StepChange response to MoJ consultation 'A fairer end to relationships'

August 2026

genevieve.richardson@stepchange.org

Introduction

StepChange Debt Charity is a specialist not-for-profit provider of debt advice and debt solutions supporting people across the UK. In 2025, over 160,000 people completed a full debt advice through our online and telephone service.

We welcome this consultation, which sets out proposed changes to the law on financial remedies on divorce and dissolution, and for cohabitants on separation and intestacy. These proposals represent some of biggest reforms to family law in decades, which would introduce a statutory framework of rights and protections for eligible cohabitants at the point of separation and, notably, seeks to provide greater recognition of the impact domestic abuse, including economic abuse, can have in the family courts when a relationship ends.

At StepChange, we see how much economic abuse, including coerced debt[1] has an impact on victim-survivors' lives. Research we have conducted has demonstrated the extent and impact of economic abuse on victim-survivors, trapping them in dangerous situations and keeping them tethered to the abuser for years after the relationship has ended. In 'Too close to home', we estimated that coerced debt affects almost one in eight of our clients,[2] and that 1.6 million UK adults (or 3% of the population) had experienced coerced debt, a form of economic abuse, in the year ending November 2024.[3] Further research we conducted, 'Filed away', found that, among 569 victim-survivors we polled, the most common perpetrator types were current or former partner, with 46% of respondents citing an ex-partner.[4]

That is why we welcome the Government's proposals to strengthen financial protections for cohabitants and reform financial remedy arrangements. Reforms must, however, recognise the prevalence and profound economic consequences of domestic abuse, including economic abuse, and ensure that victim-survivors and their children can achieve fair and sustainable outcomes.

Our key recommendations are:

- **Domestic abuse, including economic abuse, should be a standalone factor that courts must consider in financial remedy and cohabitation proceedings.** This should apply throughout the assessment of needs, sharing, compensation and

[1] Coerced debt describes the actions of perpetrator in the context of domestic abuse forcing a victim-survivor to make transactions that lead to debts, and the victim-survivor cannot say no for fear of the repercussions. The victim-survivor may not always know that the debts exist.
[2] StepChange Debt Charity (2025) Too close to home: StepChange debt advice clients' experiences of coerced debt
[3] *Ibid.*
[4] StepChange Debt Charity (2026) Filed away: The experiences of victim-survivors with coerced debts during and after economic abuse

conduct, not only in exceptional cases or where financial loss can be precisely quantified.

- **The needs principle should be central, with priority given to housing, income and pension needs, and the needs of children.** Needs should reflect the standard of living during the relationship, or what it might reasonably have been had the economic abuse not occurred, as well as survivors’ current and future financial security.
- **Courts should have power to compensate for economic loss and disadvantage caused by domestic abuse.** Victim-survivors should not have to prove every financial loss before abuse can be considered as a factor when determining compensation, and perpetrators should never be able to obtain a better financial outcome because of their abusive behaviour.
- **Legal ownership and apparent financial position should not be treated as conclusive.** Economic abuse can involve concealed assets, coerced debts, restricted employment, depleted pensions, financial exploitation and control of financial information. Courts must consider the wider context and the reality of each party’s financial circumstances.
- **Misconduct during proceedings should have meaningful consequences.** Misconduct includes non-disclosure, hiding or dissipating assets, deliberate delay, failure to comply with orders and using proceedings to intimidate or financially exhaust a survivor. Courts should be able to make costs orders, draw adverse inferences and adjust financial outcomes where appropriate.
- **Evidence of domestic abuse should be considered flexibly.** Survivors should not need a criminal conviction or a separate fact-finding hearing in every case. Courts should consider all available evidence and identify domestic abuse as early as possible, while allowing survivors to disclose abuse at any stage.

Cohabitants should have meaningful and flexible protections. Where domestic abuse has occurred, rights must not depend on arbitrary minimum ages or relationship durations, particularly where pregnancy or children are involved.

There should be safeguards around nuptial and opt-out agreements. Independent legal advice alone cannot overcome coercive and controlling behaviour. Courts should retain discretion to set aside agreements where domestic abuse has occurred or enforcement would produce an unfair outcome, including where abuse was not disclosed when the agreement was made.

Maintenance should remain available where necessary. A clean break should not be pursued at the expense of survivors’ or children’s financial security. Maintenance should not be restricted to exceptional circumstances or automatically time-limited where ongoing support is needed.

Pensions and retirement security must also be properly addressed. Courts should consider future income needs regardless of whether those needs arise from pensions or other assets, recognising that domestic abuse can significantly reduce survivors' pension wealth and earning capacity.

Moreover, joint mortgages and post-separation economic abuse require stronger protections. Courts should have effective powers to prevent perpetrators using ongoing financial ties, including mortgages, to maintain control or cause further financial harm during proceedings.

Implementation must be supported by specialist training, legal advice and public awareness. Clear guidance should dispel the "common law marriage" myth, explain new rights and exemptions, and be accessible through national campaigns, GOV.UK and trusted organisations. Victim-survivors must also have timely access to specialist legal advice and adequately funded legal aid.

Overall, the reforms should ensure that victim-survivors are not left paying the financial price for the abuser's behaviour. A fair system would recognise the short-, medium- and long-term economic consequences of abuse, prevent perpetrators from profiting from their misconduct, and give courts sufficient discretion to achieve fair and equitable outcomes for victim-survivors and their children.

Please note that this response draws from significant input from Surviving Economic Abuse, the only charity in the UK dedicated to transforming responses to economic abuse.

Response to consultation questions

Question 1: Do you agree with the government's view that the objective for the sharing principle is to give equal benefit to the parties of matrimonial property by dividing matrimonial assets equally?

We broadly agree with the government's view that the objective for the sharing principle should be to give equal benefit to the parties of matrimonial property by dividing matrimonial assets equally. Exceptions must be made, however, in cases of domestic abuse, including economic abuse.

This is because equal sharing may not always give equal benefit to both parties and may lead to unfair outcomes. The court's objective should be to reach a fair and equitable financial outcome, using the needs and sharing principles according to the facts of the case.

As the consultation proposes, it should be made clear that the courts can consider the impact of domestic abuse, including economic abuse, when deciding what is fair and equitable.

Where abuse has caused economic loss or disadvantage, courts should have discretion to make an adjustment or award a greater share to the victim-survivor. This would recognise the lasting financial consequences of abuse and support fairer outcomes.

Economic abuse can leave survivors with debts, impaired credit records, issues with housing, and reduced earning capacity. Our research has found that coerced debt, a form of economic abuse, is closely associated with financial difficulties and problem debt. In a poll of 569 victim-survivors with coerced debts, we estimated that almost a third (31%) were experiencing problem debt, while our figures indicate that 17% of all UK adults experiencing problem debt had experienced coerced debt in the year to November 2024.[5]

Furthermore, the overwhelming majority of these victim-survivors (85%) reported having experienced at least one negative financial impact, such as going without essentials, using borrowing as a coping mechanism, or getting behind on loan repayments. Around half (48%) experienced at least one negative impact on their credit record, such as their score falling, a default notice, or a missed payment mark.

These financial consequences can persist for years, with perpetrators often continuing to exert control and abuse victim-survivors post-separation through financial and legal ties. For one of our clients, Liz, an impaired credit file prevented her from being able to get a mortgage for years, while another client, Adam (not his real name), could not even take out a mobile phone or internet contract. As the Government has acknowledged in its Financial Inclusion Strategy, coerced debt and can be a cause of financial exclusion.[6] In the courts, we have heard how the perpetrators of our clients have frustrated legal proceedings by not turning up, concealing information, and forcing high legal costs, causing emotional and financial stress to victim-survivors.

Question 2: Do you agree with the government’s view that the court should consider the sharing principle as the starting point and consider the needs principle where equal sharing would not allow needs to be met?

No. The Government should consider making needs the starting point, while ensuring that the court’s overriding objective to achieve a fair financial outcome, applying needs and sharing according to the circumstances of each case. The law should also explicitly allow courts to consider domestic and economic abuse when assessing fairness, and should define needs to include housing, income and pension needs which reflect the standard of living during the relationship.

This is particularly important because most financial remedy cases are needs-based, as most couples have only modest amounts of money and possessions to divide up.[7] Starting with needs would reduce the risk that victim-survivors’ needs are overlooked,

[5] *Ibid.*
[6] HM Treasury (2025) Financial Inclusion Strategy
[7] Nuffield Foundation (2023) A breakdown of new evidence on financial settlements on divorce

particularly where trauma, financial hardship or lack of legal representation makes it difficult to evidence or challenge unfair outcomes.

A 50:50 starting point could also influence settlements reached outside court, placing survivors at greater risk of accepting an unfair division of assets, particularly where there is an ongoing power imbalance with an abusive ex-partner.

Moreover, equal sharing does not mean equitable sharing. Economic abuse can leave survivors with depleted assets, debts (including coerced debts), impaired credit files, housing insecurity and reduced earning capacity, while perpetrators may retain greater economic resources. These disadvantages can continue after separation through unpaid child maintenance, concealed assets and prolonged financial proceedings.

The Government should therefore ensure that courts can adjust financial outcomes or award compensation where resources allow, recognising the economic loss and disadvantage caused by economic abuse. An equitable approach to the sharing principle, as opposed to an equal one, would give courts the discretion to achieve a meaningfully fair outcome that meets the needs of survivors and their children.

Question 3: Do you agree with the government's view that it should codify the distinctions between matrimonial and non-matrimonial property, in line with the Supreme Court's decision in Standish?

We support the codification of the distinctions between matrimonial and non-matrimonial property, which would provide greater legal certainty. However, in cases of domestic abuse, the Standish definition may not reflect victim-survivors' reality. Codification of the definition of matrimonial and non-matrimonial property should include safeguards to ensure that domestic abuse, including economic abuse, is properly considered.

As the Government's own statutory guidance notes, perpetrators may conceal financial information and assets, restrict survivors' ability to hold accounts or assets in their own name, and use joint financial arrangements—including jointly owned property and mortgages—as mechanisms of economic control.[8] They may also coerce survivors into signing over property or assuming financial liabilities.[9] As a result, legal ownership may not reflect the reality of who acquired, controlled or benefited from assets and liabilities. As such, victim-survivors may be left with debts while perpetrators retain valuable assets.

Any codification based on legal ownership or the source and use of funds must therefore recognise the realities of domestic and economic abuse. Without proper safeguards, codifying the Standish definition could allow perpetrators to benefit from their abuse and produce unfair outcomes for victim-survivors. As we outline in what follows, domestic abuse must be given greater weight in financial remedy proceedings.

---

[8] Home Office (2023) Controlling or coercive behaviour: statutory guidance framework
[9] *Ibid.*

Question 4: Should the court be able to consider how the property has been used, shared and treated by the parties, and over what time period, when deciding whether non-matrimonial property has become matrimonial?

Yes, the court should be able to consider how the property has been used, shared and treated by the parties, and over what time period, when deciding whether non-matrimonial property has become matrimonial. However, where domestic abuse has occurred, there must be appropriate safeguards.

We agree that the way in which property is used during a marriage can be relevant to whether non-matrimonial property becomes matrimonial. However, abuse can mean that legal ownership, financial contributions or use of property do not reflect the reality of who contributed to property and/or assets, controlled them or benefited from them. Perpetrators may conceal assets, pressure survivors into joint ownership or retain assets while leaving survivors responsible for debts and costs.

In order to prevent perpetrators benefiting from economically abusive arrangements and avoid unfair outcomes for survivors, the court must therefore consider the wider context, including domestic abuse if this has occurred, when assessing matrimonialisation.

Question 5: Do you agree with the government's view that the overarching objective of the court when making a financial order should be to reach a fair outcome through the application of the sharing and needs principles?

We agree that the court's overarching objective should be to achieve a fair outcome, but where domestic abuse has occurred, this cannot be achieved unless domestic abuse is explicitly considered and given due weight.

We support needs as the starting point, alongside a requirement to consider domestic abuse and its lasting economic impact. As we have stated, victim-survivors may face depleted assets, debts, reduced earning capacity and housing insecurity, while perpetrators may retain or conceal assets or use financial proceedings as a means of ongoing abuse.

We recommend that the Government introduces a compensation principle for cases involving domestic abuse, allowing courts to consider economic loss and disadvantage in both needs and sharing cases, so survivors are not left bearing the financial consequences of the abuse.

Question 6: Do you agree with the government's view that the objective for meeting needs should be to enable both parties to transition to independence, as far as resources allow? You may wish to give reasons in the text box.

No. While we support financial independence where possible, it should not be the primary objective. The court should first ensure that the needs of both parties are met, including those of any children and, where domestic abuse has occurred, prioritising the needs of victim-survivors.

Domestic abuse can leave survivors with significant financial hardship. Our recent research found that, among victim-survivors polled, the vast majority had experienced a negative financial impact as a result of coerced debt. So, while evidence suggests that many victim-survivors would like to cut all financial ties with the abuser (43% of women victim-survivors compared to 35% of other women ending a relationship),[10] for some survivors, spousal maintenance is essential to prevent hardship and support recovery from the long-term economic impact of abuse.

The priority should therefore be to support the financially vulnerable party first, before enabling both parties to move towards independence where resources allow and without causing financial hardship.

Question 7: Do you agree with the government's view that the court should apply the needs objective using a three-stage hierarchical approach? You may wish to give reasons in the text box.

Yes. We agree that children's needs should be the court's first priority, followed by housing, income and pension needs before discretionary needs. However, where domestic abuse has occurred, the proposed hierarchy must explicitly recognise this at every stage. Victim-survivors may have greater needs because of reduced earning capacity, debts, impaired credit files, housing insecurity and ongoing financial hardship caused by abuse. The hierarchy should also clearly provide for compensation where domestic abuse has caused economic loss or disadvantage, ensuring victim-survivors are not financially disadvantaged as a result of the abuse.

Question 8: Do you agree that the stages should be focused on the following:

1. **First consideration to the welfare of any children of the family;**
2. **Capital and income needs, including their housing and pension needs in keeping with the standard of living during the marriage; and**
3. **Where resources allow, discretionary need, in keeping with the standard of living during the marriage?**

We agree that children's needs should be the court's first priority, followed by housing, income and pension needs. However, where domestic abuse has occurred, the hierarchy must explicitly recognise this, particularly where resources are limited, to prevent victim-survivors' needs being treated as equal to those of perpetrators.

Courts should consider the impact of abuse on survivors' housing, income and pension needs, including reduced earning capacity, debts, impaired credit files, housing insecurity and ongoing financial hardship.

The framework should also provide for compensation where abuse has caused economic loss, and clearly define "essential needs" to include appropriate housing,

[10] Emma Hitchings and Caroline Bryson (2024) Briefing paper: Dividing property and finances on divorce: what happens in cases involving domestic abuse? (University of Bristol)

income and pension needs, both now and in retirement, reflecting the relationship's standard of living or what it would reasonably have been without the abuse.

Finally, "discretionary needs" must be clearly defined to prevent perpetrators manipulating the process or dissipating assets to undermine survivors' and children's needs.

Question 9: Do you agree with the government's view that there should be a checklist of factors that the court must consider when applying the needs and sharing objective? You may wish to give reasons in the text box.

Yes. We welcome a checklist of factors for the court to consider when applying the needs and sharing principles. We are concerned, however, that the existing Section 25 factors do not ensure that domestic and economic abuse is consistently considered. We therefore recommend a standalone factor for domestic abuse, including economic abuse, requiring courts to consider its impact when assessing needs, compensation and the overall financial outcome. This is essential because abuse can leave survivors with depleted assets, debts, impaired credit files, reduced earning capacity and housing insecurity, with consequences that can last for years. Women's Aid has also estimated that it costs a victim-survivor almost £50,000 to flee an abuser and start rebuilding a safe, independent life during the first year after separation.[11] The highest costs that survivors face following separation are family court legal costs, followed by housing costs. Moreover, and unsurprisingly, ours and others' research demonstrates the high prevalence of mental ill health among victim-survivors,[12] which can in turn impact victim-survivors' ability to establish financial independence and rebuild their lives. A standalone factor would ensure courts consistently recognise these impacts and consider survivors' and their children's financial needs, both now and in the future.

Question 10: Do you agree that this checklist should include an explicit reference to any disadvantage suffered as a result of the relationship?

Yes. We agree that this checklist should include an explicit reference to any disadvantage suffered as a result of the relationship. This should be expanded, however, to ensure that in cases of domestic abuse, the full economic impact of domestic abuse, including economic abuse, is taken into account.

Economic abuse, characterised by the restriction, exploitation and sabotage of a victim-survivor's money and economic resources, often continues after the victim-survivor has left the relationship. While some victim-survivors are prevented from working or are forced to bear the full burden of caring responsibilities, many victim-survivors appear financially secure on paper because they have a job or were the breadwinner in the relationship. So, a victim-survivor's employment or income can

[11] Women's Aid (2024) The Price of Safety: The cost of leaving an abuser and rebuilding a safe, independent life
[12] See: StepChange Debt Charity (2026) Filed away: The experiences of victim-survivors with coerced debts during and after economic abuse; Surviving Economic Abuse (2025) Counting the Cost: The Scale and Impact of Economic Abuse in the UK

mask the financial impact of economic abuse. Victim-survivors may face exploitation such as unpaid household costs, coerced debts, or controlled wages. Post-separation abuse can also continue through hidden assets or income, withheld child maintenance, refusal to sell property and prolonged proceedings. One of our clients, Liz, found herself unable to extricate herself from a joint mortgage with her then husband, who abused her. He refused to pay the mortgage or sell the property, allowing the property to become derelict, keeping Liz financially tethered to him.[13] This is a form of joint mortgage abuse, which the charity Surviving Economic Abuse explores in their report 'Locked into a mortgage, locked out of my home.'[14] Perpetrators cause significant economic harm by refusing to pay their agreed share of the mortgage, agree to new terms or sell up, trapping victim-survivors with dangerous abusers and forcing those who flee into housing insecurity and debt. Liz, for whom it was dangerous and untenable to stay with the abuser, found herself having to sofa surf. Therefore, income, legal ownership and earning capacity alone may not reflect a victim-survivor's true financial position or the economic loss caused by abuse.

As such, we strongly recommend a standalone domestic abuse factor, using the definition in the Domestic Abuse Act 2021, alongside the Section 25 factors. This would ensure courts consistently consider both the financial impact of abuse and its ongoing effects after separation when determining financial needs and settlements.

Question 11: Do you think that domestic abuse should more readily be taken into account in relation to the distribution of assets by the court in financial remedy and cohabitation proceedings?

Yes. Domestic abuse, including economic abuse, should always be considered when determining the distribution of assets, given its direct impact on survivors' current and future financial circumstances and on the fairness of both the process and outcome.

Domestic abuse is prevalent in financial remedy proceedings, yet it is rarely given sufficient weight. Indeed, research from Resolution found that c.80% of family law professionals believe domestic abuse, and specifically economic abuse, is not sufficiently taken into account in financial remedy proceedings.[15] Moreover, research from the University of Bristol found that 28% of divorcees reported their ex-spouse's abusive behaviour as the main reason for the relationship breakdown.[16]

Economic abuse can leave survivors with depleted assets, debt, damaged credit, reduced earning capacity and housing insecurity, while perpetrators may conceal or dissipate assets or retain control of financial resources. Abuse can also continue after separation through withholding child maintenance, refusing to sell jointly owned

---

[13] StepChange Debt Charity (2025) Too close to home: StepChange debt advice clients' experiences of coerced debt

[14] Surviving Economic Abuse (2024) 'Locked into a mortgage, locked out of my home': How perpetrators use joint mortgages as a form of economic abuse and how to stop them

[15] Resolution (2024) Domestic abuse in financial remedy proceedings

[16] Emma Hitchings and Caroline Bryson (2024) Briefing paper: Dividing property and finances on divorce: what happens in cases involving domestic abuse? (University of Bristol)

property, hiding assets and prolonging proceedings. This can leave victim-survivors facing financial hardship for years after separation.

The legal process itself can also be used as a form of economic abuse, through deliberate delays, non-disclosure of income and assets, and hiding or transferring assets. Such behaviour can increase legal costs, prevent survivors from participating effectively and pressure them into accepting unfair settlements.

We recognise the Government's commitment to no-fault divorce, but considering the economic consequences of domestic abuse is not the same as assigning blame for the relationship breakdown. Where abuse has caused economic loss or disadvantage, that impact is directly relevant to achieving a fair financial outcome.

We therefore strongly recommend that courts give greater and explicit weight to domestic and economic abuse when determining financial settlements, including survivors' needs and perpetrators' conduct during and after the relationship and throughout proceedings. A standalone domestic abuse factor would help courts identify ongoing abuse, respond more effectively to litigation misconduct and prevent financial remedy proceedings from being used as a further tool of control. It would ultimately support fairer, safer and more effective financial outcomes for survivors and their children.

Question 12: To what extent should domestic abuse, if established, influence the court's decision-making in financial remedy and cohabitation proceedings?

- It should only be considered in exceptional circumstances
- It should be considered where it has had a clear financial impact
- It should generally be considered where domestic abuse has occurred
- It should not be considered in financial remedy or cohabitation proceedings
- Other (please explain)
- [Free text]

By, "it should generally be considered where domestic abuse has occurred", we mean that domestic abuse, including economic abuse, should always be considered where it has occurred. At StepChange, we know that domestic abuse, including economic abuse, can cause devastating and long-lasting economic impacts on victim-survivors. Recent research we conducted found that, among those victim-survivors polled:[17]

- More than three quarters (78%) had at least one outstanding debt as a direct result of the perpetrator's coercive and controlling behaviour, and over half (57%) had two or more outstanding debts.
- As a result of their coerced debts, most (85%) reported experiencing at least one negative financial impact, such as going without essentials, using borrowing as a coping mechanism, and falling behind on loan repayments.

[17] StepChange Debt Charity (2026) Filed away: The experiences of victim-survivors with coerced debts during and after economic abuse

- Around half (48%) experienced at least one negative impact on their credit record, with women disproportionately affected (56% of women respondents compared to 40% of men respondents).

Furthermore, because domestic abuse is not exceptional, but rather prevalent in family proceedings, courts should not expect to consider it only in exceptional circumstances or where a clear financial loss can be quantified. Economic abuse often involves perpetrators controlling or concealing financial information, making it difficult for survivors to evidence the full financial impact.

We therefore recommend that domestic abuse, including economic abuse, is recognised as a factor that can fundamentally affect the fairness of a financial settlement. Where abuse has occurred, courts should be required to consider its impact on survivors’ current and future economic circumstances, including when assessing needs, compensation and the division of assets. Perpetrators should not be able to obtain a better financial outcome as a result of their abusive behaviour.

Courts should identify domestic abuse at an early stage, while allowing victim-survivors to disclose abuse at any point during proceedings. They should consider all relevant evidence, not just criminal convictions or formal findings. This could include findings from other proceedings, records from domestic abuse services, evidence from health or local authority professionals and financial records such as bank statements.

This approach should be supported by legislation, procedural rules and clear guidance, giving courts discretion to consider the available evidence and determine how abuse should affect the financial outcome without requiring survivors to quantify every aspect of their economic loss. Specialist judicial training on domestic and economic abuse should also be provided to ensure these issues are properly understood and consistently considered.

Question 13: If domestic abuse were more routinely considered in financial remedy and cohabitation proceedings, how do you think this should affect the division of assets between parties? For example, what principles should guide how misconduct is reflected in financial outcomes and how should this be applied in practice?

As we have previously stated, domestic abuse, including economic abuse, should always be considered where it has occurred, given its impact on survivors’ current and future financial circumstances and on the fairness of the financial outcome. Courts should consider the effects of abuse when assessing needs, determining whether compensation or an adjustment is required, and deciding how resources should be divided.

Survivors should not be required to quantify every financial loss before domestic abuse can be taken into account. Perpetrators may conceal assets, control financial information, coerce survivors into debt (often leading to impaired credit records), prevent them from working or restrict access to documents needed to evidence the abuse. A survivor may therefore appear financially secure on paper while experiencing significant economic disadvantage. The court should recognise the wider and often long-term economic consequences of abuse, including post-separation abuse.

Where domestic abuse has occurred, the court should first ensure the survivor's housing, income and pension needs are met, recognising the greater economic disadvantage they may face as a result of the abuse. It should then consider whether a further adjustment or compensation is needed to reflect the economic loss caused by the perpetrator. This could include, for example, pension losses where a survivor was prevented from building savings.

Where resources allow, courts should have discretion to award the survivor a greater share of matrimonial assets to achieve an equitable outcome and prevent perpetrators benefiting financially from their abuse. Legislation should make clear that, where domestic abuse has occurred, the court must consider whether an adjustment or compensation is necessary to achieve a fair outcome, while retaining discretion over the appropriate level.

Domestic abuse should also be considered in the making and enforcement of financial orders. Perpetrators should not be able to gain a financial advantage by concealing assets, failing to provide full and frank disclosure, dissipating resources or deliberately delaying and frustrating proceedings. Courts should be encouraged to anticipate the risk of non-compliance and reduce the need for survivors to return to court. This could include enhanced disclosure requirements, clear deadlines and consequences for non-compliance, default orders such as provision for the sale of assets, and greater use of costs orders where non-compliance is deliberate.

This approach would help ensure that survivors are not left bearing the financial consequences of the perpetrator's abuse, while preventing the legal process itself from becoming a continuation of economic abuse.

Question 14: If courts were more readily able to take domestic abuse into account in financial remedy and cohabitation proceedings, what impact do you think this would have on those proceedings (for example, the length of cases, evidential requirements, costs to parties and the overall experience of victim-survivors)?

Recognising domestic abuse, including economic abuse, in financial remedy and cohabitation proceedings should improve fairness and efficiency rather than increase costs or delays. Perpetrators already prolong proceedings through non-disclosure, hiding assets, breaches of orders and repeated applications. Research from the University of Bristol found that cases where domestic abuse was the main reason for divorce were more than three times as likely to involve contested financial proceedings (22% compared with 7%).[18] Earlier recognition, stronger case management and

[18] Emma Hitchings and Caroline Bryson (2024) [Briefing paper: Dividing property and finances on divorce: what happens in cases involving domestic abuse?]() (University of Bristol)

meaningful consequences for litigation misconduct could therefore reduce opportunities for abuse and, ultimately, costs and delays.

The evidential approach must reflect survivors’ experiences. Survivors should not have to prove a precise financial loss or obtain a criminal conviction before abuse can be considered. Courts should identify abuse early and consider all relevant evidence, including findings from other proceedings, police or local authority records, evidence from domestic abuse services or professionals, financial records and witness evidence. A fact-finding hearing should only be required where there is a genuine dispute that cannot be resolved through the available evidence and where findings are necessary to determine the case.

We therefore support a legislative requirement for courts to identify and consider domestic abuse at the earliest opportunity, while allowing survivors to disclose abuse at any stage. Procedural rules and guidance should set out how courts assess evidence and consider the impact of abuse on survivors’ current and future needs, the perpetrator’s conduct during the relationship and misconduct during proceedings. The law should also make clear that perpetrators must not obtain a better financial outcome as a result of domestic abuse.

Finally, specialist judicial training on domestic and economic abuse will be essential to ensure courts can recognise coercive control, economic abuse and post-separation abuse, assess evidence appropriately and identify attempts to misuse the legal process.

Question 15: Do you agree that the language currently used to describe the threshold for considering misconduct in financial remedy proceedings (sometimes referred to as the “gasp factor”) is inappropriate and should be replaced?

Yes, we agree that the language currently used to describe the threshold for considering misconduct in financial remedy proceedings is inappropriate and should be replaced. The “gasp factor” is not only subjective and difficult to codify in law, but the underlying assumption is also incongruous with an evolved understanding of domestic abuse, which is already recognised in law. The coercive and controlling behaviour offence created under the Serious Crime Act (2015), which describes the underlying pattern of behaviour within domestic abuse, recognises that behaviours, when taken individually may not be cause for concern, but which when viewed in the round and across time, are demonstrated to have created an environment of fear, anxiety and dependency.

As such, a “gasp factor”, which implies the existence of a one-off, particularly severe act, is inappropriate and does not accurately capture the nature of abuse. For most victim-survivors who experience severe acts of domestic abuse and violence, a pattern of behaviour proceeds it which puts the victim-survivor at greater and greater risk of harm. Moreover, domestic abuse doesn’t always involve physical abuse. Our research found that, among those victim-survivors of economic abuse with coerced debts polled, over half (53%) experienced emotional abuse and manipulation as tactics to coerce them into debt, while physical threats or violence were less common (13%).[19]

Research demonstrates how difficult it is for victim-survivors to disclose domestic abuse, but also how difficult it is for them to be believed. One of the reasons for this is the prevailing myth around what domestic abuse looks like and that it necessarily involves severe harm or physical violence. The unintended consequence of this myth is that 'less severe' forms of abuse are dismissed but actually carry a risk of physical harm, including domestic homicide and suicide. Another consequence of the "gasp factor" is that it makes the evidence threshold incredibly high.

We therefore strongly recommend that the Government gets rid of the "gasp factor" and threshold, requiring the court instead to always consider domestic abuse where it has occurred based on all the available evidence a victim-survivor can provide, and using the statutory definition in the Domestic Abuse Act 2021, so that it is consistent with other parts of the family justice system.

Replacing this language would be fairer and more respectful towards victim-survivors, as well as bringing it into step with more recent legislation and understandings of domestic abuse.

Question 16: What forms of behaviour do you think should be considered as "misconduct"? You may wish to give reasons in the text box.

Legislation should clearly recognise that perpetrators may use legal proceedings as a tool of ongoing economic abuse, with examples of misconduct.

However, a statutory list of misconduct should be non-exhaustive. Perpetrators adapt their behaviour to individual victim-survivors and their situations, so courts should be able to consider any conduct that causes, or is likely to cause, harm, economic disadvantage or an unfair financial outcome, even where the precise financial loss cannot be quantified.

Examples might include:

- Hiding, transferring, dissipating or undervaluing assets.
- Concealing income or deliberately reducing earning capacity.
- Failing to provide full and frank financial disclosure.
- Refusing to cooperate with the sale or transfer of assets.
- Pressuring or intimidating survivors into unfair settlements.
- Using proceedings to harass, control or financially exhaust survivors through delay or unnecessary applications.
- Misusing child arrangements for financial advantage.
- Failing to comply with court orders or deadlines.

[19] StepChange Debt Charity (2026) Filed away: The experiences of victim-survivors with coerced debts during and after economic abuse

Where there is persistent non-compliance, courts should be able to draw appropriate inferences about earning capacity and asset ownership, ensuring perpetrators cannot benefit financially from their misconduct.

Question 17: What sort of impact do you think misconduct should have on a financial remedies claim or a cohabitation claim?

Misconduct should have meaningful consequences that reflect both the behaviour and harm caused, and perpetrators should not benefit financially from their misconduct.

Courts should be able to require perpetrators to pay additional legal costs, provide complete financial disclosure within set deadlines, draw adverse inferences from persistent non-compliance, and adjust the financial settlement where necessary to prevent survivors being disadvantaged. These measures should apply even where the precise financial loss cannot be quantified, including where survivors have been pressured or intimidated into accepting an unfair settlement.

Victim-survivors should not be left financially worse off because they have had to make additional applications to obtain disclosure, secure interim maintenance or access legal funding as a result of the perpetrator's behaviour.

Courts should also have effective powers to address joint mortgage economic abuse during proceedings. This could include exploring interim orders allowing lenders, for a defined period, to treat each party's liability separately, preventing perpetrators from using joint mortgages to continue economic abuse while financial proceedings are ongoing.

Question 18: If you believe misconduct should be more readily taken into account by the court, do you think misconduct which has financial consequences should be treated by the court in the same way as misconduct without financial consequences?

Yes. Any misconduct during proceedings should be considered when determining the financial settlement. Abusive behaviour can disadvantage survivors even without a direct, quantifiable financial loss, for example, by intimidating or harassing them, limiting their participation or pressuring them to accept an unfair settlement.

Courts should assess misconduct in the context of domestic abuse and coercive control and have powers to respond appropriately, including financial adjustments, costs orders, procedural protections, fines or other measures. A precise financial loss should not be required before misconduct can be recognised.

Perpetrators should not benefit financially from abusive behaviour that undermines a survivor's ability to achieve a fair settlement.

Question 19: Do you agree with the government's view that the court should specifically be required to give consideration to pensions accrued during the marriage and pension needs when making financial orders?

Yes, we agree with the Government's view that the court should specifically be required to give consideration to pensions accrued during the marriage and pension needs when making financial orders. Perpetrators often undermine survivors' long-term financial security by controlling employment, forcing them to leave work, creating unpaid caring responsibilities, exploiting pensions or preventing contributions. They may also cash out pension funds, use them to cover debts, coerce contributions or restrict access to pension information.

Research from the University of Bristol found that women victim-survivors enter financial remedy proceedings with lower pension wealth than other women, but are no more likely to receive a pension share from their future partner.[20]

Courts should therefore consider current and future income needs, including retirement, regardless of whether income comes from pensions or other assets. Pension offsetting, particularly against the family home, should also be avoided where it would leave survivors with inadequate retirement income and perpetuate the economic disadvantage caused by abuse.

Question 20: Do you consider that these proposed safeguards will ensure individuals understand the consequences of their agreement and provide sufficient protection against coercion?

No. While proposed safeguards should be mandatory, they are not sufficient on their own to ensure nuptial agreements are fair and freely entered into where domestic abuse has occurred. Independent legal advice cannot overcome the power imbalance created by coercive or controlling behaviour.

Courts should therefore retain full discretion to depart from a pre- or post-nuptial agreement where necessary to achieve a fair outcome and prevent the agreement perpetuating the economic consequences of abuse. This should apply even where the abuse was not disclosed or recognised when the agreement was signed.

The Government should also consider whether unfair agreements should remain binding and require agreements to be reviewed after significant life changes, such as having children, changes in caring responsibilities, acquiring a family home, or serious illness. Renewal should require updated financial disclosure and fresh independent legal advice, particularly as domestic and economic abuse can begin or escalate following major changes in family circumstances.

Question 21: Do you agree with the government's view that when considering meeting "needs" under the qualifying nuptial agreement model proposed, this should exclude discretionary needs, in the same way as proposed for cohabitants?

No. We welcome an exception for children and essential spousal needs where a qualifying nuptial agreement would cause financial hardship. However, limiting the court to essential needs could leave survivors and their children without adequate provision, particularly given the long-term economic impact of domestic abuse.

[20] Emma Hitchings and Caroline Bryson (2024) Briefing paper: Dividing property and finances on divorce: what happens in cases involving domestic abuse? (University of Bristol)

In cases involving domestic or economic abuse, survivors may face reduced earning capacity, debts, depleted savings or pensions, and ongoing post-separation abuse. Meeting only basic needs may therefore prevent them from rebuilding financial independence and maintaining stability for themselves and their children.

We therefore recommend that, where domestic abuse has occurred, the court should retain discretion to consider the survivor’s full needs and the impact of the abuse, and make whatever order is necessary to achieve a fair outcome.

Question 22: Beyond housing, capital, income and pension, are there any other elements that you think should be included in, or excluded from, the assessment of “needs” within the context of qualifying nuptial agreements?

Yes. The assessment of “needs” within the context of qualifying nuptial agreements should also include household contents and personal belongings, recognising that survivors may leave possessions behind when fleeing or have them destroyed as part of economic abuse.

The assessment of needs should also account for coerced debt, financial liabilities and culturally specific forms of economic abuse, such as dowry abuse, where these affect the survivor’s financial security and ability to rebuild their life.

Question 23: Do you agree with the government’s view that the court should consider a pre-marital cohabiting relationship as counting towards the length of a marriage, where that relationship moves seamlessly from cohabitation to marriage?

Yes. Seamless pre-marital cohabitation should count towards the length of the marriage, but guidance must recognise how domestic abuse can affect a relationship and a survivor’s ability to evidence it.

Survivors may leave and return to abusive partners multiple times, while perpetrators may conceal the relationship or avoid formalising shared arrangements. These factors should not prevent a relationship being recognised as seamless cohabitation.

Courts should therefore consider the wider context of the relationship, rather than relying solely on traditional indicators that may not reflect the realities of domestic or economic abuse.

Question 24: Which factors, as outlined by the Law Commission’s 2007 report, do you think the court should take into account when assessing whether there has been seamless cohabitation prior to the marriage? Please tick all that apply.

- Existence of a joint household
- Stability of the relationship
- Financial arrangements
- Responsibility for children
- Presence of a sexual relationship
- Public recognition of the relationship
- Other (please specify) [Free text]

All of the above factors should be taken into account when assessing whether there has been seamless cohabitation prior to the marriage. But this should be a non-exhaustive, non-prohibitive list of factors guiding the court's assessment of seamless pre-marital cohabitation. It should also include religious-only marriages, which may provide evidence of a committed family relationship before legal marriage.

Guidance must recognise that domestic abuse can affect both the nature of a relationship and a survivor's ability to evidence it. Periods of separation, concealed relationships or informal arrangements should not automatically prevent seamless cohabitation being established. Courts should therefore consider the wider context of the relationship, rather than relying solely on traditional indicators that may not reflect the realities of domestic or economic abuse.

Part 2: Reforming the Law for Cohabitants on Separation

Question 25: Do you agree that cohabitants captured within the framework should be two people living together as a couple in an enduring family relationship?

Yes. The framework should apply to couples living together in an enduring family relationship, but guidance must recognise that domestic abuse can affect both the relationship and a survivor's ability to evidence it.

Temporary separations, concealed relationships or informal arrangements should not automatically prevent a relationship being recognised as enduring, particularly where perpetrators deliberately avoid formalising or documenting the relationship.

We welcome the proposal allowing claims against a married person where the applicant was in a qualifying cohabiting relationship with them. Courts should consider the wider context of the relationship, rather than relying solely on traditional indicators that may not reflect the realities of domestic or economic abuse.

Question 26: What factors, as outlined by the Law Commission's 2007 report, do you think the court should take into account when considering whether individuals are cohabitants? Please tick all that apply.

- Existence of a joint household
- Stability of the relationship
- Financial arrangements
- Responsibility for children
- Presence of a sexual relationship
- Public recognition of the relationship
- Other (please specify)

All proposed factors should be included, but as a non-exhaustive guide, not mandatory requirements. Claimants should not need to satisfy every factor; for example, the absence of joint accounts, ownership or public recognition should not automatically prevent a finding of cohabitation.

The list should also include religious-only marriage, which may evidence a committed family relationship despite not being legally recognised in England and Wales.

Guidance should recognise that domestic abuse can affect both the nature of a relationship and a survivor's ability to evidence it. Periods of separation, concealed relationships or informal arrangements should not automatically prevent a finding of cohabitation, particularly where perpetrators deliberately avoid formalising the relationship. Courts should consider the wider context, rather than relying solely on traditional indicators that may not reflect the realities of domestic or economic abuse.

Question 27: Do you agree that those who are already married or in a civil partnership with each other, or those who are too closely related to each other to have married, should be ineligible for the framework?

Yes, we broadly agree with this, but consideration may also need to be given to couples who are married but separated.

Question 28: Do you agree that the minimum age to be eligible for the framework should be 18?

No. While we understand the aim of aligning cohabitation rights with the age of marriage, cohabitation rights are intended to protect people in relationships, not determine who can marry.

A blanket minimum age of 18 could exclude vulnerable young survivors. Economic abuse can begin before 18, including control over money, housing, employment and possessions, and young people may also have children with an abusive partner. Research from Surviving Economic Abuse found that one-third of girls aged 16–18 experienced economic abuse in the previous year.[21]

We therefore recommend no minimum age threshold, while ensuring courts can consider the claimant's age and welfare and apply appropriate safeguards when determining a fair financial outcome.

Question 29: Do you agree with the government's proposal that couples without children must have lived together for a minimum of three years, before they can access the cohabitation framework?

• Yes

• No

• Undecided

If you disagree with the three-year minimum duration period suggested above, what period would you propose having instead?

- None
- 1 Year

[21] Surviving Economic Abuse (2026) One in three girls experiences economic abuse before 18, with many having their education or futures derailed

- 2 Years
- 4 Years
- 5 Years
- More than 5 Years

If you disagree with the three-year minimum duration period, and chose a different period, please explain why below:

While we understand that for many couples, a three year period may be necessary to establish the long-term nature of a relationship, in cases where domestic abuse has occurred, there should be no minimum duration requirement.

A three-year minimum could exclude survivors who experience significant economic harm early in a relationship and allow perpetrators to benefit from their abuse.

Perpetrators may quickly establish economic control by taking over finances, restricting employment, coercing debt or transferring assets. Research from Surviving Economic Abuse found that almost one in five 16–18-year-olds experiencing economic abuse said it began within the first month.[22]

A minimum duration could also incentivise perpetrators to exploit a survivor's resources and end the relationship before three years, leaving survivors without effective legal protection. It may even discourage survivors from leaving an abusive relationship sooner.

There should therefore be no minimum duration requirement where domestic abuse has occurred. Survivors should be able to access cohabitation rights when needed, regardless of how long the relationship lasted.

Question 30: Do you agree that where cohabitants are living together and there is a child of the family, the minimum duration requirement should be disapplied?

- Yes
- No, but the minimum duration should be lowered
- No, the minimum duration should not be altered as a result of children
- Undecided

Yes. We agree the minimum duration requirement should be disapplied where there is a child of the family, including where one cohabitee is pregnant. Having a child can create significant economic disadvantage regardless of relationship length, particularly where one parent reduces or stops work to provide care.

The definition of "a child of the family" should be broad, including dependent children of either party, dependent children over 18, and children who were stillborn or died before the claim. This would recognise the financial and caring consequences of

---

[22] Surviving Economic Abuse (2026) One in three girls experience abuse before 18, with many having their education

having children and ensure parents and children are not left without protection simply because the relationship was too short.

Question 31: Do you agree that a time limit should be introduced to prevent claims being made after two years have passed since the relationship ended?

- Yes
- No
- Undecided

If you disagree with the two-year period suggested above, what period would you propose having instead?

- No Time Limit
- 1 Year
- 3 Years
- 4 Years
- More than 5 Years

If you disagree with the two-year period, and chose a different period, please explain why below:

There should be a clear exemption from the two-year time limit where domestic abuse has occurred. A strict limit could prevent survivors from accessing their rights because the effects and barriers created by abuse often continue long after separation.

Survivors may face safety concerns, homelessness, trauma, caring responsibilities and difficulties accessing financial information or legal advice, while perpetrators may continue post-separation economic abuse to delay or obstruct claims. As a result, survivors may be unable to bring proceedings within two years.

Courts should therefore be able to accept claims brought outside the time limit where domestic abuse affected the survivor's ability to bring the claim and it would be unfair to dismiss it. A limitation period should not allow perpetrators to benefit from the consequences of their abuse.

Question 32: Do you agree that "needs" should be the guiding principle the court follows for determining outcomes when cohabitants separate? You may wish to give reasons in the text box.

Yes. Needs should guide outcomes for cohabitants and be the starting point for married couples and civil partners.

A needs-based approach is important for protecting survivors and their children, but needs alone may not ensure fairness where domestic abuse, particularly economic abuse, has caused lasting financial loss and disadvantage. Courts should therefore be able to consider the impact of abuse and award compensation or make appropriate adjustments.

The framework should account for coerced debt, damaged credit, lost earnings, housing insecurity, lost assets and the costs of leaving, as well as ongoing post-separation abuse. This would help prevent perpetrators benefiting from the economic harm they have caused and ensure survivors’ current and future needs are properly met.

Cohabitants should not be left without protection from financial hardship simply because they do not have the same sharing rights as married couples. Courts should have sufficient discretion to achieve a fair outcome reflecting the relationship’s standard of living, or what it would have been but for the economic abuse.

Question 33: Do you agree with the government’s view that the objective for meeting needs should be to do so in such a way as to enable termination of dependence and obligations as soon as is just and reasonable?

No. The priority should be to protect the vulnerable party and meet children’s needs. A clean break should only be pursued where it is fair and reasonable.

Ending financial ties can be important for survivors, particularly where an abuser uses them to maintain control. However, this should not leave survivors in hardship or unable to recover from the economic consequences of abuse.

Courts should consider the impact of coerced debt, impaired credit files, reduced earning capacity and pensions, disrupted employment, caring responsibilities, insecure housing and depleted assets before ending financial obligations.

The law should therefore prioritise financial security and a fair outcome, rather than a clean break at any cost, ensuring survivors and their children are not forced to accept an unfair settlement simply to end financial ties with an abusive ex-partner.

Question 34: Do you agree that discretionary needs should be excluded from the consideration of needs for cohabitants?

No. Restricting the court to “essential” needs could leave survivors and their children without adequate provision and fail to address the long-term economic consequences of domestic abuse.

The distinction between “essential” and “discretionary” needs is also unclear and risks reducing provision to basic subsistence. A survivor’s needs should not be assessed against a standard of living that was artificially restricted by economic abuse, but against what it reasonably would have been but for the abuse.

Courts should therefore assess needs in the context of the survivor’s circumstances, including the relationship’s standard of living, the impact of domestic abuse, and their current and future financial needs, to ensure fair outcomes for survivors and their children.

Question 35: Do you agree that the court should be able to take account of needs arising from wider circumstances than the relationship (for example, serious health conditions or disabilities) when determining financial provision?

Yes. Courts should consider wider needs, including serious health conditions, disability and caring responsibilities, when determining financial provision.

Domestic abuse can cause or worsen physical and mental health conditions and disabilities, affecting a survivor's ability to work and achieve financial security. Research from Surviving Economic Abuse found that disabled women were nearly twice as likely to experience economic abuse as non-disabled women.[23]

Courts should therefore assess actual present and future needs, rather than requiring a direct link to the relationship. This would help ensure vulnerable survivors receive adequate financial provision and are not prevented from achieving a safe separation.

Question 36: Do you agree there should be a checklist of the matters the court must particularly consider when applying the needs principle?

Yes. We support a non-exhaustive checklist of factors for cohabitants to ensure needs are fully considered and outcomes are consistent. It should mirror the factors proposed for married couples and civil partners and include domestic abuse, including economic abuse, as a standalone factor.

While we welcome consideration of economic disadvantage during the relationship, this alone may not capture the full impact of economic abuse, including concealed assets, coerced debt, restricted employment and post-separation abuse. A survivor's income, assets or legal ownership may therefore not reflect their true financial position.

We strongly recommend a standalone factor requiring courts to consider domestic abuse using the Domestic Abuse Act 2021 definition, including its economic and post-separation impacts. This would promote consistent decision-making and enable courts to make fair financial orders, including compensation or adjustments where necessary to address economic loss and disadvantage caused by the abuse.

Question 37: Do you agree with our proposed approach in relation to remedies for cohabitants?

Cohabitants should have access to the same range of remedies as married couples and civil partners. A person's ability to achieve a fair financial outcome should not depend on marital status, particularly where domestic abuse, including economic abuse, has occurred. Children of qualifying cohabitants should likewise receive the same protections and support as children of married couples or civil partners.

The court should have sufficient flexibility to meet the needs of survivors and their children, address the economic loss caused by abuse, and prevent perpetrators from financially benefiting from their behaviour. Remedies should reflect the impact of domestic abuse on housing, income, assets, debt, earning capacity and long-term financial security.

---

[23] Surviving Economic Abuse (2025) Counting the Cost: The Scale and Impact of Economic Abuse in the UK

The framework should also protect survivors where perpetrators use joint mortgages to continue economic abuse after separation. This could include exploring interim measures requiring lenders, for a defined period, to treat each party’s mortgage liability separately.

Question 38: In relation to maintenance in particular, do you agree with the follow statements.

Please tick all that apply:

- **Maintenance should be awarded in exceptional circumstances (such as serious health issues or disability).**
- **Any maintenance order should be time-limited, with no open-ended “joint lives”**
  orders.
- **A maintenance order term may not be extendable beyond the original period set by the court.**

If you disagree with any of the proposals above, please explain why.

No, where domestic abuse has occurred, we disagree with all three proposals. Maintenance should not be limited to exceptional circumstances, nor should orders automatically be time-limited or incapable of extension. The court should retain discretion to make orders that meet victim-survivors’ needs and achieve a fair outcome.

For some survivors, maintenance is essential to prevent financial hardship and help them and their children recover from the lasting economic consequences of domestic abuse, including reduced earning capacity, disrupted employment, caring responsibilities, poor health and coerced debt. This is particularly important where there is insufficient capital for a clean break, including in cases involving children, limited assets or long relationships.

Where resources allow, we support lump sums and other orders that enable a clean break, but maintenance should remain available where it is necessary to meet needs or address the economic disadvantage caused by abuse. Orders should also not be automatically time-limited; their duration should reflect the survivor’s needs, with discretion to extend them where circumstances change or the original term is no longer sufficient.

Question 39: Do you agree there should be an explicit requirement that the court cannot award cohabitants a higher award than one which would have reasonably been made if they were a married couple divorcing?

No. Financial provision should be based on the facts of the case, the victim-survivor’s needs and the economic harm caused by domestic abuse, not whether the parties were married.

Cohabiting survivors can experience significant economic abuse and disadvantage regardless of their relationship status. Any cap on awards risks leaving survivors without adequate provision and allowing perpetrators to benefit from their abuse. The court should therefore have discretion to make whatever order is necessary to achieve a fair outcome, based on the circumstances of each case.

Question 40: Do you agree that all of the safeguards listed above should be required in order for an opt-out agreement to be valid?

Safeguards required to opt-out

- **Contract validity: the agreement must be a valid contract without, for example, undue influence or misrepresentation.**
- **Execution as a deed: the agreement must have been made by deed and must contain a statement signed by both individuals that they understand that the agreement is an opt-out agreement that will remove the ability of either party to make an application under the cohabitation framework.**
- **Material financial disclosure: each party to the agreement must have received, at**
  the time of the making of it, disclosure of material information about the other party’s financial situation.
- **Independent legal advice: Independent legal advice for each party signing the opt-out, to ensure each understands the legal effect and consequences of the agreement.**
- **It should not be possible for a party to waive their rights to disclosure and legal advice.**
- **Any variation of an agreement must meet the requirements listed above.**

If you disagree, please explain which safeguards you would either add or remove and explain why.

We welcome the Government’s proposed opt-out, rather than opt-in, approach to cohabitation rights, as this should better protect vulnerable people, including victim-survivors. However, even with mandatory safeguards, independent legal advice cannot overcome the power imbalance created by domestic abuse.

The court should therefore be able to set aside an opt-out agreement where domestic abuse, including economic abuse, has occurred or enforcing the agreement would be unfair. This should apply even where the abuse was not disclosed or recognised when the agreement was made.

Opt-out agreements should also be reviewed following significant life events, such as the birth of a child, changes in caring responsibilities, acquiring a family home, or serious illness or disability. Any renewed agreement should require updated financial disclosure and fresh independent legal advice, particularly as domestic abuse can begin or escalate following major changes in family circumstances.

Question 41: Do you agree an opt-out should not be able to prevent an application being made on behalf of a child?

Yes. An opt-out agreement should never prevent an application being made on behalf of a child. A child's financial security and welfare should not depend on their parents' decision to opt out.

This is particularly important in cases of domestic abuse, including economic abuse. Perpetrators may withhold or deliberately make unreliable child maintenance payments. Research from Surviving Economic Abuse found that 33% of victim-survivors with children under 18 experienced child maintenance economic abuse in the previous 12 months.[24] Allowing an opt-out to prevent child applications could therefore exacerbate economic abuse and leave children facing financial hardship.

Question 42: What do you think is the most effective way to communicate these reforms to the public, particularly to help dispel the common law marriage myth and raise awareness of the new legal rights?

It is essential that the Government clearly communicates these reforms, dispels the "common law marriage" myth and raises awareness of new legal rights.

The Government should provide clear, accessible information on current and new rights, including limits, deadlines and domestic abuse exemptions. This should include national digital and media campaigns, permanent GOV.UK guidance, resources for advice organisations and information at key life events. Communications should be accessible, available in multiple languages and formats, and developed with survivors and specialist domestic abuse organisations.

Public awareness must also be supported by timely access to specialist legal advice and adequately funded legal aid. Victim-survivors should not be financially disadvantaged by the costs of accessing justice, including through requirements to repay legal aid from assets awarded to them.

[24] Surviving Economic Abuse (2025) Nearly four million children affected by economic abuse in UK homes

StepChange Debt Charity