

Reforming the Law on Domestic Abuse in England and Wales: A Critical Examination of 'Clare's Law.'

Emilia Hinchliffe*

Abstract

The purpose of this journal is to demonstrate that 'Clare's Law', also known as the Domestic Violence Disclosure Scheme, is not fit for purpose in its current framework. This study seeks to highlight the theoretical and practical limitations of 'Clare's Law' which prevent it from providing an adequate means of protection from perpetrators of domestic abuse. The theoretical limitations raised in the main findings of this study are the promotion of victim-blaming as opposed to victim-empowerment and the risk of creating a false sense of security through non-disclosure. The main findings in this article are supported by a case study based on women's experiences using 'Clare's Law', conducted by Charlotte Barlow, Sandra Walklate and Nicole Renehan in 2024. The practical challenges of 'Clare's Law' which limit its scope are focused on the role of the police force in England and Wales. The effectiveness of 'Clare's Law' rests on its implementation by police forces in handling and responding to all applications made under the law. The main findings in this study reflect the limitations in training and resources which has resulted in safety risks due to time delays, and lack of knowledge. These findings are supported by the Urgent Review launched by Wiltshire Police and case study of Damien Bendall. This journal concludes by raising recommendations to improve 'Clare's Law' through Law Reform, in line with the College of Policing. When evaluating the effectiveness of 'Clare's Law', there is a lack of evidence that suggests this scheme acts as a preventative strategy in practice. While 'Clare's Law' has the potential to be vital to aid the reduction of domestic abuse, there have been significant barriers to its success in practice.

Key Words

Clare's Law, Domestic Abuse, The Domestic Violence Disclosure Scheme, Perpetrators, Reform

1. Introduction

It is estimated that 2.3 million people experienced domestic abuse in the year ending March 2024.¹ The National Policing Statement outlined the rate of Violence against Women and Girls (VAWG) has reached an 'epidemic level,' as reflected by a '37% increase in related crimes

* Student of LLB (2024-25), Hull Law School. Email: Emilianhinchliffe@gmail.com. I would like to take thanks to Stormm Buxton-Hill for their invaluable guidance, continued support and constructive feedback at every stage of this study. I would like to take thanks to my family and friends for their unwavering support throughout my studies, which I am extremely grateful for. I would like to take special thanks to my mum, who I cannot thank enough for all her encouragement. I would have never got this far without her support and the sacrifices she made for me to get here.



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¹ ONS Centre for Crime and Justice, *Domestic abuse in England and Wales: Overview* (Office for National Statistics 2024).

recorded.² Domestic abuse is a largely hidden crime, therefore the estimated figures produced from recorded data are a cautious reflection of the extent of this crime, recognising that crime often goes unreported to the police. In 2024, 1.4 million domestic abuse-related crimes were recorded by the police, but only 49,046 were escalated to a charge by the Crown Prosecution Service (CPS).³ While the CPS maintains that offences relating to domestic abuse are “amongst the highest priority in the criminal justice system.”⁴ There is a continuous pattern of serious failures to protect victims as reflected in the trend of decreasing prosecutions and convictions of domestic abuse-related crimes, evident in figures annually since 2017.⁵ In spite of domestic-abuse crime rates rising, the number of resulting prosecutions continues to fall, highlighted by a reported 43.2% decrease in prosecutions over the span of March 2017 to March 2022.⁶ The adequacy of the current legal response to domestic abuse in holding perpetrators to account and protect victims must be questioned.

An increased awareness of the nature and extent of domestic abuse in England and Wales has been pivotal to law and public policy reform in the twenty-first century. The past decade has witnessed revolutionary change within the conceptualisation of domestic abuse within law. Significant legal reforms include The Domestic Abuse Act 2021⁷, and the Home Office Strategy, ‘Call to end Violence against Women and Girls’⁸, which reflect a marked change in approach to domestic abuse through legal reform offering increased protection to victims of abuse. The tragic murder of Clare Wood by her partner in 2009 and the subsequent campaign led by Clare’s father urged for ‘greater information sharing about histories of abuse among potential victims.’⁹ Clare’s story changed the conversational discourse on the protection of individuals in their domestic lives from abuse. The public policy implementation in March 2014 of the first Domestic Violence Disclosure Scheme in England and Wales was a unique measure intended to better protect individuals at risk of domestic abuse.

‘Clare’s Law’ was introduced to prevent the escalation of intimate partner abuse, by increasing accessibility of a person’s previous history of violence to those concerned about a current or previous partner, enabling individuals to make informed decisions. The implementation of ‘Clare’s law’ has been subject to critical scepticism and scrutiny in its efficacy to prevent the perpetration and escalation of domestic abuse. Whilst ‘Clare’s Law’ is a progressive legal innovation, recognising that undoubtedly ‘there is a pressing need for a disclosure scheme of its kind in order to prevent further crime.’¹⁰ The scope of ‘Clare’s Law’ to prevent the escalation of domestic abuse through ending a ‘risky’ relationship is limited.¹¹ If only a decision to disclose

²National Police Chief’s Council, ‘National Policing Statement 2024 for Violence Against Women and Girls (VAWG)’ <<https://cdn.prgloo.com/media/034ed60aa6564c1fbdcfb03fd8e6a210.pdf>> accessed November 16, 2024. 4.

³ ONS Centre for Crime and Justice, Domestic abuse in England and Wales: Overview (n 1).

⁴ Crown Prosecution Service, Domestic Abuse: Policy Statement, (December 2022) <<https://www.cps.gov.uk/publication/domestic-abuse-policy-statement>> accessed 16 November 2024.

⁵ ONS Centre for Crime and Justice, Domestic abuse prevalence and trends, England and Wales: year ending March 2022 (Office for National Statistics 2022).

<<https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/articles/domesticabuseprevalenceandtrendsenglandandwales/yearendingmarch2022>> accessed 16 November 2024.

⁶ ONS Centre for Crime and Justice, *ibid*.

⁷ The Domestic Abuse Act 2021 (DAA 2021).

⁸ The Home Office, *Call to End Violence Against Women and Girls: Strategic vision*’ (Policy paper, Home Office, 2010).

⁹ Kate Fitz-Gibbon, Sandra Walklate, ‘The Efficacy of Clare’s Law in Domestic Violence Law Reform in England and Wales’ (2017)17(3) *Journal of Criminology & Criminal Justice* 285 1-17.

¹⁰ Home Office, *Domestic Violence Disclosure Scheme: Factsheet*, (Policy paper, Home Office 2024).

¹¹ Fitz-Gibbon, Walklate, ‘The Efficacy of Clare’s Law in Domestic Violence Law Reform in England and Wales’, (n 9).

can be made under the Domestic Violence Disclosure Scheme, ‘merely making disclosures of offenders’ histories of violence will not keep women safe, particularly, from violent men.’¹²

This journal will provide a critical examination of ‘Clare’s Law’, exploring the limitations within its scope and delivery that prevent the scheme in its current form from providing a consistent and effective role to response to domestic abuse. To highlight the failures of ‘Clare’s Law’ in its current approach, this study will explore the scepticisms raised within literature and the practical limitations highlighted through the police force operation and data. The operation of the scheme raises questions to whether ‘Clare’s Law’ works as intended to prevent domestic abuse. The effectiveness of ‘Clare’s Law’ rests heavily on the ability to empower women to make informed choices regarding the information disclosed and the future of their relationship. Whilst empowerment is considered as a “major goal within the mainstream domestic violence movement.”¹³ This is often presumptive and a narrow approach to diffusing an abusive relationship, failing to recognise that a disclosure does not necessarily mean the ending of a relationship. Alternatively, where applications under the scheme result in ‘no disclosure, ‘Clare’s Law’ inhibits a false sense of security onto victims.

When critically examining ‘Clare’s Law’ in terms of its operation, empirical research examining women’s experiences of accessing ‘Clare’s Law’ provides a reflection on the police force operation of the scheme. Police response is central to the successful delivery of disclosures made under ‘Clare’s Law.’ It is evident that there has been an inconsistent operation across police forces when implementing the scheme, fundamentally undermining its adequacy as a protective measure. This study will explore the limitations of ‘Clare’s law’ in its current approach, suggesting potential reforms to improve the implementation of the law to be comprehensive and consistent.

2. Understanding Domestic Abuse

Many of the previous legislation to tackle domestic abuse and violence in the United Kingdom shadow the obligations created by the United Nations Convention on the Elimination of all Forms of Discrimination Against Women (1979), and the latter UN Declaration on the Elimination of Violence against Women.¹⁴ Legislation in the 1970s and 1980s introduced special injunctions such as non-molestation orders in relation to matrimonial homes. Part IV of the Family Law Act 1996 replaced much of this legislation, and widened the category to include ‘associated persons’, such as former or current partners to seek out civil remedies.¹⁵ Former legislation focused explicitly on acts of violence, and protection for victims of abuse was extended only to adults in an intimate relationship with the perpetrator. This narrow perception is reflected in Section 13 of The Domestic Violence, Crime and Victims Act 2004 which requires ‘parties to the proceeding may be ‘associated’ by virtue of: marriage, cohabitation, relation, an agreement to marry, being parents.’¹⁶ Although the Serious Crime Act 2015 made provisions for coercive and controlling behaviour¹⁷, former legislation did not afford protection for victims suffering abusive behaviour outside of cohabitation, or beyond physical violence.

¹² Jamie Grace, ‘Whatever happened to ‘Clare’s Law’? Reviewing the evidence’ (2019) Sheffield Hallam University. 10

¹³ Aarati Kasturirangan, ‘Empowerment and Programs Designed to Address Domestic Violence’, (2008) 14(12) Violence Against Women 1465 1.

¹⁴ The Family Law Act 1993, Part IV.

¹⁵ Marian Duggan, Jamie Grace, ‘Assessing Vulnerabilities in the Domestic Violence Disclosure Scheme,’ (2018) 30(2) Child and Family Law Quarterly, 145-166, 150.

¹⁶ Domestic Violence, Crime and Victims Act 2004, Part 1 S 13.

¹⁷ Serious Crime Act 2015, S 76(1).

Fundamental progress has been made through legislation to provide a timely response to the perpetration of domestic abuse. However, "it is only in the last ten years that domestic violence has been taken seriously as a criminal justice issue."¹⁸ The Domestic Abuse Act 2021 (The DAA) is a recent legislative measure, considered groundbreaking for widening the definition of domestic abuse and subsequently the scope of people who would be considered as victims of abuse under the Act. The DAA provides the first cross-government statutory definition of domestic abuse. The Act also placed 'Clare's Law' guidance on a statutory footing within Section 77¹⁹, therefore 'imposing a duty on the Home Secretary to issue guidance on the DVDS to chief officers in police.'²⁰ This does not affect police's disclosure powers to disclose but imposes a duty to refer to the guidance outlined within the Act. The DAA "ensures that domestic abuse is properly understood, considered unacceptable and actively challenged across statutory agencies and in public attitudes."²¹ Furthermore, it emphasises that domestic abuse is not limited to physical violence, and subsists in the forms of emotional, controlling, coercive and economic abuse, attempting to address previous failures.²² The DAA recognises the wide scope that abusive behaviour exists within. Domestic abuse can affect anyone from any background, and of any gender or age. In most domestic abuse cases, they involve women, as reflected in the 2024 National Crime Survey which estimated that 72.5% of all victims of domestic abuse-related incidents and crimes were female.²³ Domestic abuse is often portrayed as a gendered crime, perpetrated by men against women, which is a valid viewpoint considering the crisis of Violence against Women in England and Wales.²⁴ However, male victims of domestic abuse are a frequently neglected demographic, it is important to not discredit male victims of domestic abuse. North Yorkshire Police Inspector Clare Crossan accurately highlighted that "domestic abuse against men isn't often talked about and whilst there are fewer reported incidents where the victim is male, this doesn't mean it's not happening."²⁵ Male domestic violence and abuse victims are subject to great levels of stigma and "are often disregarded by society and professionals alike."²⁶ Every instance of domestic abuse should be taken seriously and given the support needed. Awareness and knowledge surrounding male domestic abuse are lacking, providing difficulty for male victims to speak out and access support. In relation to male use and access of 'Clare's Law', it could be argued that campaigns have been targeted at females. The female orientated marketing of 'Clare's Law' highlights that it does not address the full picture of domestic abuse. The idea behind 'Clare's Law' has the potential to shift the narrative of domestic abuse, however it requires further awareness and improved understanding to both users and police forces handling applications made under the Scheme.

Although a broader understanding of what domestic abuse can be is recognised legally in the Act, this poses uncertainty to how Clare's Law fits in as an appropriate response to the different types of behaviour that subsists within domestic abuse. Does 'Clare's Law' fit into

¹⁸ The Police Foundation, 'The Briefing', (The Police Foundation, 2014) <https://www.police-foundation.org.uk/wp-content/uploads/2017/08/domestic_abuse_briefing_final.pdf> ice Foundation Domestic Violence Briefing.qxd>

¹⁹ DAA 2021, S77.

²⁰ Home Office, *Domestic Violence Disclosure Scheme (DVDS) Statutory Guidance* (Home Office, 2023) 3.

²¹ Home Office (n 9).

²² The DAA 2021.

²³ ONS Centre (n 1).

²⁴ Rita Broberg, 'Why Are Men Often Overlooked as Victims of Domestic Abuse' The Centre for Social Justice (14 June 2022) <<https://www.centreforsocialjustice.org.uk/newsroom/why-are-men-often-overlooked-as-victims-of-domestic-abuse>> accessed January 4, 2025.

²⁵ North Yorkshire Police News, 'We must speak up about male domestic abuse', (North Yorkshire Police, 21 April 2022) <<https://www.northyorkshire.police.uk/news/northyorkshire/news/news/2022/04-april/we-must-speak-up-about-male-domestic-abuse/>> accessed 10 December 2024.

²⁶ C.F Barber, 'Domestic Violence against Men', (2008) 22(51) *Nursing standard* 35.

the understanding of what domestic abuse is?²⁷ There is uncertainty surrounding who is considered as a victim under ‘Clare’s Law.’ Moreover, the scheme enables the disclosure of information of a partner’s history, but only of perpetrators with a previous criminal record. An example of this is coercive and controlling behaviour, as is it possible to ‘check’ if someone has been coercive in a previous relationship without a conviction or record to ‘prove’ this. Domestic abuse is a hidden crime; reflected through domestic abuse statistics which ‘estimates that less than 24% of domestic violence crime is reported to the police.’²⁷ It is likely that a vast majority of perpetrators do not have a record reflecting the extent of their abusive behaviour. Subsequently, leading to the question of whether ‘Clare’s law’ can act to prevent domestic abuse.

3. The history of ‘Clare’s Law’

‘Clare’s Law’ received its name following the high-profile murder of Clare Wood in February 2009 by her abusive and violent former partner.²⁸ George Appleton murdered and set fire to Clare Wood following a five month stretch of threatening behaviour disregarded by the police when made aware.²⁹ Multiple reports were made by Clare to Greater Manchester police, including acts of sexual assault, criminal damage, threats to kill and harassment prior to her death and a restraining order placed on Appleton. Despite the police’s awareness of his previous criminal history of violence inflicted on women, the police did not use their discretionary powers to inform Clare of their knowledge of previous violence. It is important to note that ‘at the time, data protection laws had created a legal loophole which meant that former abusers were able to keep their criminal records confidential.’³⁰ The failure of the police service to intervene and appropriately respond to her reports of abusive behaviour exasperated the circumstances which resulted in her murder. The family of Clare Wood campaigned to challenge the loophole within the Data Protection Act.³¹ Subsequently, ‘Clare’s Law’ or formally known as The Domestic Violence Disclosure Scheme (the DVDS) was implemented across all police forces in England and Wales in March 2014, following a trial operation in 2013.

Clare’s father, Michael Brown’s aim in his widely successful campaign was to ultimately ‘change the law (Data Protection Act) to allow police to both disclose and proactively inform people of their partners’ criminal records and relevant past convictions.’³² The DVDS was enacted to provide policing services with a ‘clear framework, with recognised and consistent processes, for the exercise of these powers in the context of domestic abuse.’³³ This is reflected through the two elements which comprises the DVDS, ‘The Right to Ask’, and the ‘Right to Know.’

The Domestic Violence Disclosure Scheme; the “Right to Know” and the “Right to Ask”.

Prior to the introduction of ‘Clare’s Law’, the need to disclose information of this kind was determined on a case-by-case basis or where a successful request was made by a member of the public.³⁴ In order to prevent further offending, information could be released about a

²⁷ Refuge, “What is Domestic Abuse?” (Refuge, March 18 2022) <<https://refuge.org.uk/what-is-domestic-abuse/>> accessed 18 November 2024.

²⁸ “Why is it called Clare’s Law” (Clare’s Law, January 2022) <<https://clares-law.com/why-is-it-called-clares-law/>> Accessed 28 November 2024.

²⁹ “Why is it called Clare’s Law” (n 25).

³⁰ Ibid.

³¹ The Data Protection Act 1998.

³² (n 25).

³³ Home Office (n 10).

³⁴ Fitz-Gibbon, Walklate (n 9).

person's previous criminal offending under these conditions. The Criminal Justice Act³⁵ established Multi-Agency Public Protection Arrangements (MAPPA) across England and Wales. MAPPA is a statutory mechanism which permits the disclosure of an offender's criminal history to provide protection to potential victims. MAPPA was designed to protect the public from serious harm, providing guidance to the police to assess and manage the risks posed by sexual and violent offenders.³⁶

'Clare's Law' was implemented to 'enable the police to disclose information to a victim or potential victim of domestic abuse about their partner's previous abusive or violent offending.'³⁷ It provides a structure and processes to exercise common law powers retained by the police to disclose information where necessary to prevent crime. There are two pathways to make an application for information under Clare's law: the 'Right to Ask' and the 'Right to Know.' Applications are handled by local police forces who have the responsibility to conduct background checks on the partner in question.³⁸ After a request is made under either element, the police assess the information and decide based on the appropriateness of disclosure. The 'Right to Ask' refers to applications made by an individual, or relevant third party to make an application to the police to check the records of a current or ex-partner.

The latter element, the 'Right to Know' varies because it allows the police to make a disclosure based on their own initiative 'if they receive information about the violent or abusive behaviour of a person that may impact on the safety of that person's current or ex-partner.'³⁹ Examples of this include information arisen from a criminal investigation, sources of police intelligence, or through statutory or agency involvement. A lawful disclosure can be made by the police, 'if the disclosure is based on the police's common law powers to disclose information where it is necessary to prevent crime.'⁴⁰ There must be a pressing need for the disclosure, ensuring that 'the interference with the perpetrator's rights is necessary and proportionate for the prevention of the crime.'⁴¹

Disclosures made under the DVDS risk undermining the right to privacy, through the proportionality of information disclosed as enshrined in Article 8 of the European Convention of Human Rights.⁴² The Human Rights Act 1998 defines the 'Right to respect for private and family life.'⁴³ This right is afforded under Article 8 to ensure that 'everyone has the right to respect for his private and family life, his home and his correspondence.'⁴⁴ This is with the exception 'for the prevention of disorder or crime, or for the protection of the rights and freedoms of others.'⁴⁵ The legalities of information sharing are another significant limitation. From a legal perspective, courts and legal authorities must balance the need for protection against potential infringement of an individual's right to privacy afforded under Article 8t. The principle of proportionality under Article 8 is fundamental in the police's decision-making process to disclose information. As emphasised within the DVDS guidance that any disclosure

³⁵ The Criminal Justice Act 2003 (CJA 2003).

³⁶ Ministry for Justice and HM Prison and probation service, "Multi Agency Public Protection Arrangements: MAPPA Guidance" <<https://www.gov.uk/government/publications/multi-agency-public-protection-arrangements-mappa-guidance>> accessed 12 December 2024.

³⁷ Ministry for Justice, *ibid.*

³⁸ Home Office (n 7).

³⁹ (n 10).

⁴⁰ *Ibid.*

⁴¹ *Ibid.*

⁴² European Convention of Human Rights, Article 8.

⁴³ Human Rights Act 1998 (HRA 1998) Article 8.

⁴⁴ HRA 1998 Article 8.

⁴⁵ HRA 1998 8(2).

made by the police under the scheme must be proportionate and necessary, and 'in accordance with other relevant over-arching primary legislation.'⁴⁶

'Clare's Law' has shifted the cultural perspective of domestic abuse and violence to be considered a matter of public concern, bringing domestic abuse to the forefront of public debate. Similar schemes have been rolled out in the rest of the United Kingdom, and have reached Canada, New Zealand, various parts of Australia.⁴⁷ However, the 'Right to Ask' and 'Right to Know' elements that underpin 'Clare's Law' provide limited scope of application. This could limit access to potential vital information, for those who may not recognise the warning signs of abusive behaviour. A disclosure is provided on a subjective judgment of officers, only if there is an established risk. There is divided opinion on 'Clare's Law', where supporters of the DVDS 'argue that knowledge of this could help new partners understand better the risks they face.'⁴⁸ The year-on-year increase in the rate of applications reflect that 'Clare's Law' has been embraced and used to improve the safety of potential victims of abuse, with 45,344 applications to the DVDS made in the year ending March 2023.⁴⁹ However, there is still a clear lack of awareness and understanding among the public of 'Clare's Law' which undermines the schemes ability as an effective response to domestic abuse.

4. Theoretical limitations of Clare's Law

The promotion of victim-blaming as opposed to victim-empowerment.

The empowerment of victims is a key strategy to reduce domestic abuse within the operation of 'Clare's Law.' Whilst 'empowerment' is "a major goal within the mainstream domestic violence movement,"⁵⁰ there is little regard for 'aspiration-reality gap' when relying on empowering victims as a fundamental strategy in practice.⁵¹ 'Clare's Law' relies on the strategy of providing empowerment in order to reduce domestic abuse, provided through the application of the 'Right to Ask' element which has shifted responsibility away from public bodies and services, onto the duty of a private citizen to take it upon themselves to seek out information relating to the risk of abuse. The impact of 'Clare's Law' relies on the individual to assume the position of responsibility to protect themselves. When placing such responsibility onto the victim, concerns are raised that 'Clare's Law' unintentionally promotes 'victim blaming' through its approach.⁵²

'Clare's Law' has been praised as a strategy that empowers women, by enabling them "to make 'informed choices' about whether they continue their relationship."⁵³ However, there are clear risks associated through the act of 'transferring responsibility to the victim themselves, the scheme detracts from the accountability and responsibility of the perpetrator.'⁵⁴ There is potential for this strategy to promote a harmful social attitude by shifting the blame from the perpetrator to the victim. Applications under the 'Right to Ask' element of the scheme, the individual themselves who is at risk of violent behaviour to assume the position of

⁴⁶ Home Office, Domestic Violence Disclosure Scheme (DVDS) Statutory Guidance (Home Office, 2023) 20.

⁴⁷ Fitz-Gibbon (n 9) 10.

⁴⁸ Katerina Hadjimatheou, 'Social care told me I had to': Empowerment and responsabilisation in the Domestic Violence Disclosure Scheme' (2022) 62(2) *The British Journal of Criminology*. 320.

⁴⁹ Clark, 'Number of applications and disclosures to Clare's Law in England and Wales 2018-2024, (November 2023) <<https://www.statista.com/statistics/1440566/uk-clare-s-law-figures/>> accessed 12/12/2024.

⁵⁰ Aarati Kasturirangan, 'Empowerment and Programs Designed to Address Domestic Violence', 2008 14(1) 1.

⁵¹ Charlotte Barlow, 'Criminal Justice Policy and Victim-Survivor Empowerment: A Case Study of Domestic Violence Disclosure Schemes in England and Wales', 2.

⁵² Fitz-Gibbon (n 9) 11.

⁵³ Clare Bessant, 'Protecting Victims of Domestic Violence – Have We Got the Balance Right?' (2015) 79(2) *The Journal of Criminal Law* 102.

⁵⁴ Fitz-Gibbon (n 9) 11.

responsibility to protect themselves. Instead of perceiving this from the lens of empowerment, this instead is a deflection from the responsibility of the individual to refrain from inflicting abusive and violent behaviour in the first instance. Responsibility should remain always with the perpetrator.

The gap between the aspiration of ‘Clare’s Law’ and the reality reported by individuals who have used the scheme raises concerns that the scheme provides a presumptive approach to the barriers of leaving a violent partner. When considering the complexity of abusive relationships, ‘Clare’s Law’ is problematic in its strategy. This is highlighted in instances where blame is transferred onto the victim for “failing to protect her children if she chooses not to leave her partner following disclosure.”⁵⁵ For Clare’s law to have a positive influence on the prevention of domestic abuse, the Law heavily leans on the individual’s ability to leave the relationship and remove themselves from the situation. Furthermore, instead, does ‘Clare’s law’ provide for the responsibilities of women as opposed to empowerment? In support of Hadjimatheou’s observation⁵⁶, women are often perceived within the domestic relationship to be held responsible for protecting their children. An example of ‘Clare’s Law’ to responsabilise women as opposed to empowering them is highlighted through a reported experience of using the DVDS. It was reported within a case study conducted on the practical experiences of using ‘Clare’s Law’, was told to “get rid of this man or we will get involved with you.”⁵⁷ This was the police’s response after being called to a serious domestic incident at the home, reporting that services failed to exercise their powers under the ‘Right to Know’ route. This account reflects the ability of ‘Clare’s Law’ to responsabilise women as opposed to ‘empowering’ victims.

Instead, this is a misinterpretation and instead perpetuates the discourse of victim-blaming which “leads to revictimization whilst failing to promote perpetrator accountability.”⁵⁸ The assumption that knowledge of a previous history of violent offending is reflected through the criticism of ‘Clare’s Law’ in its ability to place ‘an unrealistic responsibility’⁵⁹ on the individual to remove themselves from the situation. The understanding that upon receiving this information will empower a person to then make an informed decision is presumptive. The understanding that this information will empower a person to make an informed decision regarding their relationship is presumptive. Regarding victims with children, fear of involvement of social services and removal of children from the family home is another example of how women are often held responsible to act to protect others. This is compounded by concerns of how the justice system will treat those who choose to remain with a partner following a disclosure. In reference to the negative and misogynistic treatment of women by the criminal justice system, victim blaming in response to violence against women as will be discussed below.

The police service is an agency of criminal justice that traditionally “victims of domestic violence have been hesitant to communicate with.”⁶⁰ The mistrust of police is likely to be exacerbated by the significantly low conviction rates. The Crime Survey 2024 in England and Wales reflected that there was 51,288 prosecutions for domestic abuse crimes, accounting for around 20% of police recorded domestic abuse crimes resulted in prosecution.⁶¹ The role of

⁵⁵ Fitz-Gibbon (n 9).

⁵⁶ Katerina Hadjimatheou (n 45).

⁵⁷ Charlotte Barlow, Sandra Walklate, Nicole Renehan, ‘Criminal Justice Policy and Victim-Survivor Empowerment: A Case Study of Domestic Violence Disclosure Schemes in England and Wales’, (2024) 13(1) *Feminists at Law* 1-31. 17

⁵⁸ Vesna E Clark, ‘Victim-blaming discourse underpinning police responses to domestic violence: A critical social work perspective.’ (2021)4(1) *The University of Sydney*.

⁵⁹ Fitz Gibbon (n 9).

⁶⁰ (n 9) 292.

⁶¹ ONS Centre (n 1).

the police service is at the heart of 'Clare's Law' effectiveness, heavily relying on the liaison between victims and police when disclosing information under a Clare's Law application. In turn, the involvement of the police is a significant barrier to the success of the scheme. The potential reluctance to seek help from services such as the police, misunderstands "women's exertions of personal choice and perceptions of dangerousness when examining their decisions about seeking help."⁶² A study conducted to better understand women's attitudes to seeking help, interviewed thirty-one women who had experienced abusive relationships.⁶³ This study raised a common reluctance among victims to liaise with statutory agencies such as the police, finding women were often deterred from reaching out due to a fear of repercussions of disclosure. This fear was described to be "inhibited by women's lack of trust, with fears around confidentiality and the potential misuse of personal information."⁶⁴ 'Clare's Law' does not address the "difficulties that women face in connecting with services when seeking to leave a violent relationship,"⁶⁵ with a lack of regard to conflicting emotions which prevent victims from seeking help.

A recent study on 'victim-survivor experiences of 'Clare's Law' the further evidenced disillusionment in the reality of using 'Clare's Law', reflecting "disparities between what was expected and the limits of what was delivered in practice."⁶⁶ The findings of the report also reflected the difficulty to establish a trusting relationship between police officers and victims, due to dissimilar desired outcomes from the interaction. This is compounded through the reported experience of 'victim-blaming' by one participant, who decided they were never going to report future incidents to the police where instead of "disclosing her partner's domestic abuse convictions, the police informed children's services."⁶⁷ As discussed, studies of women's experiences reveal that 'Clare's Law' in its current approach needs more work to deliver holistic, and sensitive responses to women managing violence in their lives.⁶⁸ The experiences reported reveal the unintended consequences of 'Clare's Law' and its approach claiming to be in the interests of victim protection, which is a central aim of this initiative. A disclosure of information under Clare's law may 'compound fears but may not do much to enable her to leave the relationship.' It is evident that there is an absence of support available to victims' post disclosure, which instead puts them in a position of greater risk than before the application was made. As reflected through the recent case study on the DVDS, eight women interviewed 'suggested they felt "left alone" and "unsupported".'⁶⁹ 'Clare's Law' in its current approach does not provide an adequate response to victims of domestic abuse, providing little support to those at risk of abuse.

The risk of creating a false sense of security.

There is also concern that 'Clare's Law' risks creating a false sense of security through applications which result in no information to disclose. The organisation Refuge voiced that 'we believe it may create an unrealistic expectation that women should "vet" their partners, and that it may lead to false reassurance.'⁷⁰ Indeed, any disclosures made under 'Clare's Law'

⁶² Janel Leone, Megan Lape, Yili Xu, 'Women's Decisions to not seek Formal Help for Partner Violence: A Comparison of Intimate Terrorism and Situational Couple Violence', (2013) 29(10) *Journal of Interpersonal Violence*.

⁶³ Maggie Evans, Gene Feder, 'Help-seeking amongst women survivors of Domestic Violence: a qualitative study of pathways towards formal and informal support', (2015) 19(1) *International Journal of Public Participation in Health Care and Health Policy*. 62-73.

⁶⁴ Evans, Feder (n 60).

⁶⁵ (n 60).

⁶⁶ Barlow, (n 53).

⁶⁷ (n 53) 17.

⁶⁸ (n 53).

⁶⁹ *ibid* 1.

⁷⁰ Fitz-Gibbon (n 9), Refuge, 11.

only provide information based on police records or known incidents of domestic violence. The information disclosed to an individual may not be an adequate reflection of the risks posed by an abusive partner. 'Clare's Law' is only able to provide a limited scope which does not fully reflect the behaviour or risks posed by a perpetrator. Again referring to the 'Clare's Law' experiences project, which reports on women's experiences accessing a Domestic Violence Disclosure Scheme.⁷¹ Where a DVDS enquiry results in 'nothing to disclose' this should not be taken as evidence that their partner has not previously been abusive.⁷² Disclosures made under the DVDS cannot be wholly relied upon, therefore undermining the effectiveness of 'Clare's Law.' to inform those at risk of abusive behaviour. Under the 'Right to Ask', there is the potential to create a false sense of security to those who are informed that their partner does not have a previous history of violence.⁷³ Often, incidents of abusive and violent behaviour will not be flagged up by 'Clare's Law' where there is no conviction. This concern was highlighted by a participant in the study, where 'there could have been 20 incidents of domestic violence but if there wasn't a conviction, people wouldn't know about it.'⁷⁴ In relation to 'Clare's Law', 'a persons who may have been serially violent to their partners are likely to never be subject of a 'right to know' disclosure where they do not have a prior arrest, conviction, and caution on their record.'⁷⁵ Despite the fact the individual felt the need to request such information under an application, there is fears that no disclosure 'risks lulling people into a false sense of security that they can know everything about a person's past actions and their future behaviour.'⁷⁶ 'Clare's Law' cannot be effective in its current form, particularly when considering the broader meaning of what domestic abuse can consist as.

Domestic abuse is a significantly underreported area of crime; therefore, a disclosure scheme is limited in its effect. It is likely that a vast number of perpetrators of abuse will not have a criminal background reflecting their behaviour. Often in domestic abuse related crimes, 'such high levels of underreporting are compounded by cases where crime is reported but no conviction is secured.'⁷⁷ This is reflected in the National Crime Survey 2024, which provides insight from incident to conviction. Domestic abuse data from incident to conviction in the year ending March 2024 reflects 851,062 incidents were recorded by the police, however, just 72,641 of suspects were referred to the CPS.⁷⁸ These figures reflect that information used to base a 'Clare's Law' disclosure, does not accurately reflect the extent of abusive behaviour. The scheme relies on information retained by the police as an 'effective way to capture information about prior offending.'⁷⁹ Considering this trend in figures which reflects underreporting of domestic abuse to authorities, 'Clare's Law' provides a limited scope of protection only where there is information to disclose, therefore posing uncertainty to the extent of protection 'Clare's Law' can provide to those at risk of abuse by individuals with no record.

The consequences of creating a false sense of security through a 'no disclosure' outcome was highlighted in the study. Following the outcome of the application, the respondent continued her relationship and proceeded to have a child with her partner. Eight months after submitting the DVDS application, she was approached by the police and told 'they got it wrong, and the

⁷¹ Charlotte Beneham, 'Clare's Law and Domestic Violence Disclosure Schemes: Victim-survivor perspectives,' (Clare's Law Experience Project, 2024). <<https://clareslawexperiencesproject.com/>> accessed 11 December 2024.

⁷² Jamie Grace (n 42).

⁷³ Fitz-Gibbon (n 9) 3.

⁷⁴ Charlotte Beneham, 'Clare's Law and Domestic Violence Disclosure Schemes: Victim-Survivor Perspectives' (n 68).

⁷⁵ Fitz-Gibbon (n 9).

⁷⁶ Fitz-Gibbon (n 9) 292.

⁷⁷ (n 9) 292.

⁷⁸ (n1).

⁷⁹(n 79) 292.

person in question was a very high-risk perpetrator.⁸⁰ These experiences highlight the flaws in the DVDS processes, and the consequences of misinformation. The importance of police officers to make clear that an absence of information does not imply there is nothing to disclose. An application under the 'Right to Ask', entails a woman herself is asking for information, therefore she has some concerns which suggest that further referral and support is required, likely there is more going on than meets the eye. Ensuring that individuals using the scheme are supported both during and after this process is important.⁸¹ The lack of support offered both during and after a 'Clare's Law' application significantly reduces the impact of the DVDS. For 'Clare's Law' to be considered as an effective measure against domestic abuse, further support must be provided to every applicant regardless of whether a disclosure is made.

5. Practical challenges of 'Clare's Law.'

The role of the police in 'Clare's Law.'

The effectiveness of 'Clare's Law' rests on its implementation by the police services, in which it has received wide scrutiny throughout the operation of the scheme. The scheme allows police to 'proactively (right to know) and reactively (right to ask) disclose 'intelligence' on alleged offenders to their partners.'⁸² However, there is a lack of joined-up approach between forces, resulting in an inconsistent implementation of 'Clare's Law' reducing the ability of the scheme to protect victims. The take-up of the scheme varies across police forces, providing inconsistency in the handling of applications made. This was uncovered by Freedom of Information requests to all police forces in England and Wales conducted by the Bureau of Investigative Journalism.⁸³ The findings reflect that currently there is a 'huge disparity in how police use law to protect women from violent partners.'⁸⁴ This is compounded by the variance of figures reflecting how forces release information to those that apply, 'with some forces disclosing to less than 10% of applications, others to more than 70%.'⁸⁵ MP Jess Phillips commented on the inconsistent application of the scheme, recognising that "the inconsistencies must be investigated and a level playing field must be reached. If we are going to make new legislation, we have to make sure it isn't just nice-looking law, it has to mean something on the ground."⁸⁶ Evaluating the outcome of 'right to ask' applications across police forces, 39% of applications in Lancashire resulted in disclosure, opposed to a 24% disclosure rate upheld in the Metropolitan police.⁸⁷ The inconsistency of how applications are handled by forces raises concerns of 'safety by geography.'⁸⁸ This is driven by 'different forces' priorities and resources resulting in an inconsistent response to applications. Clare Wood's father, criticised the application of 'Clare's Law', stating that 'it seems like some police forces just don't put domestic violence high up on the list.'⁸⁹ For 'Clare's Law' to be successful in its approach intended by Brown in his campaign, the police force implementation requires

⁸⁰Barlow (n 42) 13.

⁸¹ Grace (n 42).

⁸² Jamie Grace, 'Disclosing domestic violence: Jamie Grace critically assesses the national roll out of the Domestic Violence Disclosure Scheme' (2014) 97(1) Criminal Justice Matters.

⁸³ Sandra Walklate, Kate Fitz-Gibbon, 'Understanding Domestic Violence Disclosure Schemes ('Clare's Law'), (2018) Monash Gender and Family Violence Prevention Centre.

⁸⁴ Maeve McClenaghan, 'Huge Disparity in how police use law to protect women from violent partners', (The Bureau of Investigative Journalism 9 January 2018) <<https://www.thebureauinvestigates.com/stories/2018-01-09/huge-disparity-in-how-police-use-law-to-protect-women-from-violent-partners/>> accessed 10 December 2024.

⁸⁵ McClenaghan, 'Huge Disparity in How Police Use Law to Protect Women from Violent Partners', (n 80).

⁸⁶ McClenaghan, (n 80).

⁸⁷ *ibid.*

⁸⁸ Walklate, Fitz-Gibbon, Understanding Domestic Violence Disclosure Schemes (n 79).

⁸⁹ McClenaghan, (n 80).

consistency across England and Wales to be considered as an effective response to domestic abuse.

Limitations in resources and training

A significant barrier to the effectiveness of 'Clare's Law' is the resource limitations and the strain within police forces. Properly implementing the scheme requires time, attention, and coordination across the board. The operation of 'Clare's Law' operates under budgetary constraints, overstressing staff within the units. This is due to a lack of training and inadequate staff to manage the influx of applications. Subsequently, the process of disclosure is delayed, and applications are mishandled.

The urgent review into 'Clare's Law' applications is an example of resource limitations in forces. An investigation by the Independent Office for Police Conduct (IOPC) resulted in an audit of 'Clare's Law' applications made to Wiltshire police over eight years.⁹⁰ 3,788 applications made from April 2015 to August 2023 were reviewed as part of this audit.⁹¹ The investigation identified 33 failures made in the handling of 'Clare's Law'.⁹² Of these failures, two of which may have contributed to people being harmed because of failing to disclose information. The remaining 29 failures were administrative and service failures, reflecting inadequate training and instances where information was not disclosed due to inadequate research.⁹³ Critical failures by Wiltshire police service undermine 'Clare's Law' and limit its effectiveness in reducing incidents of domestic abuse. As a result of this investigation, in circumstances where people have not received a disclosure where they were entitled to, the force then contacted these individuals, potentially placing them in further risk, undermining the discretion of 'Clare's Law' which is central to the scheme. Furthermore, the Wiltshire police failure further feeds into the lack of police trust among people. Wiltshire police and crime commissioner, Phillip Wilkinson recognised the failure as a 'tragic consequence of an organisation', noting that the service was not performing adequately.⁹⁴ Despite its good intentions, police handling of 'Clare's Law' has been inconsistent and evidently in some cases counterproductive. The implementation of the Law has frequented issues, limiting its effectiveness to prevent domestic abuse. Delays in disclosure, resource limitations and uneven access are contributing factors to its reduced impact.

Another instance where the police failed to exercise their powers and implement strategies effectively, is the case management of Damien Bendall. Damien Bendall's case reflects the consequences of not using the scheme's 'Right to Know' to full effect. The 'Independent Serious further offence review of Damien Bendall' is an example that 'Change in policing frequently stems from failure, and the subsequent inquiries, inspections or commissions.'⁹⁵

In September 2021, Bendall murdered his pregnant partner Terri Harris, her two children, and their friend, at their house in Killamarsh, Derbyshire. At the time the murders were committed, Bendall was subject to a Suspended Sentence Order which included a five-month curfew to

⁹⁰ Wiltshire Police, 'Urgent review into more than 3,500 Clare's Law disclosures completed', (Wiltshire police, 22 May 2024). <<https://www.wiltshire.police.uk/news/wiltshire/news/2024/may-2024/urgent-review-into-more-than-3500-clares-law-disclosures-completed/>> accessed 10 December 2024.

⁹¹ Wiltshire Police, 'Urgent Review into more than 3,500 Clare's Law disclosures completed', *ibid*.

⁹² *Ibid*.

⁹³ "

⁹⁴ Paul Jacques, 'Wiltshire Police commissions 'urgent review' of Clare's Law applications', (Police Professional, 26 October 2023) <<https://policeprofessional.com/news/wiltshire-police-commissions-urgent-review-of-clares-law-applications/>> accessed 9 December 2024.

⁹⁵ Home Office, 'Policing Productivity Review' (Home Office 2023) <<https://www.gov.uk/government/publications/policing-productivity-review>> accessed 23 December 2024. 9.

the property where his partner and her children lived⁹⁶. Bendall should not have been curfewed to his partner's address, as identified in the Offence Review. 'Inspectors found successive probation practitioners missed opportunities to ensure vital information known about Damien Bendall was included in assessments and plans to manage and address the risk of serious harm he posed to both women and children.'⁹⁷ The use of risk assessments would have found this arrangement unsuitable, however, 'probation practitioners did not demonstrate sufficient professional curiosity, did not conduct safeguarding enquiries, and took information from Damien Bendall at face value.'⁹⁸ This exasperated the vulnerability of Harris and her children of risk to Bendall.

Bendall's case raises important concerns about the effectiveness of 'Clare's Law', and whether the police's poor handling of the scheme might have contributed to the tragedy. Bendall had a violent criminal past, including a history of violent offences and abusive behaviour, however there were significant failures on behalf of police services in the handling of Bendall which contributed to the murder of Terri Harris and the children. There are evidently significant failures in the implementation of 'Clare's Law' which could have led to earlier intervention. There is evidence within the offence review that despite his violent history being known to the authorities, the police did not disclose the relevant details of his criminal background through exercising judgment under the 'Right to Know' aspect. The police did not make use of 'Clare's Law' to assess Bendall's history, which could have played a significant role by providing the opportunity to warn Harris. The failure to exercise the 'Right to Know' reflects systemic issues within the police force which placed Harris in a position of great danger.

The research finding documented by the recent review of 'Clare's Law' in Wiltshire and the poor handling of Damien Bendall's information reflect that the scheme is not fit for purpose and is not being used appropriately to protect individuals on either basis of the 'Right to Ask' or 'Right to Know.'

Safety risks in time delays of application.

Another limitation of the scheme is the time delay following a 'Clare's Law' application between the submission of an application and the actual disclosure of this information. Although in 2022, the time frame to complete applications was reduced from 35 to 28 days.⁹⁹ The required investigation processes must be considered and the overwhelming demand on police services in England and Wales is a contributing factor to time delays in applications which limits the ability to efficiently respond to applications made under 'Clare's Law.' This is reflected in the recent policing productivity review in 2023, which outlined an inherent duty for forces to improve police responses to dealing with crime.¹⁰⁰

The impact of time delays on the operation of the scheme to provide timely response is raised within a study on using 'Clare's Law,' where one participant recalled her experience as 'a very long and drawn-out process.'¹⁰¹ Furthermore, stating 'it was just really disappointing. It was quite symbolic in a way, I just felt let down by the whole system.'¹⁰² It has been documented

⁹⁶ HM Inspectorate of Probation, 'Independent Serious Further Offence Review of Damien Bendall' 2022 <<https://www.justiceinspectors.gov.uk/hmiprobation/wpcontent/uploads/sites/5/2023/01/Independent-serious-further-offence-review-of-Damien-Bendall-1.pdf>> accessed 23 December 2024.

⁹⁷ HM Inspectorate of Probation, 'Independent Serious Further Offence Review of Damien Bendall', (n 110)3.

⁹⁸ HM Inspectorate of Probation, 'Independent Serious Further Offence Review of Damien Bendall' (n 110) 11.

⁹⁹ Home Office, Domestic Violence Disclosure Scheme (DVDS) Statutory Guidance' (April 2023) <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/116278/8/Domestic_Violence_Disclosure_Scheme.pdf> accessed December 16, 2024.

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¹⁰⁰ Home Office (n 91).

¹⁰¹ Barlow (n 53) 13.

¹⁰² Barlow (n 53) 13.

that time delays under ‘Clare’s Law’ serve as a deterrence for the engagement, heralded to ‘undermine the purpose of the DVDS.’¹⁰³ This is linked to both a lack of information to disclose and a failure to keep applicants informed about decision-making to disclose. This is reflected in the experience reported, which highlights the flaws in DVDS processes.

6. Recommendations

A recommendation in response to the current operational limitations of ‘Clare’s Law’ is the need for improved support post disclosure. There is an absence of support throughout the course of the process, as reported by one applicant, ‘I made that request for a reason and nobody checked up on me to see if I was ok.’¹⁰⁴ For ‘Clare’s Law’ to be effective in its approach to protect victims, further support is required from police forces and external services to victims throughout the entire process, regardless of whether a disclosure was made. The presumption that information disclosed under the scheme is enough for people to leave their relationship, ‘particularly when there is often minimal follow up support in how this information could be acted upon.’¹⁰⁵ The study suggests that receiving a disclosure of information is not enough to empower victims to leave a violent partner. To empower women, the importance of listening and hearing victims is crucial. Reflecting on the experiences of women using ‘Clare’s Law’, to provide sufficient protection for victims of domestic abuse and violence, the current approach under ‘Clare’s Law’ must be questioned.

Regarding recommendations to improve police force response to ‘Clare’s Law,’ whilst undertaking this study, 6 principles were released by the College of Policing to ‘ensure consistent and effective implementation across UK police forces.’¹⁰⁶ I support the principles to accompany the Domestic Violence Disclosure Scheme. These principles are in response to ‘the approach and support to victims has been inconsistent in the way that individual forces apply thresholds for disclosing information.’¹⁰⁷ The current implementation of ‘Clare’s Law’ ultimately ‘leaves the public vulnerable to potential harm.’¹⁰⁸ The first principle concerns ‘governance and assurance’, in line with the Domestic Abuse Act, to ensure that ‘forces must be able to demonstrate that they considered the statutory duty,’¹⁰⁹ guided by robust governance and oversight mechanisms. The maintenance of performance measures is ensured through the second principle, which also provides further guidance to applications which result in a ‘non-disclosure,’ requiring documentation of any reasons for non-disclosure. Furthermore, this principle aims to monitor and address the current issue of disproportionality, which is central to improving trust and engagement with forces.¹¹⁰ The third principle, ‘Training and Resources’, aims ‘that all personnel involved in the DVDS receive thorough training.’¹¹¹ The importance of adequate training and resources provided to those involved in the DVDS is highlighted through the recent inquest into ‘Wiltshire Police.’ Principle four, provides for ‘Evidence of a full risk assessment’, ‘requires a dynamic approach to risk assessment throughout the process.’¹¹² This principle is fundamental to the improvement of ‘Clare’s Law’ implementation as it ensures ‘referrals to specialist services, multi-agency arrangements and

¹⁰³ College of Policing, ‘Domestic Violence Disclosure Scheme Principles’ (College of Policing January 2025) <https://www.college.police.uk/guidance/domestic-violence-disclosure-scheme-principles> accessed 2 January 2025.

¹⁰⁴ Barlow (n 53) 19.

¹⁰⁵ *ibid* 22.

¹⁰⁶ College of Policing, ‘Domestic Violence Disclosure Scheme Principles’, (College of Policing, 12 December 2024) <<https://www.college.police.uk/guidance/domestic-violence-disclosure-scheme-principles>> 1.

¹⁰⁷ College of Policing, ‘Domestic Violence Disclosure Scheme Principles’ (n 102).

¹⁰⁸ (n 102).

¹⁰⁹ *ibid*.

¹¹⁰ *ibid*.

¹¹¹ *ibid*.

¹¹² *ibid*.

safeguarding authorities.¹¹³ The lack of ‘after-care’ provided to applicants is a noted limitation of the scheme, and this improvement is a significant step in the right direction. The ‘Killamarsh murders’ committed Damien Bendall highlight the pressing need for safeguarding, reflecting a ‘significant discrepancy in the way that police forces understand and implement DVDS.’¹¹⁴

Principle 5 provides for a ‘Robust ‘Right to Know’ entry route, requiring ‘forces should be vigilant for DVDS Right to Know opportunities in secondary risk assessments and multi-agency forums.’¹¹⁵ This principle enables a proactive use of information gathered from various policing activities.¹¹⁶ Throughout the implementation of the scheme, forces have not exercised ‘Right to Know’ opportunities, highlighted by the inquest into the Bendall murders. Instead, providing a reactive response to abusive behaviour, rather than a proactive one which is required for ‘Clare’s Law’ to be an effective measure in response to domestic abuse.

Principle 6 concerns the ‘roles and responsibilities of partner agencies.’¹¹⁷ This is to ‘ensure that independent domestic violence advisors (IDVAs) and other agencies are substantially involved during engagement and disclosure’¹¹⁸. This is fundamental in relation to the competing pressures of child protection and the implementation of an ‘empowerment-based approach, which has been criticised as an approach to domestic abuse safeguarding through research conducted by Hadjimatheou.’¹¹⁹ The disclosure process is shaped by a child protection agenda that makes victim-survivors responsible for protecting their children from the harms of domestic abuse. This is reflected through the exploration of impediments which limit the police in practice to effectively carry out the scheme as discussed earlier in this study. The principles implemented by the National Police Chief’s Council (NPCC) are set to improve their understanding and approach to promote a consistent process. The college of policing have introduced six governing principles, ‘to help prevent domestic abuse and ensure consistent and effective implementation across UK police forces.’¹²⁰ The implementation of the 6 principles by the College of Policing is a significant improvement to the handling of the DVDS by police forces. These 6 principles are promising in ensuring consistency, which currently prevents ‘Clare’s Law’ from having a positive impact on the reduction of domestic abuse as intended in its aims.

7. Conclusion

Legal reform places responsibility onto the state to take positive action to prevent behaviour which violates the rights of an individual.¹²¹ Within this, there ‘must be a reasonably possibility of prevention on the part of the state.’¹²² When evaluating the effectiveness of ‘Clare’s Law’, there is a lack of evidence that suggests this scheme acts as a preventative strategy in practice. While ‘Clare’s Law’ has the potential to be vital to aid the reduction of domestic abuse, there have been significant barriers to its success in practice. The police force implementation provided inconsistent application, delays in disclosure, with limited resources to the scheme largely contributing to the scheme’s limited effectiveness. For ‘Clare’s Law’ to be capable of protecting individuals, police forces require expanded resources, training and support to provide a consistent application of the scheme across England and Wales.

¹¹³ *ibid.*

¹¹⁴ *ibid* 6.

¹¹⁵ *ibid* 1.

¹¹⁶ *ibid* 6.

¹¹⁷ *ibid* 6.

¹¹⁸ *ibid* 8.

¹¹⁹ *ibid* 8.

¹²⁰ *ibid* 1.

¹²¹ *ibid* 9.

¹²² *ibid* 9.

During the development of this journal, the College of Policing in England and Wales released the introduction of the ‘Six Principles’ to ensure that ‘each decision is victim-led.’¹²³ Furthermore, these principles should provide accountability on police forces to demonstrate they considered the statutory duty in line with the Domestic Abuse Act 2021. The six measures are aimed at providing accountability and uphold a consistent, victim-centred approach across the UK.¹²⁴ The introduction of these measures should improve the scope of ‘Clare’s Law’ as an informative measure to those at risk of domestic abuse.

The voices presented through the case studies discussed in this study suggest that for ‘Clare’s Law’ to have value to assist victims of domestic abuse and prevent its escalation, more thought is required into the delivery of the Domestic Violence Disclosure Scheme. Greater effort is required by those implementing applications made under ‘Clare’s Law’ to ensure the interests of those making requests are better served. For ‘Clare’s Law’ to be considered as an effective means to prevent the perpetration of domestic abuse and violence, significant improvement is required in reference to police response to handling concerns. In its current approach, ‘Clare’s Law’ is not able to provide a timely and sensitive response to women who fear violence from a partner, and furthermore, it is unable to address the wider extent of intimate partner violence through its approach.

To improve the outreach and response to domestic abuse, further awareness is required to change the stance on domestic abuse. For ‘Clare’s Law’ to be a successful response to domestic abuse, the public must be aware of what ‘Clare’s Law’ can do and how to request information under the scheme.

¹²³ (n 1).

¹²⁴ *ibid*