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| Creators | Barlow, Charlotte, Walklate, Sandra and Renehan, Nicole                                                                                                                                                                                          |

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## Criminal Justice Policy and Victim-Survivor Empowerment: A Case Study of Domestic Violence Disclosure Schemes in England and Wales

Charlotte Barlow,<sup>\*</sup> Sandra Walklate<sup>\*\*</sup> and Nicole Renehan<sup>\*\*\*</sup>

### Abstract

Empowering victim-survivors has long been recognised as one key strategy in reducing domestic abuse. This article explores whether Domestic Violence Disclosure Schemes as a criminal justice response to preventing domestic abuse in the United Kingdom are experienced as empowering in practice. Centralising victim-survivor voices, this article argues that variability in experiences of feeling empowered or disempowered pivoted upon whether those who deliver the scheme adopted an *incident* or *process* focussed approach. It concludes that while such schemes can be empowering when concomitant support is forthcoming, ultimately the victim-survivors in this study were left feeling disillusioned because of the disparities between what was expected and the limits of what was delivered in practice.

### Introduction

Empowering victim-survivors has long been recognised as one key strategy in reducing domestic abuse. For example, the World Health Organisation recommended that strategies

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<sup>\*</sup> Reader in Criminal Justice and Policing, School of Law and Policing, University of Central Lancashire, UK. Email [cbarlow8@uclan.ac.uk](mailto:cbarlow8@uclan.ac.uk)

<sup>\*\*</sup> Eleanor Rathbone Chair of Sociology, Sociology, Social Policy and Criminology, University of Liverpool, UK. Email [s.l.walklate@liverpool.ac.uk](mailto:s.l.walklate@liverpool.ac.uk)

<sup>\*\*\*</sup> Assistant Professor, Department of Sociology, Durham University, UK. Email [nicole.renehan@durham.ac.uk](mailto:nicole.renehan@durham.ac.uk)

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to reduce domestic abuse should focus on “empower(ing) and educat(ing) women and girls” (WHO, 2015). However, despite empowerment being seen as “a major goal within the mainstream domestic violence movement” (Kasturirangan, 2008: 1465), as a concept it has received relatively little attention within the context of criminal justice policy generally and even less attention from the point of view of victim-survivors. Drawing on a recent empirical investigation (funded by the British Academy) of victim-survivor experiences of domestic violence disclosure schemes (DVDS), this paper endeavours to open this lacuna to closer examination.

The paper falls into four parts. The first reviews what is known and/or asserted about the importance of empowerment in the context of responding to domestic abuse. The emergence and aims of DVDS are situated within this contextual debate. Part two outlines the methodological approach adopted in the study. Part three discusses the key themes emerging from the data generated. Here, attention is drawn to two themes within which different and competing understandings of what might count as empowerment are outlined and discussed. These are an incident-centred approach versus a process-centred approach. The final part, drawing on the notion of an aspiration-reality gap as articulated in the work of Brooks-Hay (2020), discusses the limits of DVDS and its capacity to empower victim-survivors who have made use of it.

### **Empowerment, domestic abuse and criminal justice policy**

Empowerment has been defined as “a process of increasing personal, interpersonal, or political power so that individuals can take actions to improve their lives” (Gutierrez, 1991:

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201) and it has been suggested that the promotion of victim-survivor empowerment has long been a core aim of domestic abuse advocacy work (Stark and Flitcraft, 1996; Russell and Light, 2006). However, what is meant in practice and policy terms by empowerment is highly contested. Within the context of domestic abuse, Russell and Light (2006: 378) define empowerment as that “which enables women to improve their lives and keep themselves safe”. Indeed, there is a growing consensus that empowerment should be understood as an iterative process of change through which the victim-survivor gains self-determination and power by setting and pursuing their own goals (Kasturirangan, 2008; Cattaneo and Goodman, 2015; Hadjimatheou, 2021). In many ways then, empowerment is a self-reflexive concept insofar as it is connected to the subjective experience of the individual, but is, at the same time, dependent on the availability of choices, access to information about choices and personal rights, alongside opportunity and support in making decisions (Chamberlin, 1997).

Central to many understandings of empowerment, including those cited above, is the notion of choice. Empowerment is embedded in the ability of victim-survivors to “choose” to improve their lives and to make “choices” around how to keep themselves safe. However, as argued by Daly (1994: 451, cited in Comack and Brickey, 2007: 27) “it is important to acknowledge, however, that choices are never free and open, that the ability to “choose” will be affected by broader social conditions”. Of course, for some women, choices are limited by structural constraints such as ethnicity, poverty, disability and Indigeneity. Woodall, Warwick-Booth, and Cross (2012) argue that a concept of empowerment which recognised such structural constraints has become diluted as the presence of the neo-liberal focus on the individual has become more salient. As the work of Morgan and Coombes (2013) has pointed out, the variability in women’s access to resources, their sense of identity and connection

with others, and their experiences of abuse and violence will crucially impact on how they can and do engage with empowerment processes. Interestingly commentators have situated the growing presence of domestic violence disclosure and other such schemes as intimately connected with neo-liberal influences (see for example, Duggan, 2012). Moreover, when the concept of empowerment, centrally understood as enabling choice, is translated into criminal justice policy and practice additional questions emerge.

Flanakin and Walsh (2005) have argued that victim choice has had little part to play in the criminal justice system. Using mandatory arrest policies as one illustration, they suggest these were designed to ensure that prosecution proceeds regardless of the victims' views. Furthermore, McDermott and Garafalo (2004) emphasise the ways in which the legal system intervenes with offenders convicted of violence against their partners without regard for the choices of the specific women who are victims of such perpetrators. Such issues notwithstanding, the term empowerment has been increasingly emphasised within the context of criminal justice responses to domestic abuse and this has become increasingly so in the case of DVDS (Hadjimatheou, 2021). Against this backdrop recent research has shown that the establishment of a trusting relationship between a victim-survivor and an advocate or support officer is key to the success of the empowerment process (Goodman and Epstein, 2009; Cattaneo and Goodman, 2015). The potential of such relationships to empower lies in their provision of a "counterweight" to the control, isolation, and erosion of self-confidence inflicted by abusers (Hoyle and Sanders, 2000; Russell and Light, 2006). In particular, Stark (1996) argued that women's empowerment should be the ultimate standard against which the efficacy of police interventions must be judged. Indeed, in the terminology underpinning many police domestic abuse safeguarding initiatives, it is taken for granted that the more

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“victim-centred” police responses are, the more they can empower victim-survivors to live free from harm and abuse. Enter the policy embrace of DVDS.

Much research has highlighted the many and varied issues with criminal responses to domestic abuse, particularly police responses which can often be disempowering for women (Hoyle and Sanders, 2000; Barlow et al., 2021; Hadjematheau, 2021). Russell and Light (2006) considered the specific aspects of police responses which can empower or disempower victim-survivors and, in so doing, they outline three dimensions of empowerment found within them: the integrated team response versus the isolated unit response; the deserving versus underserving response; and the proactive versus the pro-forma response. Each of these different responses afford differently emphasised opportunities for empowerment and are suggestive that the capacity for criminal justice policy to empower victim-survivors is, at least in part, influenced by those tasked with implementing policy into practice. Awareness of the potential impact that the implementation process can have on the efficacy of a policy in which claims for its potential empowerment capacity for victim-survivors are made—if not explicitly then implicitly—is particularly pertinent for the policy focus of this paper: domestic violence disclosure schemes.

In a statement to the House of Commons on domestic abuse made in January 2021 the then Safeguarding Minister, Victoria Atkins said:

The police have been, and will continue to be, proactive in tackling domestic abuse during this period. Courts have continued to prioritise domestic and child abuse cases throughout, as well as civil protection orders relating to domestic abuse, stalking, forced marriage and female genital mutilation. We have seen many innovative police

responses to domestic abuse during the pandemic. The Metropolitan police has developed an online function for the domestic violence disclosure scheme, whereby police can disclose previous domestic violence history to new partners. Nottinghamshire police is applying the disclosure scheme in every domestic abuse occurrence.

This observation was made as a part of a wider set of comments on responses to domestic abuse during the coronavirus pandemic and it can be read in different ways. Its value here, however, lies in the prominence given to policing and the response of two police forces in their use of DVDS. Further personal correspondence with the then lead for domestic abuse in one of these police forces revealed that this approach had been taken because they believed it empowered women. Indeed, such a view is not unreasonable since it is implicit in some of the presumptions lying behind this scheme. This is interesting since the scheme itself permits people, other than the woman herself, to ask for information about a partner seen to be problematic: not exactly the epitome of empowering practice.

The first DVDS (commonly referred to as Clare's Law) was rolled out across England and Wales in March 2014 and was introduced in the aftermath of a high-profile public 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. Her father and his supporters were of the view that if she or they had known about her partner's offending history the outcome for Clare might well have been different (though as Fitz-Gibbon and Walklate (2017) have cogently argued, there is no evidence in the detail of this case that this difference would have been achieved on the basis of information sharing alone). Nevertheless, DVDS allows for otherwise confidential information about an individual's

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criminal (usually violent) history held by the police to be disclosed where that person might pose a risk to an intimate partner. The scheme itself is discussed in more detail in what follows.

There are two aspects to a DVDS in England and Wales: a right to ask and a right to know. In the “right to ask” request an application can be made by any member of the public to apply to the police for information about whether a person has a history of domestic abuse. In a “right to know” request the police act proactively to disclose information to protect a potential “high-risk” victim from harm from their partner if that partner has a known history of abuse. In both cases, the recently updated Home Office guidance recommends that any request and subsequent disclosure of information should take a maximum of 28, reduced from 35 days (Home Office, 2023).<sup>1</sup> There are at least two assumptions in evidence here. The first is that having the knowledge of a partner’s history can protect victim-survivors who experience violence in their relationship with that partner. The second is that in having such information, this victim-survivor is not only protected from further violence, but the availability of such knowledge can also prevent violence with any future partners the perpetrator might have. In sum, once a victim-survivor is given information (if such information is available through the scheme) they will be empowered to act upon this and leave the relationship.

Current evidence suggests that not all police forces in England and Wales have implemented this scheme in the same way or with the same practice priorities (Walklate and Fitz-Gibbon, 2019). Whilst one of the constabularies referenced by Atkins quoted above may

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<sup>1</sup> It should be noted that in the guidance on DVDS under the Domestic Abuse Act 2021 the recommended time for disclosures to occur is 28 days.

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centre empowerment in their approach (an approach which has also demanded an investment in terms of extra resources), not all forces follow this path. In addition, some of the recent research regarding the value of the DVDS as a tool of victim-survivor empowerment is sceptical of such claims, suggesting that the way in which it is implemented serves to judge, blame, and “responsibilise” victim-survivors, rather than empower them (Fitz-Gibbon and Walklate, 2017; Duggan, 2018). Nevertheless, schemes like these have grown significantly in recent years and are now operative in Northern Ireland, Scotland, Saskatchewan (Canada), are in development in Manitoba (Canada), have been piloted in New South Wales (Australia), developed in South Australia (Australia) and have been 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. Yet despite the global and local reach of such schemes growing apace, there has been little excavation of whether they achieve their expressed aims, especially for victim-survivors themselves. Indeed, except for a New South Wales pilot evaluation (Urbis, 2018), no research to date has explored the experiences or perspectives of victim-survivors who have used a DVDS.

Importantly recently reported work by Hadjimatheou (2021) has highlighted the way in which social care agencies, particularly child protection services, often prompt women to ask about their partner’s offending history under the DVDS. 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 happen to their children. Hardly evidence of empowerment. Hadjimatheou’s (2021) work involved speaking with practitioners and police officers about their *perceptions* of victim-

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survivor experiences, The data here considers the capacity of DVDS to empower women from the perspective of victim-survivors themselves outlining some of the findings from the first study conducted with victim-survivors in the UK about their experiences of Clare's Law.

### **Victim-survivor experiences of Clare's Law: this study**

The data presented here was collected as part of a British Academy funded study gathering information on experiences of DVDS from victim-survivors and practitioners. This paper will focus only on the voices of victim-survivors and those practitioners who also identified as victim-survivors (referred to hereafter collectively as "victim-survivors"). This data was gathered from semi-structured interviews and an online survey with opportunities for free text answers. Ethical approval was granted by Lancaster University Ethics Committee prior to data collection. 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 detailed 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. The interviews were carried out online via MS Teams or telephone and were either video or audio recorded (depending on the victim-survivor's preference) and were then transcribed and anonymised at the point of transcription. The victim-survivors were asked questions about their perspectives on the efficacy of Clare's Law, their experience of using the scheme and whether the DVDS could reduce domestic abuse.

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-

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34 (n=8) and 35-59 (n=18). Two women identified as disabled with the type of disablement reported as Autism (n=1) and poor mental health affecting daily life (n=1). Three interviewees identified as coming from a minority ethnic community. Participants were geographically spread across the UK, namely the North and South of England, Midlands, Scotland, and Northern Ireland.

The online survey was developed using similar questions to those asked during the interviews. Out of the fifty-seven victim-survivors who responded to the online survey, fifty-five identified as heterosexual, one as lesbian, with one respondent preferring not to say. All but 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 disablement 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 throughout the rest of this paper relates to the qualitative responses received in the survey and interview data. From the analysis two main themes emerged: trust, and the tensions between an "incident-centred" model of empowerment and a "process-centred" model of empowerment. In what follows each of these themes are discussed in turn.

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***Establishing trust: the importance of support***

Five of the women who took part in the interviews shared positive experiences of the DVDS. All of these women requested information via the DVDS very early in their relationship and/or when they had started a new relationship after leaving a former abusive partner. These women particularly discussed the value of individual helpful officers and the importance of feeling listened to. For example, one woman stated, “The experience itself, the officers were nice and kind and lovely” (P7: female, 43, white British). This was also reflected in the comments below:

The female officer I spoke with was great, she was kind and gave me the information in a really careful way. It just kind of give me a bit of a boost to stay away 'cause that's kind of the hardest thing really. (P5: female, 50s approx., white British)

So it was easy, you know, call 101 go down to the police station, answer a few questions, have a meeting here, face to face, kind, supportive. Really lovely, supportive police officers. Very easy process. (P7: female, 43, white British)

Two of these five women discussed their experiences of requesting information via the DVDS when getting into a new relationship after leaving a previous violent partner. For the participant below, the process itself, particularly facilitated by a supportive domestic abuse (DA) worker, was positive and gave her additional self-confidence:

It can be valuable for women who have been in it before. We are likely to fall back into that familiar relationship without even knowing it. We are more likely to fall for the same traps again. You know my DA worker said to me you have broken the chain,

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because my mum was in a relationship with my dad that was violent. I guess that wasn't necessarily because of Clare's Law, but it gave me the confidence to look into another relationship before I got too far in, and even though there was nothing there, just having that reassurance was really good for me in getting even more confident.

(P28: female, 40, white British)

The second woman also provided similar reflections, acknowledging that Clare's Law is particularly beneficial for women who have prior experience:

I think it's only those of us who have experience in the past that would think to do that. It's a good way of women who have experienced abuse potentially being able to take control of their own lives in a new relationship, but the abuse would have needed to have already happened for that to be useful if you get me? (P25: female, 57, white British)

The experiences of these five women highlight the clear benefits of police officers and other practitioners establishing a trusting relationship with a victim-survivor (Goodman and Epstein, 2008; Cattaneo and Goodman, 2015). However, for most of the women we interviewed, deeper tensions were apparent for them. These tensions can be articulated as lying between the participant's desire for what might be termed a process-centred, survivor-centred approach in the light of the information they may have been given, and what they perceived to be the incident-centred, action-oriented focus they experienced. This is the second theme identifiable in this data.

### ***Incident- versus process-centred models of empowerment***

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There are several different ways in which the tensions alluded to above became evident in this victim-survivor data. First some victim-survivors experienced what they saw as a general inconsequential orientation to their DVDS application. For example, one respondent reported:

Appalling service from the police, courts and social care. My Clare's law application outcome was no concerns. I continued the relationship, had a baby, to then be approached 8 months after submitting my application saying they got it wrong and the person in question was a very high-risk perpetrator. As you can imagine, I suffered emotional, physical abuse and coercive control. If I received the correct Clare's law information, myself and my children may not have had to go through what we did.  
(survey respondent)

With another saying:

It was a very long and drawn-out process. It took a long time to get an answer and when I did, it didn't tell me anything. I felt very dismissed to be honest. I told my friend there was nothing on record, but that is about it. It was just really disappointing. It was quite symbolic in a way, I just felt let down by the whole system. (P27: female, 46, white British)

For the first woman here, there were clear fundamental issues with misinformation provided via the DVDS, which for her led to dangerous consequences. For the second participant, the amount of time it took for the information to be disclosed and the disappointment in the lack of information available about her ex-partner, led her to feel let down by the scheme and the

broader policing response. Both accounts suggest that rather than being a tool that empowers women, DVDS can have the opposite effect.

Other women also shared similar feelings of disappointment when having requested information via the DVDS. They discovered that there was no information that could be shared. For example:

So the only information they could give me was that he had previous convictions but it was nothing they could reveal to me under Clare's Law. So there wasn't anything to say he had anything related to domestic violence. Despite the fact he had this non molestation order. They couldn't even discuss that under Clare's Law, so I don't know why his former partner had that or why he couldn't see his son. Erm... yeah... so I was really surprised. I thought I would get at least something, but all they could say is he has previous convictions and... erm... nothing else we can discuss with you. (P24: female, 34, white British)

This participant received no further correspondence from the police following this non-disclosure of information via the DVDS, which made her question whether the abuse she had experienced "was all in her head" and she consequently remained in the relationship for some time afterwards. Resonating with this view another participant said that she would have felt more "confident" and "empowered" had she received information that her (ex)partner "was already known" and that she was "not alone in this". However, her application never received a response hence leaving her in doubt about how much to disclose to the police about her own experiences:

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It was just such an overwhelming experience, I might be wrong in saying that, somebody could have followed up, if there's like a cut-off point, say 30 days, it might have been helpful to receive an email at the end of the 30 days to say, "well, we didn't find any information". We did find information because I just don't think there was anything stated. That probably means that there is nothing. Maybe it's different and police forces deal with it differently. I'm not sure. I really don't know if they have like regular training on these kinds of things. (P2: female, 27, British Pakistani)

In both cases, a lack of information to disclose and a failure to keep women informed about decisions to disclose was clearly disempowering for these participants hinting at an "aspiration-reality gap" rather similar to that experienced by the respondents in the work of Brooks-Hay (2020). These kinds of experiences highlight not only the flaws in DVDS processes, but also the importance of police officers and support workers making it clear that an absence of information to disclose does not mean there is nothing to disclose (see also Greene and O'Leary, 2018). It also serves as a reminder that if the woman herself is asking for information, she has some concerns possibly suggestive of a space for further referral and support. In other words, in these cases, there is likely more going on than meets the eye with the failure to consider this a further indication of an incident-centred orientation.

A second way in which it is possible to discern police officers adopting an incident-centred approach to the DVDS is in the inconsistency in disclosing information from the perspective of victim-survivors. One such example of this is the suggestion from one participant that officers tended to be more proactive in giving information via the right to know route when the victim-survivor wanted to pursue a prosecution. For example, one respondent reported,

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Well it's like every other time that the police had been, no one called me later to see if I was OK, or to tell me about Clare's Law. It was almost like once I agreed to support the conviction all of a sudden all this help became available that I never knew about.

(P21: female, 50, white British)

And another stated:

It took me to get broken ribs for me to be told about Clare's Law and how to access it. Because I wanted to take things further with the police at that point but I hadn't before then. He had also done this with three of his past partners, you know. I've not got anything with any of my exes. I've never pushed anyone far enough that they punch me in the face. But I was never told about his past until I wanted to take things further with the police. (P20: female, 32, white British)

The right to know route of the DVDS is arguably intended to provide victim-survivors with space for action (Kelly, 2014). A victim-survivor is given knowledge about their partner's violent history implying that this will then enable them to regain a sense of control over their life. Aside from the clear presumptions embedded in this, it is evident that the possibility for this intended space for action was provided to victim-survivors more proactively in those cases which were perceived to be more likely to lead to actionable and doable outcomes, i.e., prosecutions. This supports Russell and Light's (2006) observations regarding the proactive versus pro-forma dimension of empowerment. For the respondents here, the police officers they encountered provided minimal intervention via the right to know route when actionable and measurable outcomes were less likely, i.e., if the victim-survivor did not want to pursue a prosecution.

Furthermore, for one woman interviewed, the failure of police and social services to provide information through the right to know route, despite numerous opportunities to do so, was experienced as disempowering. For this respondent the police were called on at least four occasions following serious domestic abuse incidents yet instead of disclosing her partner's significant domestic abuse convictions, the police informed children's services who in turn told her to "get rid of this man or we will get involved with you" (P11). While this woman did end the relationship, the response she received from the police and children's services was one of disbelief and admonishment regarding her ability to safeguard her children:

I was trying to rid of him and he was just harassing me, sending me constant messages, I'd blocked him but he kept making up like new email addresses so they would get through, over a week, two days, I got like 40 emails and they went from being desperate to being nasty to being abusive. And I phoned the police and they came out and it was two young male officers, and they just said, "mixed signals" and "we're going to have to put this down as a domestic and let social workers know" and I was like "I haven't done anything" I was just contacting them, I thought I was doing the right thing, and then of course, I get a call from the social worker on a Monday saying "why are you in contact with him" and I was like "I'm not, I contacted the police because I was being harassed by him" and then, I just thought you know, I'm never gonna report it again. They made me feel horrible, they took my phone off me and started going through it looking for times when I had messaged him, and they just said, "he's just a drunk wounded man, we'll just leave him" but he was stalking me, which is linked to murder. (P11, female, 42, white British)

This supports Hadjimatheou's (2021) observations in that it is women who are held responsible for protecting their children. We have also discussed issues with the responsibilisation of women via DVDS elsewhere (Barlow, Walklate and Renehan, forthcoming). Yet as the accounts of this victim-survivor illustrates, the process she experienced added a further layer of disempowerment even though she had gone to great lengths to safeguard her children as directed by the statutory services. When those agencies fail to use the tools at their disposal to empower women and to prevent further domestic abuse occurring, they not only actively disempower women, they also cause further harm.

The third way in which the incident-centred model of empowerment manifested itself occurred when victim-survivors requested information either when the relationship had ended, or when police officers believed that it had (even though the relationship was ongoing in reality). From the survey data, 15 women stated that they were not given information on the basis that they were no longer in the relationship. This was further reflected in the interviews, with three of these women being refused information on these grounds and is captured in the following comments:

My biggest worry is this idea that you have to be in a relationship with the perpetrator before they disclosed to you. I just cannot get past that. I mean, how many women leave, and then don't feel safe when they've left, so they may think, I'm going to go and find out if he has a history of abuse. So then you go to the police, and they say, "oh well, we can't tell you because you're not with them anymore". Now that might make women doubt their own judgment and think, maybe I'm just making all this up, and then go back, because there's that hook, there's that pull there anyway. (P15: female, 55, white British)

And:

My gut feeling made me apply for the disclosure, but I was told that I was not eligible as I had ended the relationship. However, it wasn't fully over and I was confused that officers made that assumption without exploring it further. I just assumed that they must not be concerned that he had a history and eventually continued the relationship fully. This ended really bad, as he ended up trying to strangle me. (survey respondent)

The difficulties faced by women in leaving a violent partner are extensive and well established in the literature (Anderson et al., 2003; Duggan, 2012). Not giving information on the basis that a relationship has ended, or perceived to have ended, could result in highly dangerous situations for women and arguably an indicator of the failure to appreciate relationships as a process.

A final example of the incident-centred approach to the DVDS discernible in this data, is the views expressed by victim-survivors pointing to a lack of wrap around support provided during and after the disclosure process. Eight women interviewed suggested they felt "left alone" and "unsupported" as a consequence. This is evidenced in the following quotes:

I think the biggest thing is to keep checking in. What I found was people just disappeared. No-one checked up on me to see if I was ok. (P20: female, 32, white British)

And:

I got no support after I had received the disclosure. I made that request for a reason and nobody checked up on me to see if I was ok. (P24: female, 34, white British)

Whether or not information can be disclosed, the process can be extremely challenging for women. Deciding what course of action to take following a disclosure is complicated and can compromise women's safety, particularly if they decide to leave the relationship. Ensuring that women are supported both during and after this process is important. Police officers may not be best placed to do this, particularly if criminal justice intervention is not favoured by the victim-survivor. Independent Domestic Violence Advisors (IDVAs) or other specialist domestic abuse services may therefore be better placed to provide survivor-centred follow-up support that may have greater empowerment potential. However, the availability of such wrap around support from these reported experiences is clearly patchy and adds some weight to the presence of "safety by geography" reported by Hadjimatheou and Grace (2020).

Much of what we have discussed thus far emphasises the ways in which the delivery of the information via the DVDS may enhance or limit the schemes empowering potential, with the perceived incident-driven approaches adopted by police officers they came into contact with being experienced as particularly disempowering. Yet at the same time the victim-survivors' experiences recorded in this research not only pointed to the limited capacity of DVDS to empower them, but these experiences also indicated that for these respondents, empowerment meant something different than dealing with particular incidents. Their responses remind us of the importance of the *processes* involved in relationships even after having received information about their partner and the nature of that information notwithstanding. For example, one respondent said:

I think the hardest thing, when you're with somebody that you think you are falling in love with, is you want it to be all good. Even if you have something nagging in the back of your mind that something's not quite right. It's whether there's something more

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that could be done that helps you to take that leap. And then, you know, if you do something, when you do find out something, say via Clare's Law, where do you go from there? How do you then take that information and use it to help you make a decision about what you want to do next? (P9: female, 47, white British).

And another reported:

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 British)

These quotes clearly illustrate a crucial limitation of Clare's Law and its presumption that giving information will empower women to leave an abusive partner. As alluded to in the first quote, the first few months of any relationship, including those experienced as abusive, can often be all-consuming. Therefore, it is unlikely that a victim-survivor will request DVDS information at this point. When and if information is requested via the scheme, rather than being an empowering and affirmatory experience for victim-survivors, it can lead to feelings of guilt for the choices or actions that they then take, or do not take, such as staying or leaving a relationship. Furthermore, there are issues with the presumption that simply being given information via the scheme is enough for victim-survivors to leave, particularly when there is often minimal follow up support in how this information could be acted upon, as illustrated in some of the data reported above. Moreover, the expectation that a woman will leave her relationship based on being given information alone is even more prescient when information

is given to victim-survivors via the right to know route. On occasion, under these circumstances they are expected to leave a relationship based on information given to them *that they may not have even asked for*. The limits of this expectation are made clear in our study. All the women in the online survey 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 suggests that receiving DVDS information alone is not enough to empower victim-survivors to leave a violent partner. Thus, questions remain concerning the role of DVDS in the process of empowering women.

### **Can DVDS empower women?**

Definitions of empowerment suggest that for women these must include the capacity of any intervention to improve their lives and keep themselves safe (Russell and Light, 2006). Furthermore, if the focus of policy is to facilitate change with victim-survivors in mind, the importance of listening to and hearing victim-survivors is increasingly well-established in the literature (Whieldon et al., 2021). Moreover, if empowerment is understood as an iterative process of change (Kasturirangan, 2008), the extent to which victim-survivor voices are heard in that process, how information is disclosed, and what kind of support is provided, are important dimensions for understanding the potential for empowerment, especially in the context of DVDS. From the findings presented here, these are key in facilitating the empowerment of women through such a scheme. Yet our data points to some limitations with DVDS to do this. Thus, the extent to which receiving information (or not) about their

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violent partner's criminal history via DVDS empowers women to "keep themselves safe" remains questionable.

To summarize: this research highlights various factors impacting and limiting the possibilities for empowerment through DVDS. The first factor is whether there is information to be disclosed or not and relatedly, whether this *is* disclosed by police officers or not. According to the women interviewed in this study, officers were selective in giving such information. There will, of course, be various reasons for this, the main reason being that there is nothing to disclose. Under these circumstances there are, of course, resultant implications for women, especially if they have requested information (rather than a member of their family). Arguably any woman making such a request does so for a reason and the absence of any follow up support is telling. Such support is not of course necessarily the responsibility of a frontline officer but points to a wider policy implementation question for any DVDS policy.

The second factor is the point in time at which information is shared. Some of the victim-survivors interviewed in this project suggested that receiving information early in a relationship, particularly in a new relationship following a previous relationship with a violent partner, was a key factor for them in relation to the empowering potential of DVDS. Finally, what the victim-survivor chooses to do with the information once it is received and importantly, how police officers and other practitioners react to her choices, are also significant. Not all victim-survivors are able to leave, or indeed want to leave, a relationship once (and if) information has been disclosed to them. The policy assumption that they might disregard what is known about relationships generally, particularly with an abusive partner, and the importance of emotional commitments to them (see, *inter alia*, Hayes, 2014) is

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remarkable. This is an issue which is particularly pertinent in right to know disclosures, where the information may have been given uninvited. Police officers and other practitioners often expect victim-survivors to act on such information and when the woman does not act as expected, this can result in unintended consequences, especially if the woman stays with her abusive partner (see *inter alia* Hadjematheou, 2021). Women's capacity to exercise agency/choice within the context of the DVDS can be curtailed by the expectations and processes of responsibilisation assigned to them by police officers and practitioners (Duggan, 2018). Moreover taking account of their own social conditions and women's capacity to make free choices within those conditions and within the broader context of the criminal justice system has been well recognised as problematic (see *inter alia* Flanakin and Walsh, 2005; Goodmark, 2018).

The tensions between an incident-centred and a process-centred model of empowerment pointed to in the responses of the victim-survivors who were part of this study are illustrative of a deeper, unacknowledged tension for criminal justice interventions in relation to domestic abuse more generally (Kelly and Westmarland, 2015). For the women in our study, DVDS appeared to have limited diachronic-sensitive understandings of what might empower them. Although the synchronic (incident-centred) response can aid victim-survivors in feeling supported and may enhance their trust in the police, there are other significant factors influencing a victim-survivors' capacity and ability to leave a violent partner which extend beyond an efficacious response at a particular point in time. These include having somewhere to live, having access to resources, having a support system in the form of friends and family and access to finances (Morgan and Coombes, 2013). Feeling empowered to leave an abusive partner is also framed by the woman's love and dependency on the perpetrator.

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This is particularly pertinent for victim-survivors of coercive control who can occupy a false world created by the perpetrator in which leaving the relationship may feel like an impossible task (Monckton-Smith, 2022; Barlow and Walklate, 2022). All these barriers are further exacerbated by structural constraints in which inequalities based on ethnicity, insecure immigration status, poverty and disability are evident. These constraints can limit victim-survivors ability to act upon any information that is disclosed via DVDS (see, *inter alia*, Blagg, 2008; Sokoloff and Dupont, 2005) and these constraints exist above and beyond any particular moment in time in which information is, or is, not shared. These constraints are diachronic. They exist over and through time. Recognition of this fundamental tension raises much bigger and deeper questions concerning the efficacy of criminal justice responses to domestic abuse more generally (Goodmark, 2018).

Finally, Brooks-Hay (2020) developed the concept of an “aspiration reality gap” reflecting the discord experienced by victim-survivors of rape between their expectations and aspirations for their experiences to be validated, and the reality of their experiences of criminal justice responses, processes and outcomes. The stark disparities between expectation and reality are also to be noted for the victim-survivors in our study. These disparities left them feeling disillusioned resulting in them having minimal faith in the criminal justice system. This suggests that rather than being empowering, for many victim-survivors in our study the DVDS was in reality disempowering, and this was expressed most acutely in their articulation of the tensions between the incident focused approach they experienced and their favoured view of a more process appreciative approach. Whilst individual police officers were identified as being supportive, such individual experiences are often not writ large. Importantly one key issue in the lack of a process appreciative response for our

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respondents lies in the absence of wrap around support as part of the standard service delivery of DVDS. This absence serves to fuel their experience of an aspiration-reality gap (Brooks-Hay, 2020)

### **Concluding thoughts: empowerment through criminal justice?**

The study reported on in this paper took as its central focus listening to victim-survivor voices and their experiences of DVDS. Listening to victim-survivor voices is clearly important in understanding and appreciating the efficacy of policy interventions designed to assist them in dealing with the challenges of living with violent partners/ex-partners. However, such listening is not without its difficulties (Whieldon et al., 2021). Who is listened to, how that listening occurs, when it occurs and whether any action is taken on the basis of such listening is fraught with difficulties (for an overview of some of these different issues see Walklate et al., 2019; Mintrom and True, 2022). Importantly, in the context of this policy initiative, none of this listening took place. As was stated earlier, this intervention was introduced on the back of a high-profile campaign led by a victim's grieving father. The consultation process initiated prior to its introduction did not include actual victim-survivor voices and those voices who did participate in this process were ambivalent regarding its potential efficacy (Fitz-Gibbon and Walklate, 2017).

The voices presented here would suggest that if such a scheme was to have value for the women who participated in this study, then more thought needs to be put into how to deliver DVDS as a constituent element of a holistic, diachronic-sensitive response to women managing violence in their lives. Of course, making the case for a holistic response is not

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separate nor separable from the wider inclination to search for criminal justice responses to domestic abuse (Goodmark, 2018). This inclination, as DVDS as implemented in England and Wales illustrates, lends itself readily to the politicisation of such policy responses. However, the extent to which such politicisation serves the interests of victim-survivors remains moot. In other words, much remains to be done in ensuring such interests are better served by policy and practice and one place to start might well be with victim-survivor voices. In that way criminal justice policy *might* be one route to empowerment for women, but only when combined with wrap around holistic policies outwith the criminal justice system.

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