotional consequences, which could affect women for the rest of their lives.

Whether in the criminal justice system (CJS) or within the community, we continue to campaign for brain injury awareness screening, similar to our Brain Injury Screening Index (BISI) and support which addresses often 'hidden' symptoms such as poor memory, risk-taking, lack of concentration and difficulties regulating emotions.

13. Do you think the case studies are helpful? If there are any case studies which you did not find helpful, please provide additional comments ensuring you refer to the case study to which your comment relates.

No

14. Is there anything missing in the guidance that you would like to see included? Please enter "No" if you do not have an opinion.

No