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8 December 2021

Dear Ms Jacobs

We are writing about your survey of survivors of domestic abuse services, launched yesterday<sup>1</sup> as well as the earlier mapping of service providers you carried out in August 2021.<sup>2</sup>

The survivors' survey does not ask respondents' sex, but asks instead about their "gender identity". The service providers' survey does not ask whether service provider provide a single sex service, but instead "single sex or gender".

Section 7 of the Domestic Abuse Act 2021 sets out your statutory role:

- (1) The Commissioner *must encourage good practice in—*
- (a) the prevention of domestic abuse;
  - (b) the prevention, detection, investigation and prosecution of offences involving domestic abuse;
  - (c) *the identification of—*
    - (i) people who carry out domestic abuse;
    - (ii) *victims of domestic abuse;*
    - (iii) children affected by domestic abuse;
  - (d) the provision of protection and support to people affected by domestic abuse.

[emphasis supplied]

Section 84 sets out the power of Secretary of State to issue guidance about domestic abuse, etc:

- (3) Any guidance issued under this section must, so far as relevant, take account of the fact that the majority of victims of domestic abuse in England and Wales (excluding children treated as victims by virtue of section 3) are female.

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<sup>1</sup> <https://www.homeofficesurveys.homeoffice.gov.uk/s/DAC-Independent-Survey/>

<sup>2</sup>

<https://domesticabusecommissioner.uk/wp-content/uploads/2021/07/National-Mapping-Guidance-and-QA.pdf>

Thus, as we are sure you agree, best practice in the identification of victims and perpetrators of domestic abuse is not a sex-neutral question. In particular, encouraging best practice in the identification of victims of domestic abuse requires, at the most basic level, encouraging the collection of accurate data, disaggregated by sex, about victims; and the first step towards encouraging best practice is to model it.

The current draft Statutory Guidance says:

3. Domestic abuse can affect anyone, regardless of age, disability, gender identity, gender reassignment, race, religion or belief, sex or sexual orientation. Domestic abuse can also manifest itself in specific ways within different communities.

But it goes on to note:

4. Women are disproportionately the victims of domestic abuse.

And states that:

422. The Public Sector Equality Duty (PSED) is a duty under section 149 of the Equality Act 2010 on public authorities and those exercising public functions, whilst exercising their functions, to have due regard to the need to: eliminate discrimination, harassment, victimisation; advance equality of opportunity; and foster good relations. This means that in some instances, in order to have regard to these factors, a local authority might (or might not) need to commission single-sex services and specialist 'by-and-for' services, depending on their needs.

We believe that in failing to collect information about victims' sex, or about the provision of single-sex services, you are not properly performing your statutory function under the Domestic Violence Act 2021.

Your answer on Twitter yesterday that you **are** collecting information on survey respondent's sex, by recombining "gender identity" and "trans history" is not compatible with GDPR, nor is it practically possible, as we have set out in our blog post.<sup>3</sup>

As we are sure you are aware, there is significant controversy about whether formerly single-sex services for female victims of domestic violence should now include trans-identifying males as staff or as clients. These issues are set out for example by

- Female-Only, Violence and Abuse Survivors (2019) Response to Stonewall  
<https://fovas.wordpress.com/response-to-stonewall-2/>
- Shonagh Dillon (2019) '#TERF/Bigot/Transphobe' – 'We found the witch, burn her!'  
<https://shonaghdillon.co.uk/wp-content/uploads/2021/06/Shonagh-Dillon-TERF-BIGOT-TRANSPHOBE.pdf>
- Dr Jagbir Jhutti-Johal (2021) Interview  
<https://shonaghdillon.co.uk/an-interview-with-dr-jagbir-jhutti-johal-obe>
- Karen Ingala Smith (2020) Trauma-Informed Services for Women Subjected to Men's Violence Must be Single-Sex Services  
<https://kareningalasmith.com/2020/07/08/trauma-informed-services-for-women-subjected-to-mens-violence-must-be-single-sex-services/>
- Smith, N. et al (2015) Hear Me, Believe Me, Respect Me. University campus Suffolk.  
[https://www.uos.ac.uk/sites/default/files/basic\\_file/Focus-on-Survivors-Final-Copy-Logo-Blk.pdf](https://www.uos.ac.uk/sites/default/files/basic_file/Focus-on-Survivors-Final-Copy-Logo-Blk.pdf)
- Women's Resource Centre (2019) Are the Equality Act 2010 and CEDAW working for the women's voluntary & community sector in England?  
<https://www.wrc.org.uk/Handlers/Download.ashx?IDMF=d059f31c-78e5-45df-9e3e-7a59f869b19a>

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<sup>3</sup> <https://sex-matters.org/posts/updates/domestic-abuse-commissioner/>

Your role is to provide information and insight to help resolve questions of this nature, and hold government to account. You cannot do this by confusing and conflating the material reality of sex (which applies to everyone) with the concept of gender identity (which only some people subscribe to).

You must collect information on the sex of survivors of domestic violence, and on whether service providers offer single-sex or mixed sex services.

We call on you to:

1. Withdraw the survey immediately, and reissue it promptly with a straightforward sex question (as well as a question on transgender identity/gender reassignment).
2. Undertake to write all the service providers who answered Q2.4 of the service providers mapping to ask if them to clarify whether they provide a single-sex service or a mixed-sex service based on self-identified gender.
3. Confirm publicly that you are using the definition of “female” and “male” intended by Parliament in enacting the Domestic Abuse Bill 2021 (this does not of course preclude you from also considering the specific needs of victims who are “trans or gender diverse”).
4. Revise the Framework Document, in agreement with the Secretary of State for the Home Office, to make clear your understanding that the words female (and male) in the Domestic Abuse Act 2021 refer to biological sex.

We would be more than happy to engage with you cooperatively in clarifying the data and legal issues and exploring next steps; please let us know if we can be of any help.

Yours sincerely

	
<b>Naomi Cunningham</b> Chair	<b>Maya Forstater</b> Executive Director