

# **Rendering them responsible: Victim-survivors experiences of Clare's Law and Domestic Violence Disclosure Schemes**

## **Abstract**

This paper presents empirical findings from a British Academy funded project concerned to explore victim-survivor experiences of domestic violence disclosure schemes (DVDS) in the U.K. In so doing, it draws on the concept of responsabilisation as one way of making sense of the experiences reported. It goes on to suggest a note of caution for the development of these schemes in other jurisdictions, since the failure to take account of victim-survivor voices in relation to DVDS in the UK has contributed to such schemes rendering victim-survivors responsible.

## **Key words**

Clare's Law, domestic violence disclosure schemes, responsabilisation, victim-survivor voices.

## **Key messages**

- Victim-survivors can be responsabilised for their actions or inactions following a Clare's Law disclosure
- This involves both responsibility for their own (in)actions and a sense of responsibility to keep other women safe.
- Invoking Garland's (2001) understanding of responsabilisation and the culture of control, the paper highlights the unintended consequences of policy development in the absence of taking account of victims-survivor experiences.

## **Introduction**

The first Domestic Violence Disclosure Scheme (DVDS) (commonly referred to as Clare's Law) was rolled out across England and Wales in March 2014. A DVDS allows for otherwise confidential information about an individual's criminal (usually violent) history held by the police to be disclosed when that person is considered to pose a risk to an intimate partner. Such schemes have grown significantly since 2014, and are now operative in Northern Ireland,

Scotland, Canada (Saskatchewan, Alberta, and in development in Manitoba), have been piloted in New South Wales (Australia), developed in South Australia (Australia) and introduced in New Zealand. A version of a DVDS scheme was also introduced in New York State in October 2019 named as Monica's Law. In England and Wales, the Domestic Abuse Act (2021) places Clare's Law on a statutory footing for the first time. This requires police forces to pay due regard to the associated guidance, expected to be published in 2023.

The scheme in England and Wales was introduced in the aftermath of a campaign led by Clare Wood's father. Clare Wood was murdered in February 2009 by a man she had met on an internet dating site who had a history of violence. Interestingly the consultation process undertaken prior to the introduction of the scheme was met with ambivalence amongst domestic abuse support agencies (Home Office 2013), many of whom implicitly or explicitly recognised that 'the series of events in the Wood case in the lead-up to the killing suggests that a domestic violence scheme in itself would not have assisted in addressing her risks or needs.' (Walklate and Fitz-Gibbon, 2018: 290, see also Grace 2022). Nevertheless Clare's Law, as developed in England and Wales, proceeded to be developed based on two premises: that it could protect victim-survivors who experience violence in their relationship and, by proxy, it could prevent further violence for the survivor. These beliefs have informed the global reach of such schemes (Walklate and Fitz-Gibbon 2018), with little excavation of whether they can or do achieve these expressed aims especially for victim-survivors themselves. Indeed, with the exception of an evaluation of the New South Wales pilot scheme (Ubris, 2018), no research to date has explored the experiences or perspectives of victim-survivors who have used a DVDS.

This paper outlines the findings of the first study conducted with victim-survivors in the UK about their perceptions and experiences of Clare's Law. In doing so the paper falls into five parts. Part one provides a brief overview of Clare's Law/DVDS. Part two sets the policy context

in which DVDS emerged and draws on the concept of responsabilisation, as articulated by Garland (1996; 2001), as one way of making sense of the shape and form of this policy in England and Wales. Part three outlines the methodological approach utilised in this research. Part four discusses two themes emanating from our data, both of which highlight the presence of responsabilisation in these victim-survivor accounts. These are, “now you know, you can leave” and “I needed his new partner to know”: sharing information with others’. The final section returns to Garland’s work and reflects on these findings and the questions they raise for the further development of DVDS.

### **Domestic Violence Disclosure Schemes/ Clare’s Law**

The shape and form of disclosure schemes have their origins in offender registry schemes. Sex offender notification schemes first emerged in the United States in the 1990s (Hinds and Daly, 2001) and Greene and O’Leary (2018) offer a direct comparative analysis of these with DVDS. They suggest these initiatives share several features: both are concerned to disclose information as a means of providing protection; both aim to prevent recidivism; and finally, both are intended to meet the needs of the same victim group: women. Thus when the campaign for a Clare’s Law emerged in England and Wales, there was already in existence a template for a policy response despite the already documented inherent problems with offender registries (Sample et al 2011; Kemshall and Weaver 2012).

There are two aspects to DVDS in England and Wales: a right to ask and a right to know. In Scotland and Northern Ireland, information is provided on the right to know and a power to tell<sup>i</sup> basis giving those schemes a slightly different nuance. In relation to the ‘right to ask’, these applications can be made by any member of the public who can apply to the police for information about whether a person has a history of domestic violence. The ‘right to know’ (or

power to tell) request occurs when the police act proactively to disclose information to protect a potential ‘high-risk’ victim considered to be at risk of harm from their partner if that partner has a known history of abuse. In both cases the Home Office currently recommends that any request and subsequent disclosure of information should take a maximum of 35 days (Home Office, 2013). The expressed aims of such disclosures have been presented as threefold: an ability to strengthen police and multi-agency partnerships in providing appropriate protection and support to victims at risk of domestic abuse; to reduce incidents of domestic abuse through prevention; and to reduce the health and criminal justice-related costs of domestic abuse (Home Office 2013, 2016). However, the extent to which these objectives are met, or can be met, by a ‘law’ of this kind is the subject of considerable debate (Walklate & Fitz-Gibbon, 2019). These concerns point to, amongst other things, the problems associated with the implementation process of DVDS.

In England and Wales in the year ending March 2021, there were 12,192 ‘right to know’ requests resulting in 6405 disclosures (about 50%) and 17,916 ‘right to ask’ requests resulting in 7037 disclosures (around 40%) (ONS, 2021). These figures are suggestive of an upward trend in the use of DVDS since its introduction. However, as global figures they mask the marked variation in the use of Clare’s Law by police force area (Hadjimatheou and Grace, 2020; HMICFRS 2019). Digging a little deeper into implementation issues, Duggan (2018) has illustrated some further issues. Her empirical work points to practitioner assumptions about ‘deserving’ and ‘undeserving’ victims whereby victim hierarchies can appear, in which some ‘victims’ are deemed more worthy of support than others. Moreover, the capacity for DVDS in themselves to promote victim-blaming either in theory, practice, or both, especially when the victim fails to act on the information disclosed to them, has also been commented on by Duggan (2012). As Bessant (2015: 118) observed, the presumption contained within DVDS of women “making informed choices” about whether they continue their relationship in the light

of information received does indeed risk making women responsible for their partner's violence. More recently Hadjimatheou (2021) has highlighted the ways in which social care agencies, particularly child protection services, often prompt women to ask about their partner's offending history. Her data suggests women are being pressed to ask for such information in the interests of, and to test their capacity for, child protection and if they fail to do so they are held responsible for what might subsequently occur to their children. Thus the question of who is responsible for what, where, and when, has been a feature of the concerns about the nature of these schemes for some time. However, whilst Hadjimatheou's (2021) work involved speaking with practitioners and police officers about their *perceptions* of victim-survivor experiences, with Bessant (2015) having commented on the problems and possibilities of responsabilisation as a consequence of DVDS, no work to date has considered the ways in which DVDS impacts on women from the perspectives of victim-survivors themselves. This is the aim of this paper. First what is meant by responsabilisation?

## **Responsibilisation**

Much has been written about the ways in which mostly men who perpetrate domestic abuse deflect responsibility for their behaviour onto women (Renehan, 2021; Sullivan, 2006). Dobash and Dobash (2010: 114) have pointed to the ways in which perpetrators neutralise the impact of their behaviour including "denial of responsibility, of injury and of victim status, as well as condemnation of the condemners"; pointing the finger of blame to their partners. In fact evidence suggests that victim-survivors can and do assume responsibility for perpetrators' violent behaviour, which can lead to an internalised belief that they deserve to be physically and emotionally maltreated (Townes and Adams, 2016). Moreover the ways in which women assume responsibility, influenced by sociocultural and gendered beliefs, are well documented (Lamb, 1999). For example, Bhuyan et al (2005) found that Cambodian women blamed themselves for their partner's violence, and Shiu-Thornton et al (2005) suggested that

Vietnamese women are considered to be responsible for harmony in the home. Towns, Adams, and Gavey (2003) described the ways in which discourses of privacy (e.g. ‘a man’s home is his castle’) were employed to justify men’s domestic abuse towards women in New Zealand with Hayes (2014: 134) commenting; ‘she forgives him because maintaining the relationship is her main goal in life, even over her own physical and mental safety’. Thus who takes responsibility for abusive behaviour within the context of domestic abuse is highly gendered, and importantly can also be intersected by additional structural constraints (such as ethnicity, Indigeneity and disability (see inter alia Ritchie, 1996; Radford et al, 2006)). Simultaneously criminal justice policy, particularly in England and Wales, can, and does, harness the victim of crime more generally, and women as victims of crime particularly, both symbolically (Bottoms, 1983) and practically in terms of crime prevention (Garland, 1996), to normalise the crime experience and to widen the organisations and individuals responsible for its management (see Garland 2001; Goodey, 2005; Walklate, 2007). Less work, however, has unravelled the ways in which these wider processes of responsabilisation make themselves felt in specific policy responses and those subjected to such policies, in relation to domestic abuse. At this juncture it will be of value to unpack the process of responsabilisation in more detail.

Garland (1996) suggested a ‘responsibilisation strategy’ involves central government seeking to tackle crime not directly through state agencies (such as the police, prisons, courts etc), but rather indirectly by creating ‘active citizens’, to “devolve responsibility for crime prevention onto agencies, organisations and individuals which are quite outside the state and to persuade them to act appropriately” (Garland, 1996: 452). For Garland (1996) the recurring message of this approach is that the state alone cannot effectively be responsible for preventing and controlling crime. As this approach to crime control has unfolded, later referred to by Garland (2001) as a culture of control, it has become not simply a way of hiving off responsibilities

through partnerships and/or multi-agency working, it has also become a strategy of governing at a distance. In this way responsabilisation has evolved as a multi-layered and multi-faceted process carrying consequences for everyone. Thus all citizens have become implicated in what it is they can do for themselves (to prevent crime). This multi-layered individualised approach to crime control has become increasingly evident within the context of domestic abuse in recent years. For example, in England and Wales, the HMIC report (2015), entitled ‘Domestic Abuse is Everybody’s Business’, quite explicitly highlights the need for individual, community driven responsibility to effectively enact change. In this vision everyone is rendered responsible for both individual and collective protection and safety (Furedi 1997, Walklate, 2007). DVDS are one example of a policy process of this kind resulting in largely unintended consequences. In a DVDS, whilst anyone can ask for information it is mostly women who are expected to act upon that information about their ex or current partner once it has been disclosed (see inter alia Duggan, 2012; Hadjimatheou, 2021). In what follows, we focus on findings illustrating the ways in which this ‘responsibilisation strategy’ operates drawing on victim-survivors reported experiences of using the scheme.

## **Methods**

The data presented here was gathered as part of a British Academy funded study which involved two data-gathering phases: an online survey (57 victim-survivors and practitioner-survivors, and 35 practitioners) and semi-structured interviews with victim-survivors about their experiences and perceptions of Clare’s Law/DVDS. This paper will focus only on the voices of victim-survivors obtained through the interviews and online survey.

Participants were recruited for this research in two ways. Firstly, through a project website. This was designed to include an accessible participant recruitment poster and details about how to contact the Principal Investigator to engage further in the project. Secondly, participants

were also recruited via email using professional contacts and social media. In total, twenty-six semi-structured interviews with victim-survivors were undertaken. The interviews were carried out online via MS Teams or telephone and were either video or audio recorded (depending on the victim-survivors preference) and were then transcribed and anonymised at the point of transcription. All twenty-six victim-survivors who participated in semi-structured interviews were female. One participant identified as lesbian and another bisexual. All were aged between 18-34 (n=8) and 35-59 (n=18). Two women identified as disabled with the type of disability reported as Autism Spectrum Condition (ASC) (n=1) and poor mental health affecting daily life (n=1). Three interviewees identified as coming from a minoritized ethnic community. Participants were geographically spread across the UK, namely the North and South of England, Midlands, Scotland, and Northern Ireland.

Participants were asked questions about their awareness of the existence of the scheme, experiences of using the DVDS and reflections on its preventative and protective value. The survey was developed using similar questions to those asked during the interviews with additional queries intended to capture the experiences of those who may never have heard of Clare's Law and wanted to say more about this or how they perceived this might have worked for them or not. Out of the fifty-seven victim-survivors who responded, fifty-five identified as heterosexual, one as lesbian, with one respondent preferring not to say. All bar one of our respondents were aged between 18-34 (n= 20), 35-59 (n=36) with one, aged between 60-74. Ten victim-survivors identified as disabled (13%) with the type of disability recorded as 'Poor mental health affecting day to day functioning' (n=6), 'physical impairment' (n=3) and 'multi disabilities' (n=1). 6% of respondents (n=3) identified as being from a Black, Asian, or other ethnic minority background and one woman with insecure immigration status. The interview and qualitative survey data were coded and analysed using thematic analysis (Braun and

Clarke, 2006). To enhance inter-rater reliability, two researchers performed this analytic stage where themes were independently identified within the data and then compared and discussed to reach a thematic consensus. The data presented in this paper draws on the qualitative responses received in both the survey and interview data. Two substantive themes were identified from the analysis of relevance here, namely: “now you know, you can leave” and “I needed his new partner to know”: sharing information with others’. Each of these are discussed in turn.

### **“Now you know, you can leave”**

One expectation of DVDS is that if a victim-survivor has been given information about their partner’s history of violence, they will act on that information. This can equate with an expectation that they will leave the relationship. However, there are many and varied reasons why women do not leave an abusive relationship, including having nowhere else to go, fears of having their children taken away, concerns for hers and her children’s safety, and financial worries (Wiener et al, 2022). Furthermore, perpetrators of intimate partner abuse can create a ‘false world’ that victim-survivors occupy, meaning that it is difficult to envisage a life outside of this (Barlow & Walklate, 2022; Bettinson and Bishop 2016). Nevertheless, “Why doesn’t *she* just leave?” is still a question that is commonly asked about women who remain in relationships characterised by abuse (Wiener et al, 2022). Indeed, twenty-one women in our sample gave reasons why they had not left their abusive partner for many years, (whether they had made a DVDS application or not), despite suffering significant violence and psychological harm at their hands. These unprompted accounts demonstrate an acute awareness of victim blaming discourses on the part of these women and how they attempted to navigate these discourses, even within what was a non-judgemental interview environment.

Expectations of acting/leaving permeated women's experiences of DVDS especially after a disclosure. Twelve of our respondents shared experiences of this kind. For example:

“There is this expectation of “right pack your bags, let's go, when do you wanna leave?”, you know, “now you know, you can leave”. Officers often think ‘what a bloody stupid woman, she knows she's living with a perpetrator, why doesn't she just leave?’” (P10: female, white, age unknown)

Furthermore, one woman reflecting on the lack of information which could be disclosed via the DVDS after she had experienced extensive abuse by her partner, stated:

“I was looking to justify me being with him and the choices I was making. Even though I knew at the back of my mind I was making poor choices and wrong choices, I think I used that as a continued justification for the relationship and I continued to accept and put up with his behaviour. If it had revealed something else I may have thought again... but I say that and its hard... because my mind was in that place where I believed in the relationship and it was love, and it was a blip, and he could be fixed you know... the stuff that people do convince themselves of... so yeah I'm not sure that I would have left even if there would have been something on there” (P23: female, 23, white)

This quote highlights several issues with her experience of DVDS. Firstly that an absence of information to disclose does not mean that there is nothing to disclose (see also Greene & O'Leary, 2018). Secondly, the acknowledgement that even if there had have been information to disclose, this person would likely have remained in the relationship. The guilt she felt as a result of this admission highlights the deeply felt nature of responsabilisation which for her was exacerbated by the DVDS process. For this victim-survivor, the scheme did not account for the ways in which low self-esteem and feelings of worthlessness influenced her capacity to act upon a Clare's Law disclosure.

Our data also suggests that there was a responsibility placed on some victim- survivors to avoid relationships with other potential abusers in the future. For example,

“I felt like because Clare’s Law opened a bit of a can of worms for me, with my children and child protection agencies, I was so worried about who I started seeing afterwards. I was just worried it was going to be used against me. So any new partner, there have only been two since, I just did another Clare’s Law on them straight away just in case” (P25: female, 57, white).

While five women we interviewed shared empowering experiences of the DVDS, the quote above suggests some of the women in our study felt a sense of imposed responsibility on her for her and her children’s safety, even beyond the context of the relationship upon which her initial request for information was based. Thus for some, and in line with Hadjimatheou’s (2021) recent findings, DVDS may invite (more) state interference into victim-survivors’ lives. This has implications for minoritized women, such as minority ethnic and Indigenous women (Blagg, 2008; Sokoloff and Dupont, 2005), whose experiences of the state in the form of the criminal justice system can result in complex expectations placed upon them to present themselves in ways so that there were recognised as legitimate victims (Stubbs and Wangmann 2015; see also the evaluation report of the New South Wales scheme, Urbis, 2018).

In some respects, the individualisation of responsibility was also evidenced in the lack of wrap around support provided to victim-survivors following the disclosure process. Only two victim-survivors who participated in this project reported that they received any follow-up support. In general, our respondents emphasised that responsibility was placed on them to seek this support if they needed it rather than this being presented as part of a disclosure process

package. For example, when reflecting on the lack of support she received after information was disclosed to her, one woman said,

“I know there is individual responsibility there as well, but the system, you know, the state, it’s their responsibility as well to check people are ok afterwards” (P21: female, 50, white).

Furthermore, another woman reflected:

“It just felt like a bit of a tick box if you get me? Here’s the information, I’ve given it to you that’s my role done, now it’s your responsibility what you do with it. It’s a lot to take to see that there in black and white, even if you know that something will probably come back. There just isn’t the help there to support women after they have been given that information at the moment” (P22: female, 33, white).

In sum, the responses reported here suggest that despite perceived expectations that victim-survivors should leave their relationship when they are given problematic information about their partners, in reality this does not always happen. In part this may be due to a lack of wrap around support to aid with this leaving process. However, as noted previously, there are many and varied reasons why victim-survivors feel unable to leave their abuser and there is little space for such nuances to be present in DVDS as currently generally implemented. There are other forms of indirect resposibilisation processes evident in the DVDS according to the victim-survivors who participated in our study, and it is to these issues we turn next.

### **“I needed his new partner to know”: sharing information with others**

Despite the reported failure of the criminal justice system to provide adequate protection to women experiencing abuse (Burman and Brooks-Hay, 2018), some respondents felt that they had a moral obligation to report their experiences of abuse to the police, even if they did not wish to pursue a prosecution. This was to ensure that their experiences would feature as part

of any future Clare's Law disclosures for other women in a relationship with their ex-partner. For example, whilst one participant was worried that reporting her experiences of abuse to the police may 'make her situation worse', she was also concerned that if any future partners did a Clare's Law disclosure on her ex-husband, no information would be disclosed as she was also aware that none of his other former partners had reported their experiences of violence to the police. She stated:

"So I went to the police, so if another woman complained about him they should take her seriously. That was my way of helping. So at least if another woman down the line calls the police, they would know she isn't mad, hysterical or whatever else, they would know he has done stuff to me and then maybe listen to her" (P12: female, 57, white).

It is clear that this participant felt a significant sense of responsibility for other women's safety. The multi-layered nature of responsabilisation evident in these reported experiences of DVDS are illustrated by the following respondent. She was voicing her frustrations at feeling responsible to report her experiences to the police:

"it is frustrating for me, because I do feel like it's on me. You know I said to the police I will only tell you what I need to, because I don't want to go to court. But at the same time I feel like it is on me.... But it needs to be on the police and others to manage it, because I can't keep doing it. It isn't my responsibility even though I feel like it is. You know, when does it stop?" (P22: female, 33, white).

However, a significant tension for the victim-survivors who participated in our study was also the recognition that they were not able to tell others about the information they had received via Clare's Law (if there was information available to disclose). For some this challenged their desire to 'warn' new partners about their abusers' violent history. This tension is captured in the following quote:

“It’s just hard, because you can’t say anything about Clare’s Law. You’re not allowed. But I would often get new partners messaging me, asking if he had been violent before, and I could only tell them what he had done to me. I couldn’t say there was more. I felt so guilty about that” (P2, female, 27, British Pakistani).

Privacy and data protection laws prevent the sharing of information following a Clare’s Law disclosure and the legalities associated with this have been discussed at length elsewhere (Grace, 2020). However, the emotional strains and responsibilities associated with keeping this information to oneself, particularly when this information concerns an intimate relationship and the potential safety of others, are significant. As highlighted above, this sense of responsibility can lead to feelings of guilt because of being legally unable to tell new or future partners about the information they have received through the scheme. All the women we interviewed who had requested information via Clare’s Law raised this as a concern with many suggesting that they had or would find ways of telling new partners:

“You know, I have had to say to other girls, I can’t say what is on it, but I think you should request a Clare’s Law just so you know for yourself. I know you can’t keep track on or warn everyone, but I just feel guilty thinking he could do this to other women” (P22: female, 33, white)

“It makes me think what I would be like if I did see him with a new partner. I think I would discreetly try and let her know. You know, try to tell her before she’s too far in. I would definitely tell her to just have a look at Clare’s law. I would absolutely give that advice to anybody who I thought was getting into a relationship with him. I would tell them I’ve done it, I know what is on there. There are things you should know about” (P26: female, 29, black British)

This additional layer of responsibility, in their experience created by DVDS, meant that even though they could not be held personally liable for any harm to future partners, these victim-survivors felt a strong sense of responsibility to keep other women safe, and consequently felt guilty if they did not act proactively in other women's safety interests. One woman said "But it does become tricky because I feel a sense of guilt sometimes thinking should I make new partners aware? But I need to focus on my own life" (P28: female, 30, white). Hence victim-survivors are not only held responsible for their own individual safety, but can also feel held responsible for the safety of other women.

There are clearly various issues at play here. Firstly, there is a sense of responsibility felt by victim-survivors placed on them through their experiences of the scheme to 'warn' other women but to do so within the remits of the law (i.e., not forfeiting the perpetrators privacy). Secondly, they felt the responsibility to report their experiences to the police so those reports will feature as part of other possible disclosures. Finally, these respondents' recognised that, despite the guilt associated with each of these issues, greater responsibility needed to be placed on the police and other state authorities to keep women safe. This is summarised in the following quote:

"There is just too much responsibility placed on the victim again. You know for the most part, it relies on them going to the police and then doing something about it. You know? If you've got someone so controlling, he takes your phone and stuff, and you probably won't even want to go to the police because you don't want to instigate anything. You just want to minimise it all. And how would you even get the opportunity to instigate anything? I'm kind of like, how would you manage to actually get the information? If someone is so

controlling, you wouldn't get the chance without ending up in trouble you know?" (P20: female, 32, white)

This respondent raises some important questions regarding the efficacy of Clare's Law both in terms of its conception and implementation. Her observations ultimately return the work reported on here to the wider policy question with which this paper began: the extent to which victims of domestic abuse have been harnessed in the delivery of criminal justice policy.

### **Responsibilising the victim?**

Garland's (1996) discussion of the 'responsibilisation strategy' captured the ways in which the creation of 'active citizens' devolved responsibility for crime prevention onto individuals (specifically individual victims) rather than the state alone. The evidence presented here points to DVDS as a clear example of this strategy. In this data, there appears to be at least two layers of responsibilisation experienced by victim-survivors. The first layer relates to the individual. Victim-survivors are made to feel responsible for their own safety and are expected to leave their relationship if a history of violence is disclosed. These expectations become more significant when information is given to victim-survivors via the right to know route. It is important to note that under the right to know, they may be expected to leave a relationship based on information given to them: information that *they may not have even asked for*. In our study, all the women who were offered information via the right to know route (five in total) remained in the relationship for several months (at least) after the disclosure process. This contradiction between perceived policy expectations and real-life experience needs to be recognised. The second layer is the responsibility felt by victim-survivors to keep other women safe. This included a sense of responsibility to advise new partners of their ex to ask for information via Clare's Law, to share with new partners their own experiences of abuse, and/or report their experiences to the police even if they did not want police involvement. In many

ways, this sense of solidarity and supporting other women is characteristic of the recovery process associated with many victim-survivors of domestic abuse (Bracewell et al, 2020). However, the accounts of the women interviewed for this study suggest an imposed sense of responsibility rather than one autonomously chosen, especially in relation to other women: a significant burden to carry, particularly in addition to trying to manage their own lives.

In sum DVDS, as implemented and experienced, rests on a particular set of assumptions about the characteristics and experiences of a woman living with violence: that woman proactively asks for information about their partner's violent history, then leaves the relationship if a history of violence is disclosed. In addition, it is assumed they will proactively seek wrap around support following a disclosure and they will avoid getting into relationships with other violent partners in the future. These expectations of the 'woman as victim' do not reflect the lived realities of the women we spoke with, or indeed what is known about women living with violence more generally, who frequently have varied and complex reasons for remaining in relationships even after information was disclosed. Within the space between women's real lives and the presumptions of policies intended to intervene in those lives, there are cautionary tales concerning what may or may not be achievable through DVDS.

### **Conclusion: Individual responsibility versus state responsibility**

The findings of this paper relate to the experiences of DVDS from the perspective of the UK based victim-survivors we spoke with. Whilst recognising that this is a relatively small study, this is the first to seek the perspectives of victim-survivors who have accessed a DVDS. Thus these findings offer important insights for the UK and other like jurisdictions across the globe. The paper has outlined the ways in which Clare's Law in its current form, perhaps unintentionally, responsabilises victim-survivors and suggests a note of caution is needed when

thinking through how such schemes might be transferred and implemented in different jurisdictions.

To be clear, the data presented here suggests that DVDS in its current form in the UK places too much emphasis on the individual responsibility of the victim-survivor to act on the information received (even if not requested by them), whilst simultaneously reducing the responsibility of state professionals should the woman fail to act on the information given. The end product comprises victim blaming (Duggan 2018) and raises questions about the protective value of such schemes. Moreover, if a woman returns to a relationship with their abuser following a Clare's Law disclosure, state professionals can to some extent absolve themselves of their responsibility to deliver further support. Indeed, in some instances where children are involved, this has sometimes been transformed into the further victimisation of the woman (Hadjimatheou 2021), i.e. 'we told her, she knew, she went back'. Following Garland (2001) these findings lend support to the view that placing too much responsibility on the individual for crime control renders the state irresponsible.

However, since Garland's (1996) analysis of the changing nature of criminal justice policy, victims of all kinds of crimes, including those of domestic abuse, have been invoked in the delivery of criminal justice policy: an ongoing and constituent element of a 'culture of control' (Garland 2001; pp. 124-7). Responsibilisation has been one means by which this culture of control has become a taken for granted feature of contemporary criminal justice policy, in which the victim has been, and is, invoked arguably in ways more powerful than the symbolic (Bottoms, 1983). Under these changing policy conditions, the voices of some victim-survivors have indeed been heard. In the context of DVDS, one such voice was that of Clare Wood's father<sup>ii</sup>. As is now well-known, in the aftermath of Clare's death her father was part of a public

campaign to introduce legislation which would make it possible for individuals in relationships and/or their family members to have the right to ask and/or rights to know about a partner's previous history of violence. Out of this Clare's Law emerged. Michael Brown, Clare's father, speaking on Radio 2 in 2012 said: "I believe that, if my daughter had known of the past of her partner, she would have dropped him like a hot brick and scampered out of there". Moreover, in supporting the campaign for a DVDS in Northern Ireland, he is quoted as saying: 'My lass was everything you could ask for in a daughter. I couldn't help her, but Clare's law can help other women' (Belfast Telegraph 11/04/16). Further, he was quoted in that same newspaper as saying; 'Had I known about his criminal record, I would have marched Clare back to the family home myself,". This father's pain is there for everyone to see and his story compelling. Indeed his voice, and the campaign in which he was involved, was hugely influential in ensuring that this case resulted in a policy; a policy which has travelled the globe, with no empirical evidence as to whether or not it might meet the needs of women living with violence (see Home Office, 2013, 2016). Such a process, and its consequences, raises questions concerning whose voices are listened to, why, when and how (see also Whieldon et al 2021). Importantly, what this particular campaign did was to invoke the victim, particularly women as victims, as uniform and/or unified beneficiaries of policies. Policies which were formed without their voices counting in the process. Given the data presented here, the consequences of such a process are problematic. Stauffer (2015) reminds us that victims do need to be heard. However, questions remain as to whether a father's evident pain at the tragic loss of his daughter is a sufficient basis on which to develop criminal justice policy, and if it is, the consequences of that process for victim-survivors more generally demands closer scrutiny.

These findings reported here also have implications for practice in respect of the forthcoming statutory guidance. For example, one suggestion is to reduce the time in which applications for disclosures should be processed. What we have written elsewhere attests that victim-survivors

would welcome such an amendment to current practice (Barlow et al, forthcoming). In addition the draft statutory guidance offers some proactive signposting to third sector organisations for wrap around support. This could go some way to countering some of the negative experiences reported here. However neither of these suggestions are resource neutral and this is an issue which remains unresolved.

One final comment; the women's voices presented in this paper are routine and ordinary. These women told of experiences and concerns which, like those women with whom Genn (1988) spent time, were 'just part of life'. Their stories may be routine and ordinary but they point to the importance of a nuanced appreciation of the unfolding nature of policies and their impact. This is indicative of the problems of founding justice responses on the basis of individual experiences of difficult circumstances. Given the evidence provided in this paper, maybe it is time to change not only the focus of the conversation in relation to DVDS specifically, but also to change the conversation on criminal justice policy designed to address violence against women more generally, in order to account of ordinary victim-survivor voices in the formulation of criminal justice policy in a more meaningful way.

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<sup>i</sup> Included here since some of our respondents were from Scotland and Northern Ireland

<sup>ii</sup> It should be noted that Michael Brown died in 2019