

## Draft February 2020

This is a draft of the Framework Document to be issued by the Home Secretary under section 10 of the Domestic Abuse Act 2020. The draft has been published to assist scrutiny of the Domestic Abuse Bill and is subject to change prior to being formally adopted following Royal Assent.

### Draft Framework Document for the Domestic Abuse Commissioner

#### **1. Introduction**

1.1. This Framework Document has been drawn up by the Home Office in consultation with the Domestic Abuse Commissioner (“the Commissioner”). This document sets out the broad framework within which the Commissioner will operate. It is signed and dated by the Commissioner and the Secretary of State for the Home Department (“the Home Secretary”). The Welsh Ministers have also been consulted as required under section 10(7) of the Domestic Abuse Act 2020 (“the Act”). Nothing in this Framework Document will supersede or vary the duties and/or functions exercisable by the Home Secretary or the Commission which are set out in the Act or other relevant enactments.

1.2. As required by section 10(8)(c) and (9) of the Act, a copy of the document has been laid before Parliament and the Senedd Cymru. Copies of the document will be made available to members of the public on the Government’s website.

#### **2. Purpose**

2.1. The purpose of this Framework Document, which is issued under section 10 of the Act, is to set out how the Home Secretary and the Commissioner will work together. In particular, the Framework Document deals with the following matters:

2.1.1 governance, funding and staffing;

2.1.2. the exercise of the Commissioner’s functions;

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2.1.3. scrutiny of the Commissioner's activities by Parliament or by the Senedd Cymru.

2.2. This Document further sets out the respective roles and responsibilities of the Home Secretary and the Commissioner and the principles which will govern the relationship between them. It sets out matters relating to the Commissioner's accountability, management, operational and financial arrangements; it also explains how the relationship between the Home Secretary and the Commissioner is intended to function as a direct and open working relationship, in which both support and scrutiny can apply in equal measures.

2.3. The Commissioner must have regard to the Framework Document when carrying out her functions (section 10(3) of the Act). The Home Secretary must have regard to this Framework Document when exercising her functions in relation to the Commissioner (section 10(4) of the Act).

### **3. Status**

3.1. The Commissioner is a statutory appointment made under section 3 of the Act.

3.2. The Commissioner is appointed by the Home Secretary as an independent statutory office holder and is to hold and vacate office in accordance with the terms and conditions of her appointment. Although sponsored by the Home Office, the Commissioner operates independently of the Department and Government generally.

3.3. The functions of the Commissioner are set out in section 6 of the Act. Her core role is to provide public leadership on tackling domestic abuse and to oversee and monitor the provision of services to victims of domestic abuse and their children in England and Wales. The role of the Commissioner will be vital in ensuring consistency and driving up the response to domestic abuse locally and nationally.

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#### **4. Roles and responsibilities: The Home Office**

- 4.1. The Home Secretary will appoint the Domestic Abuse Commissioner; the appointment will be made in accordance with the public appointments process.
- 4.2. The Minister for Safeguarding and Vulnerability will be the Minister responsible for overall oversight of the Commissioner and her office on behalf of the Home Secretary. In carrying out this function, the Minister will meet the Commissioner whenever necessary (and at least bi-annually) to discuss the Commissioner's work.
- 4.3. As set out in section 4 of the Act, the Home Office is responsible for allocating a budget for the Commissioner's work to support the role and to enable her to fulfil her functions. Before setting the Commissioner's budget for each year the Home Office will consult the Commissioner and have regard to the Commissioner's strategic plan for the relevant period (see paragraph 5.18 below).
- 4.4. As set out in section 5 of the Act and subject to the recruitment process set out in paragraph 4.5, the Home Office will consult the Commissioner and provide her with staff to support her to fulfil her functions. The Commissioner staff will be provided by the Home Office but are under the day to day direction and control of the Commissioner in support of her work.
- 4.5. In the recruitment of staff to support the Commissioner, appointments can only be made after consultation with, and with the approval of the Commissioner. The Commissioner, or her Chief of Staff, will conduct in partnership with the Home Office, recruitment campaigns and the Commissioner will be responsible for making decisions as to the persons to be recruited.
- 4.6. As further set out in section 5 of the Act, the Home Office, following consultation with the Commissioner, will provide the Commissioner with such

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accommodation, equipment and other facilities, as the Secretary of State considers necessary to enable the Commissioner to carry out her functions. Such accommodation must be separate from the Home Office headquarters.

4.7. The Home Office will hold regular meetings with the Commissioner to discuss performance against the Commissioner's objectives and priorities as set out in her strategic plan and the financial outturn. The Home Office Senior Policy Sponsor will conduct the annual appraisal of the Commissioner.

4.8. Under sections 7(4) and 13(4) of the Act, the Home Secretary may direct that certain material is omitted from a report or an annual report by the Commissioner, before either is laid before Parliament by the Commissioner but, before making any such direction, the Home Secretary must consult the Commissioner (sections 7(5) and 13(5)). The Home Secretary also has the power, under section 8(6), subject to prior consultation with the Commissioner under section 8(7), to make such a direction in relation to advice provided by the Commissioner to any person under section 8(2). Any such advice must be sent in draft to the Home Secretary under section 8(5) before being published by the Commissioner under section 8(4). In practice, the Home Secretary will delegate these powers under the Act to the Minister for Safeguarding and Vulnerability and references to the Home Secretary in paragraphs 4.8 to 4.10 below should be read accordingly.

4.9. The power to direct that certain material must be omitted may only be exercised where the Home Secretary thinks that the publication of that information might:

- Jeopardise the safety of any person, or
- Prejudice the investigation or prosecution of an offence.

4.10. The Home Secretary is required by the Act to consult the Commissioner prior to issuing any such direction (and will set out reasons for proposing to

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4.11. Although not prescribed by the Act, if the Commissioner does not agree with the Home Secretary's request to omit material, the process will be as follows:

- The Commissioner can make representations to the Director for Public Protection as the Senior Policy Sponsor. A response must be provided within 28 working days.
- If agreement is not reached with the Director for Public Protection, the Commissioner may make representations to the Home Secretary. A response must be provided within 28 working days.
- If agreement is not reached with the Home Secretary, the Commissioner may include a note in their report (or advice under section 8(2)) stating that certain information was omitted at the direction of the Home Secretary, but which the Commissioner did not agree was necessary to protect an individual's safety or to support the investigation or prosecution of an offence.

## **5. Roles and responsibilities: The Domestic Abuse Commissioner**

5.1. The Commissioner will be accountable to the Home Secretary and, through the Home Secretary, to Parliament. The Commissioner will conduct herself in accordance with the Seven Principles of Public Life (Nolan principles). The Commissioner's core role will be to provide public leadership on domestic abuse issues and to oversee and monitor the provision of services to victims of domestic abuse and their children in England and Wales.

5.2. While the Commissioner has a limited remit in Wales, she will respect the devolution settlement, recognising that responsibility for matters which include local government, health and education rests with the Welsh Government.

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5.3. With respect to funding, the day to day management of the Commissioner's budget, in conformity with relevant Home Office rules and processes, rests with the Chief of Staff to the Commissioner who will have delegated authority for the Commissioner's budget. The Commissioner and her Chief of Staff will ensure that budgets are managed in accordance with Managing Public Money. The Commissioner and her Chief of Staff will further ensure that expenditure from the Commissioner's budget will align with the Commissioner's strategic plan for the relevant period (see paragraph 5.18 below).

5.4. The Commissioner's functions, which are set out in section 6 of the Act, include, encouraging good practice in the:

- Prevention of domestic abuse;
- Prevention, detection investigation and prosecution of offences involving domestic abuse;
- Identification of people who carry out domestic abuse, victims of domestic abuse and children affected by domestic abuse; and
- Provision of protection and support to people affected by domestic abuse.

5.5. In pursuance of these statutory functions, the Commissioner may:

- Assess, monitor and publish information about the provision of services to people affected by domestic abuse;
- Make recommendations to any public authority about the exercise of its functions;
- Undertake or support, financially or otherwise, the carrying out of research;
- Provide information, education or training;
- Take other steps to raise public awareness of domestic abuse;
- Consult public authorities, voluntary organisations and other persons;
- and

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- Cooperate with, or work jointly with, public authorities, voluntary organisations and other persons, whether in England and Wales or outside the UK.
- 5.6. In discharging the Commissioner's functions, the Commissioner must not jeopardise the safety of any person or prejudice the investigation or prosecution of an offence.
- 5.7. As set out in section 6(2) of the Act, in pursuance of her general functions and duties, the Commissioner may cooperate with public authorities, voluntary organisations or other persons in England and Wales and outside the UK. The work of the Commissioner has clear links with other Commissioners and Advisers, in particular the National Advisers in Wales for Violence Against Women, Gender-based Violence, Domestic Abuse and Sexual Violence, as well as the Victims' Commissioner for England and Wales and the Children's Commissioner for England.
- 5.8. These links will be crucial to maximise the impact of the Commissioner's role and to link up different programmes of work in order to improve the wider response to domestic abuse. It is anticipated that the Commissioner will develop Memoranda of Understanding with these other Commissioners and Advisers to specify in more detail how they will work together, including through data sharing agreements.
- 5.9. Section 6(3) of the Act limits the work of the Commissioner to reserved matters in Wales but section 6(4) expressly states that this does not prevent the Commissioner from consulting or cooperating with or disclosing information to Welsh authorities or otherwise in relation to Welsh devolved matters. The Commissioner is therefore expected to work closely with the National Advisers in Wales, and it will be for the Commissioner and the National Advisers to determine whether and how to embark on any joint work.

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- 5.10. While the Commissioner's principal accountability will be to the Home Secretary, the Commissioner will also be subject to scrutiny by Parliament and, in relation to the exercise of her functions to co-operate with, to consult and to disclose information to the Welsh authorities in relation to devolved matters to Wales, Senedd Cymru. The Commissioner is expected to cooperate fully with Parliament and, where appropriate, Senedd Cymru, including by giving evidence and providing information to select committees.
- 5.11. Under section 7 of the Act, the Commissioner may report on any matter relating to domestic abuse, and must publish any reports made under this section, and arrange for these reports to be laid before Parliament.
- 5.12. Under section 8(3) of the Act, where a person (who is not the Home Secretary) requests advice or assistance, the Commissioner may charge them for providing that advice or assistance. This will mean that the Commissioner will not be limited by the number of staff she has in the advice she can give to organisations who seek it. It will also enable the Commissioner's office to expand to meet any additional demand without compromising its national role.
- 5.13. The Commissioner may not charge more than the cost incurred in line with existing public body charging rules as set out in Managing Public Money.
- 5.14. As set out in section 11 of the Act, the Commissioner must establish an Advisory Board to provide her with advice about the exercise of her functions.
- 5.15. This Board must consist of no fewer than six and no more than ten members, who will be appointed by the Commissioner. The minimum membership requirements for the Advisory Board are set out at section 11(4) of the Act. Members must be drawn from the services, organisations, sectors and disciplines listed in that sub-section.

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- 5.16. The Commissioner will be responsible for appointing each member of the Advisory Board. Any allowances provided to Advisory Board members must be in line with Home Office financial procedures. The Commissioner will notify the Home Office prior to the appointment of any member of the Advisory Board but is not required to consult with the Home Office or to get the Home Office's agreement to the appointment of any Advisory Board Member.
- 5.17. The Terms of Appointment for the Commissioner separately require her to establish a Victims and Survivors Group. It will be for the Commissioner to determine and appoint the members of this group and, in consultation with the group, determine its role. Any allowances provided to members of the Victims and Survivors Group must be in line with Home Office financial procedures.
- 5.18. Under section 12 of the Act, the Commissioner must, as soon as reasonably practicable after her appointment, prepare and publish a strategic plan, which will set out how the Commissioner proposes to exercise her functions for the period to which the plan relates (which must be not less than one year and not more than three years).
- 5.19. In preparing or revising a strategic plan, the Commissioner must consult the Home Secretary, the Advisory Board (set up under section 11 of the Act), and any other persons she considers appropriate. Although not prescribed by the Act, the Home Office will provide a response to the Commissioner's consultation on the strategic plan within 28 calendar days of receipt.
- 5.20. Following consultation, the Commissioner must publish the strategic plan and any revision to it and arrange for it and any revision to it to be laid before Parliament.
- 5.21. Under section 13 of the Act, the Commissioner must submit a copy of her annual report to the Home Secretary before the Commissioner arranges for a copy of it to be laid before Parliament.

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5.22. The Commissioner must provide sufficient information to the Home Office to provide a view of the ability of the Commissioner to fulfil her functions effectively and manage public money appropriately. Where necessary, she should integrate this into Home Office corporate performance systems, to enable efficient and effective reporting.

5.23. The Commissioner will ensure that risks are dealt with in an appropriate manner. The Commissioner will alert the Home Office to risks at the earliest opportunity and escalate risks to the Department as necessary. There may be shared risks or issues, identified by either the Home Office or the Commissioner, where engagement of all parties to support risk mitigation will be needed.

5.24. The Commissioner can seek data from the Home Office to help inform her work; such data will be the subject of a separate Home Office / Commissioner information sharing protocol. There are no requirements in the Act on the Commissioner to share data or information with the Home Office, but section 16(1) of the Act provides the Commissioner with the power to disclose information to any person in connection with her functions provided the disclosure is made for a purpose connected with her functions and subject to the restrictions on disclosure of information set out in section 16(4) and (5). The Commissioner and her staff should treat any data obtained from the Home Office with the sensitivity stipulated by the Home Office. e.g. whether or not the information is public information, and in accordance with applicable legislative requirements (including section 16 of the Act and data protection legislation as defined by section 16(6) of the Act).

## **6. Process for amending the Framework Document**

6.1. The Framework Document and its operation will be reviewed by the Home Office in consultation with and on the agreement of the Commissioner at intervals of not more than three years (although the period is not prescribed by

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the Act). The Home Secretary may issue a revised Framework Document after such reviews (after consultation with the Commissioner and only if she agrees to any revisions). The Home Secretary will also consult the Welsh Ministers before issuing any Framework Document which she considers to be significantly different from the Framework Document that it replaces. The Document will also be reviewed following the appointment of a new Commissioner.

6.2. The Commissioner may propose revisions to this Framework Document at any time. Any changes will be subject to agreement between the Commissioner and the Home Secretary.

Signed by:

Home Secretary

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Domestic Abuse Commissioner

2020