



## **WRITTEN EVIDENCE TO THE MINISTRY OF JUSTICE IN RESPECT OF ITS CONSULTATION ON A FAIRER END TO RELATIONSHIPS**

**August 2026**

### **Introduction**

1. Muslim Women's Network UK (MWN UK) is the only national Muslim women's charity in Britain ([www.mwnuk.co.uk](http://www.mwnuk.co.uk)) that has been advancing equality, social justice and promoting women's empowerment since 2003. We want Muslim women and girls to be able to exercise their rights, choices and voices and lead safe and authentic lives. We achieve our aims through the support we provide via our national helpline ([www.mwnhelpline.co.uk](http://www.mwnhelpline.co.uk)), education, research, and advocacy. Key issues that we focus on include violence against women and girls, anti-Muslim hatred / discrimination, women's health (including mental health) and women's economic and civic empowerment. We also have a national membership that includes women of other faiths or of no faith and men who support our work.
2. We respond to the questions of the Consultation as noted below. In preparing this response, we have drawn on themes arising through the MWN Helpline and our wider work with Muslim women and other minoritised women. The examples included below are anonymised and illustrative. They demonstrate the types of issues women raise with us, including religious-only marriages, domestic abuse (including economic and spiritual abuse), uncertainty about legal status, housing insecurity, lack of civil marriage protection, and difficulty accessing remedies when relationships break down.

**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?**

3. MWN UK supports the principle that matrimonial property should be shared fairly and that both financial and non-financial contributions to a marriage should be properly recognised. Many women contribute to a marriage through unpaid care, childcare, household management, emotional labour, and by reducing their own earning capacity to support the family or the other party's career. This is especially the case for Muslim

and other minoritised women. Those contributions must not be treated as less valuable simply because they did not generate assets or income in one party's name.

4. A clear statutory starting point of equal sharing may help counter assumptions that the person who earned more, held assets in their sole name, or controlled family finances is more entitled to those assets. This is particularly important in cases involving economic abuse, where one party may have controlled bank accounts, documents, property, savings or financial decision-making during the relationship. We understand the Government's proposal to be that equal sharing of matrimonial property would operate as a starting point, not as a fixed outcome in every case. The consultation itself recognises that unequal division may be required where equal sharing would not meet needs. We consider that this distinction is essential.
5. In our view, the objective should be fair distribution in all the circumstances, rather than equality for its own sake. A formally equal division may still be unfair if it leaves the financially weaker party, often the primary carer, without secure housing, income, pension provision or the ability to rebuild independence.
6. We therefore support a statutory framework which recognises the value of matrimonial partnership and unpaid contributions, but only if the court retains sufficient discretion to depart from equal division where fairness, needs, children's welfare, safety or the impact of abuse require a different outcome.

**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?**

7. We agree that the court should start with the sharing principle and then consider needs where equal sharing would not allow such needs to be met. In many cases involving women, children and victim-survivors, an equal division of matrimonial assets may not be sufficient to produce a fair outcome, particularly where one party has reduced their earning capacity through caring responsibilities or has been economically controlled. Needs must therefore operate as a protective principle, not as a secondary or exceptional afterthought. The approach should make clear that equal sharing is not automatically fair if it leaves the financially weaker party or children without secure housing, sufficient income or pension provision.

**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*?**

8. We support codifying the distinction between matrimonial and non-matrimonial property, provided this does not create an overly rigid framework. Greater clarity would help parties understand what is likely to be shared and may reduce uncertainty and

litigation. The Supreme Court in *Standish* considered when non-matrimonial property becomes matrimonial property and confirmed that simply transferring assets between spouses does not automatically determine whether the asset should be treated as matrimonial. The court must consider the nature of the asset and how it has been used, shared and treated.

9. For MWNUK and its service users, it is important that codification protects vulnerable parties in both directions.
  - a. First, there may be cases where a woman owned property before marriage, inherited property, or held an asset in her own name, but was pressured or coerced into transferring it to her husband, transferring a share to him, allowing him to receive rental income, or treating the asset as available for his benefit. By way of example, a Muslim woman owned a property before marriage which was rented out, but after marriage her husband took control of the rental income and pressured her to transfer the property into joint names. In another example, a Muslim woman had a council tenancy in her own name and later bought the property. Her husband persuaded her to put the property into his name. She now lives in fear that he may leave her and that, because there had been no civil marriage, she would be left with no secure interest in the home. In such cases, the court should not assume that the asset became matrimonial simply because it was transferred, shared or used during the marriage. The court should be able to examine whether the transfer or use of the asset reflected genuine free choice, or whether it arose from coercion, economic abuse, family pressure, lack of legal knowledge, or unequal bargaining power.
  - b. Secondly, codification must also protect non-matrimonial assets which have a specific family, caring or other genuine purpose outside the marriage. For example, a woman may own a property before marriage which is occupied by her disabled brother and was always intended to provide him with secure accommodation. Alternatively, a property may have been purchased during the marriage in one party's sole name (and solely financed by that one party or that party's family members), but with the clear purpose of housing or supporting a disabled family member, rather than as part of the matrimonial partnership. In those circumstances, the court should be careful before treating the asset as matrimonial property merely because it was acquired or held during the marriage. The purpose of the asset, the source of funds, the parties' intentions, and the needs of vulnerable third parties should all be relevant.
10. Legislation should therefore preserve sufficient flexibility for the court to look at the reality of the circumstances. The court should consider not only when and in whose name an asset was acquired, but also the purpose for which it was acquired or retained, the source of funds, the parties' genuine intentions, and the way the asset was treated over time. The court should also consider whether one party was pressured or coerced into transferring, sharing or otherwise treating an asset as matrimonial, including

through economic abuse, coercive control, family pressure or unequal bargaining power. Equally, where an asset was acquired or retained for a specific purpose outside the marriage, such as providing secure accommodation for a disabled relative or other vulnerable family member, the court should be cautious before treating it as matrimonial property merely because it was acquired during the marriage or because there has been some later use by the couple. Particular care is needed where any such use may have resulted from pressure, coercion or manipulation by the other party. The question should be whether, looking at all the circumstances, the asset was genuinely brought into the matrimonial partnership, rather than whether there was isolated or strategic use of the asset.

11. Codification should improve clarity, but it should not create a blunt rule that allows stronger parties to benefit from coercion or allows assets intended for vulnerable relatives to be swept into the matrimonial pot without proper consideration. The distinction between matrimonial and non-matrimonial property should therefore be clear, but not mechanical. The court must retain discretion to achieve fairness, protect vulnerable parties, and recognise the real purpose and treatment of assets in each case.

**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?**

12. We agree that the court should be able to consider how property has been used, shared and treated by the parties, and over what period, when deciding whether non-matrimonial property has become matrimonial. This is important because legal title alone will not always reflect the reality of the relationship. However, this should be a contextual assessment rather than a mechanical rule. The court should consider whether the asset was genuinely brought into the matrimonial partnership, or whether any apparent sharing or use resulted from pressure, coercion, economic abuse or other unequal dynamics.

**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?**

13. We agree that the overarching objective should be to reach a fair outcome through the application of both sharing and needs. Fairness must be understood in a substantive and holistic manner. The statutory framework should therefore make clear that fairness requires the court to consider the real-world consequences of the relationship and its breakdown. This includes whether the outcome enables women and children to live safely and with dignity after separation, with secure housing, sufficient income, and a realistic ability to rebuild independence.

**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?**

14. We agree in principle that the objective of meeting needs should be to enable both parties to transition to independence, as far as resources allow. However, independence must be understood in a safe, realistic and substantive way. It should not be treated as an expectation that financial dependence can or should end immediately.

**Question 7. Do you agree with the Government's view that the court should apply the needs objective using a three-stage hierarchical approach?**

15. We agree in principle that the court should apply the needs objective using a three-stage hierarchical approach. A structured approach should improve clarity, consistency and accessibility, particularly for litigants in person and those with limited access to legal advice. However, the court should retain discretion to reflect the real circumstances of the parties, including children's welfare, caring responsibilities, disability, domestic and economic abuse, housing insecurity and the ability of the financially weaker party to rebuild independence safely.

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

- **first consideration to the welfare of any children of the family;**
- **capital and income needs, including their housing and pension needs in keeping with the standard of living during the marriage; and**
- **where resources allow, discretionary need, in keeping with the standard of living during the marriage?**

16. We agree in principle with the proposed stages. Children's welfare should be the first consideration, because children are often the most affected by financial instability after separation. However, the court should recognise that children's welfare is often closely connected to the financial, housing and practical security of the parent who is primarily caring for them. Safe housing, sufficient income, childcare, transport, health needs and protection from domestic or economic abuse may be necessary not only for the adult applicant, but also for the stability and welfare of the children.

17. The hierarchy should therefore not be applied in a way that treats children's needs and the primary carer's needs as wholly separate or competing categories. Capital, income, housing and pension needs should be considered in a way that reflects the standard of living during the marriage, but also the practical reality of the parties' circumstances after separation.

18. Pension needs are particularly important for women who have taken career breaks, worked part-time, or had reduced pension provision due to childcare and caring responsibilities. Discretionary needs should be clearly secondary and should not dilute

provision needed for safe housing, financial security, children's welfare, disability-related needs, or recovery from domestic or economic abuse.

**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?**

19. We support a statutory checklist of factors. A clear checklist would promote consistency, help litigants in person understand the issues the court will consider, and reduce the risk that important factors are overlooked. The checklist should expressly include children's welfare, economic disadvantage, caring responsibilities, disability, health, language barriers, immigration-related vulnerability, access to employment, domestic abuse, economic abuse and coercive control. It should also require the court to consider whether one party has controlled, hidden or dissipated resources. A checklist should not be exhaustive, but it should ensure that disadvantage and vulnerability are actively considered.

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

20. We strongly support an explicit reference to disadvantage suffered as a result of the relationship. Women are more likely to reduce working hours, leave employment, take on unpaid care, relocate, or become financially dependent because of family arrangements. Muslim women may also be pressured into prioritising family roles over education, employment or financial independence. These disadvantages may be compounded where there has been domestic abuse, economic abuse or coercive control. For example, in one MWN Helpline case, a woman who had been married for many years and had previously worked in a professional role had stopped practising a long time ago during the marriage. When the relationship deteriorated, her husband told her she could simply leave and live elsewhere. This illustrates why the court must consider not only a person's qualifications or past earning capacity, but the real economic disadvantage caused by years away from work, caring responsibilities and financial dependence during the relationship.
21. The court should be required to consider these disadvantages clearly and directly. This is not about punishing one party, but about recognising the economic consequences of relationship choices, family expectations and unpaid contributions. Women should not be left impoverished because their contributions were unpaid, informal or invisible.

**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?**

22. We strongly agree that domestic abuse, including economic abuse, coercive control and spiritual abuse, should be more readily taken into account in financial remedy and

cohabitation proceedings. Domestic abuse is not separate from financial outcomes. It can directly affect a victim-survivor's ability to earn, save, access documents, maintain credit, pay debts, secure housing, parent safely and leave the relationship. Our experience is that many women, including Muslim women in religious-only marriages or controlling relationships, may remain trapped because they lack financial security.

23. We strongly believe domestic abuse should be expressly recognised in legislation as a separate factor for the court to consider, rather than being dealt with under the language of "misconduct". While misconduct may remain relevant in some cases, domestic abuse is not simply poor behaviour between parties or conduct to be considered only in exceptional circumstances. It is a pattern of harm which can have direct and long-lasting financial consequences for victim-survivors and children. Treating domestic abuse solely as "misconduct" risks minimising its impact and may wrongly suggest that it is relevant only where it meets a high or exceptional threshold.
24. In particular, economic abuse and coercive control can directly shape the financial landscape of a relationship. A victim-survivor may have been prevented from working, coerced into debt, denied access to bank accounts, excluded from financial decision-making, pressured to transfer assets, prevented from building savings or pension provision, or left without knowledge of family finances. Coercive and controlling behaviour may also affect a woman's ability to negotiate, give instructions, gather evidence, disclose information, participate safely in proceedings or agree a settlement freely.
25. We ask that the statutory framework should include domestic abuse in all its forms as an express and standalone factor when the court is considering financial remedies and cohabitation claims. This would give the court a clear route to consider the impact of abuse on needs, resources, housing, earning capacity, debt, pensions, litigation conduct, disclosure, settlement pressure and the welfare of children. It also sends a strong message to victim-survivors that the legislation exists to support them and would encourage them to take steps to access their rights.
26. We agree that the court should retain discretion to assess the nature, impact and relevance of the abuse in the circumstances of the case. However, the legislation should make clear that the court is entitled, and where relevant required, to consider domestic abuse as part of the financial reality of the relationship and its breakdown. The aim should not be to create a punitive fault-based regime, but to ensure that victim-survivors are not left financially disadvantaged because of abuse and that perpetrators cannot benefit from the economic consequences of their own controlling or abusive behaviour.
27. MWNUK supports a clear statutory route for the court to recognise abuse without requiring victim-survivors to meet an unrealistically high threshold or to force their experiences into a "misconduct" framework. This would better reflect the reality that

domestic abuse, including economic abuse, is often central to financial vulnerability, rather than an exceptional or peripheral issue.

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

28. Established domestic abuse should influence the court's decision-making wherever it is relevant to the fairness, safety and practical outcome of the case. It should not be confined to rare or exceptional cases, nor should victim-survivors be required to meet an unrealistically high threshold before the court can take abuse into account.
29. We are not suggesting that domestic abuse should automatically lead to a particular financial outcome in every case. However, domestic abuse is likely to have some impact on the victim-survivor's circumstances, whether financially, emotionally, practically or in relation to their ability to negotiate and participate safely in proceedings. The court should therefore be required to consider the nature, seriousness and consequences of the abuse in the circumstances of the case, while retaining discretion as to what weight should be given to it and how it should affect the outcome

**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?**

30. MWNUK considers that domestic abuse should affect the division of assets where this is necessary to achieve a fair, safe and practical outcome. The court should be able to recognise the real consequences of abuse and ensure that a victim-survivor is not left financially disadvantaged because of abuse, coercion or economic control.
31. The guiding principle should be that a perpetrator should not benefit from the financial consequences of their abuse. Domestic abuse may affect the financial position of the parties in many ways, including by reducing a victim-survivor's earning capacity, preventing them from working or studying, causing debt, damaging credit, restricting access to money or documents, preventing savings or pension provision, increasing legal costs, or making it unsafe or unrealistic for the victim-survivor to negotiate freely.
32. The court should also give proper weight to the physical and mental health impact of domestic abuse. Abuse can have long-term consequences for a victim-survivor's confidence, trauma recovery, physical health, mental health, ability to work, ability to parent safely, and ability to participate effectively in proceedings. These impacts may not always be easy to quantify, but they can be directly relevant to housing needs, income needs, childcare arrangements, legal costs, therapeutic support, disability-related needs, and the time needed to rebuild independence.

33. In appropriate cases, the court should therefore be able to depart from an equal or otherwise standard division of assets where the impact of abuse makes this necessary. This may include making greater provision for safe and suitable housing, allocating responsibility for coerced or abuse-related debt, making lump sum or pension provision, taking account of lost earning capacity, addressing legal costs arising from litigation abuse, or making orders that enable the victim-survivor and any children to rebuild financial stability.
34. The impact on children should also be central. Where domestic abuse has affected the primary carer's financial position, housing security, physical or mental health, or ability to parent safely, this will often directly affect the welfare and stability of the children. Financial outcomes should therefore be capable of reflecting the need for safety, continuity, stability and recovery.

**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)?**

35. We recognise that more routine consideration of domestic abuse may increase evidential and procedural complexity in some cases. However, this should not be overstated or used as a reason to exclude abuse from financial decision-making. The greater risk is that victim-survivors continue to face unfair settlements, unsafe negotiations and post-separation economic abuse because the financial impact of abuse is not properly recognised.
36. Additionally, in our view, the issue is often not that domestic abuse increases the complexity of a case, but that it has not been identified, case-managed or addressed properly at an early stage. Where allegations of abuse are relevant to financial outcomes, early identification and clear case management may make proceedings more efficient, not less. For example, in children proceedings, where domestic abuse is properly considered at the outset and, where necessary, a fact-finding hearing takes place early, this can avoid issues resurfacing repeatedly and causing greater delay later. A similar principle should apply in financial remedy and cohabitation proceedings.
37. To avoid proceedings becoming longer, more expensive or more traumatic, reforms should be accompanied by clear statutory guidance, early case management, judicial training, trauma-informed procedures, special measures, robust disclosure obligations and effective enforcement. Courts should be alert to the risk that perpetrators may use disputes about abuse, disclosure or process as a means of prolonging proceedings or continuing coercive control.
38. Courts should also avoid requiring victim-survivors to repeatedly relive abuse unnecessarily. Where findings have already been made in children proceedings,

protective injunction proceedings or other relevant proceedings, those findings should be capable of being relied upon where appropriate. The aim should be to ensure that domestic abuse is considered in a fair, structured and proportionate way, without adding unnecessary delay, cost or retraumatisation for victim-survivors.

**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?**

39. We strongly agree that the “gasp factor” language is inappropriate and should be replaced. It trivialises domestic abuse and sets a threshold that is both unclear and unrealistic. Abuse may be serious, harmful and life-altering even if it does not shock a judge who regularly hears such cases. The language also risks excluding coercive control and economic abuse, which are often cumulative, hidden and normalised by perpetrators.
40. We are concerned that a test based on whether conduct causes a judge to “gasp” is inherently subjective and risks inconsistent outcomes. It may be affected by assumptions, stereotypes or cultural bias. For example, abusive or controlling behaviour may be wrongly minimised as “normal” within a particular community, culture, religion or family structure. Conversely, conduct may be judged more harshly because of stereotypes about particular communities. Either approach is unacceptable. Domestic abuse should be assessed by reference to its nature, impact and relevance to the financial outcome, not through subjective reactions or assumptions.
41. We would also be very concerned if any replacement test simply reintroduced a high threshold in different language. Domestic abuse should not need to be exceptional, shocking or extreme before it can be considered. Any statutory test or guidance should avoid creating a new barrier that prevents victim-survivors from having the impact of abuse properly recognised.
42. We consider that any replacement test should focus on whether the behaviour is relevant to fairness, needs, resources, disclosure, safety, vulnerability or the integrity of the proceedings. In particular, domestic abuse should not be treated as relevant only in rare or exceptional cases. Where domestic abuse has affected a victim-survivor’s financial position, housing, earning capacity, debts, ability to negotiate, ability to disclose or participate safely in proceedings, it should be capable of being taken into account.
43. We also recommend that domestic abuse should be expressly recognised as a separate statutory factor, rather than being considered only through the language of “misconduct”. This would better reflect the reality that domestic abuse is often central to financial vulnerability and safety, rather than an exceptional form of bad conduct.

**Question 16. What forms of behaviour do you think should be considered as “misconduct”?**

44. Our view is that domestic abuse should be addressed expressly and separately in the statutory framework, rather than treated only as a sub-category of misconduct. Domestic abuse is not simply poor behaviour or moral fault. It may directly affect a victim-survivor’s needs, resources, housing, earning capacity, debts, ability to negotiate, ability to participate safely in proceedings, and the welfare of children.
45. In relation to misconduct more broadly, we consider that the focus should be on behaviour that affects the fairness of the financial outcome, the safety of the parties, or the integrity of the proceedings. This should include litigation abuse, non-disclosure, concealment of assets, deliberate dissipation of assets, fraudulent conduct, coercing a partner into debt, interfering with employment, withholding financial information, frustrating enforcement, or using proceedings as a means of continuing control.
46. We also believe that the court should be able to take into account conduct that is particularly relevant to the experiences of women in religious-only marriages, informal unions or culturally recognised relationships. This may include withholding or delaying a religious divorce as leverage, threatening immigration status, isolating a woman from support, using community or family pressure to control financial outcomes, or using children as a means of coercion.
47. Misconduct may also include deliberately or recklessly misrepresenting the legal status of the relationship. This may arise where one party leads the other to believe that they are in a legally recognised marriage or civil partnership when they are not, including in the context of a religious-only marriage, informal union or cultural ceremony. We are not suggesting that religious-only marriages are treated as misconduct in themselves. Our concern is with deception, concealment, coercion or exploitation, particularly where one party relies on the other’s lack of legal knowledge, language barriers, immigration vulnerability, or family/community pressure to avoid responsibility.

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

48. Misconduct should affect a financial remedies or cohabitation claim where it is relevant to fairness, disclosure, enforcement, the integrity of the proceedings, or the court’s ability to make a reliable decision. The court should be able to respond where one party’s conduct has distorted the financial picture, caused financial disadvantage, increased costs, or undermined the fairness of the process.

49. This may include non-disclosure, concealment of assets, deliberate dissipation of assets, fraudulent conduct, frustrating enforcement, withholding financial information, coercing a partner into debt, interfering with employment, or using proceedings as a means of continuing control. In appropriate cases, the court should be able to respond through adverse inferences, costs orders, enforcement orders, protective case management directions, or adjustments that reflect the financial consequences of the misconduct.
50. We also believe that misconduct should include deliberately misrepresenting the legal status of the relationship. This may arise where one party leads the other to believe they are in a legally recognised marriage or civil partnership when they are not, including in the context of a religious-only marriage, informal union or cultural ceremony. We are not suggesting that religious-only marriages are treated as misconduct in themselves. The concern is with deception, concealment, coercion or exploitation, particularly where one party relies on the other's lack of legal knowledge, language barriers, immigration vulnerability, or family/community pressure to avoid responsibility.
51. The court should also be able to take account of conduct which affects a party's ability to participate effectively in proceedings, including litigation abuse, intimidation, repeated procedural applications, refusal to provide documents, or other conduct designed to delay, exhaust or pressure the other party. Such behaviour can increase costs and may force vulnerable parties into unfair settlements.

**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?**

52. We do not consider that misconduct with direct financial consequences and misconduct without immediately obvious financial consequences should be placed in a hierarchy of seriousness. Both can be highly relevant to the fairness, safety and practical outcome of a case. The fact that harm is not easily quantifiable in financial terms does not mean it is less serious or less relevant.
53. Conduct with clear financial consequences, such as economic abuse, coerced debt, concealment of assets, dissipation of assets, non-disclosure or fraudulent conduct, may require the court to respond directly to the financial effect of that conduct. This may include adjusting the financial outcome, drawing adverse inferences, making costs orders, addressing abuse-related debt, or ensuring that concealed or dissipated resources do not prejudice the victim-survivor.
54. However, misconduct or abuse without an immediately quantifiable financial loss can be equally damaging. Coercive control, intimidation, threats, emotional abuse, isolation, immigration-related control, religious or community pressure, post-separation abuse and litigation abuse may affect a victim-survivor's safety, physical

and mental health, housing needs, earning capacity, ability to negotiate, ability to participate in proceedings, confidence, parenting capacity and ability to rebuild independence. These impacts may not appear as a simple financial loss, but they can still materially affect need, vulnerability and fairness.

55. The court should therefore retain flexibility to consider the nature, seriousness and consequences of the misconduct in each case. The question should not be whether the harm can be precisely monetised, but whether it is relevant to fairness, needs, resources, vulnerability, safety, disclosure, the welfare of children or the integrity of the proceedings.
56. We do not suggest that every form of misconduct should automatically result in an adjustment of assets. However, the court should be able to respond meaningfully where the misconduct has affected the victim-survivor, the children, the available resources, or the fairness of the process. Domestic abuse, including economic abuse, should also be recognised as a separate statutory factor so that victim-survivors are not required to force their experiences into a narrow or overly financialised framework.

**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?**

57. We agree that courts should be specifically required to consider pensions accrued during the marriage and pension needs. Pensions are often overlooked, yet they can be one of the most valuable matrimonial assets. Women are particularly likely to have lower pension provision because of caring responsibilities, part-time work, time out of the labour market and economic dependence. This can leave women financially insecure in later life, especially after divorce.
58. This is also important in cases involving economic abuse, where one party may have controlled family finances or limited the other party's ability to work, save or build pension provision. A specific statutory requirement would help ensure that pension inequality is not ignored and that settlements do not focus only on immediate housing at the expense of long-term security.

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

59. We agree that the proposed safeguards are necessary, but we do not consider they are sufficient on their own to protect against coercion. Independent legal advice, disclosure, execution as a deed and a 28-day period are important safeguards, but they cannot be treated as conclusive proof that an agreement has been entered into freely and safely. Coercion may be subtle, cultural, religious, emotional or economic. It may also be well-

hidden. A victim-survivor may present as consenting, may minimise what is happening, may not recognise their experiences as abuse, or may feel unable to disclose pressure because of fear, shame, family expectations, immigration dependency or financial control. This is not necessarily the fault of the legal adviser and instead reflects the reality that coercion and abuse are not always visible, particularly where they are embedded in family or community dynamics.

60. We ask that any new legislation should give the court a clear discretion not to uphold a qualifying nuptial agreement where, despite formal safeguards having been complied with, the court considers that the agreement was not entered into freely, safely or with genuine autonomy. This discretion should apply where there is evidence of coercion, undue pressure, exploitation, domestic abuse, economic abuse, material power imbalance, lack of meaningful understanding, or circumstances which made it unreasonable to expect the person to refuse or renegotiate the agreement at the time.
61. This is particularly important in communities where religious ceremonies, such as Islamic nikahs, may take place months or even years before the civil marriage or formal wedding celebration. By the time a nuptial agreement is proposed or signed, the woman may already be regarded by her family or community as married. In practical terms, walking away may carry the stigma of divorce or failed marriage, even if no civil marriage and/or cohabitation has yet taken place. There may also be significant financial and social pressure where large wedding celebrations have been arranged, deposits have been paid, guests have been invited, and cancellation would cause substantial cost or reputational consequences for both families. In those circumstances, the fact that a person signed an agreement after receiving legal advice does not necessarily mean they had a real or free choice.
62. We consider it essential that the court retains a residual discretion to waive or disapply the effect of a qualifying nuptial agreement where enforcing it would be unsafe or unfair. Without such a discretion, there is a risk that formal compliance with procedural safeguards could mask coercion and leave victim-survivors bound by agreements that do not reflect genuine consent.
63. Safeguards should also include domestic abuse and economic abuse screening, confirmation that advice was given in a language the person fully understands, culturally competent legal advice, and clear information about the legal consequences of the agreement.
64. For completeness, please note that MWNUK's position is not that qualifying nuptial agreements should be routinely disregarded. Rather, the legislation should recognise that procedural safeguards are necessary but not always sufficient. The court must retain the ability to look beyond the formalities and examine the reality of the circumstances in which the agreement was made, particularly where there are indicators of domestic abuse, economic abuse, cultural or family pressure, immigration vulnerability, or other

factors affecting genuine autonomy. The central question should not simply be whether the agreement was formally compliant, but whether the person had a genuine and safe ability to understand, negotiate and refuse it.

**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?**

65. We agree in principle that genuinely discretionary needs may be excluded under the qualifying nuptial agreement model, provided that the agreement was entered into freely, safely and with genuine informed consent. However, the exclusion of discretionary needs should not become a mechanism through which a financially stronger party limits the court's ability to meet essential needs or protect a vulnerable party.
66. This is particularly important because nuptial agreements may be entered into at a time of significant emotional, cultural, religious or family pressure. In some communities, including some Muslim and minoritised communities, a religious ceremony may already have taken place before the civil marriage or formal wedding celebration. By that stage, a woman may feel unable to refuse or renegotiate an agreement because of stigma, family expectations, financial pressure, immigration-related vulnerability, or the social consequences of the relationship not proceeding.
67. We believe that any exclusion of discretionary needs must be subject to strong safeguards and residual judicial discretion. The court should be able to look beyond formal compliance with the qualifying agreement requirements and consider whether enforcing the agreement would be unsafe or unfair. This should include cases involving coercion, undue pressure, economic abuse, lack of meaningful understanding, language barriers, material imbalance of power, or circumstances where one party could not realistically refuse.
68. The legislation should also make clear that the exclusion of discretionary needs cannot exclude provision required to meet essential needs. Provision connected to safety, housing, children's welfare, disability, health, abuse-related debt, pension disadvantage, or rebuilding basic independence after domestic or economic abuse should not be treated as optional simply because an agreement purports to exclude wider claims.
69. We therefore agree in principle with excluding genuinely discretionary needs under a qualifying nuptial agreement, but only where the agreement reflects genuine autonomy and where the court retains discretion to prevent hardship, injustice or abuse.

**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?**

- 70. We believe that, within the context of qualifying nuptial agreements, the assessment of needs should expressly include safe and suitable housing, income, capital, pension provision, childcare-related costs, disability and health-related costs, debt arising from the relationship, relocation costs where safety requires it, and the practical cost of rebuilding financial independence after domestic or economic abuse.
- 71. The assessment should also include legal advice, interpretation and translation needs where these are relevant to meaningful access to justice. This is particularly important where there are language barriers, immigration-related vulnerability, domestic abuse, economic abuse, or where one party has had limited access to financial information or independent advice.
- 72. We agree that genuinely discretionary luxuries can be excluded. However, safety-related expenditure should never be treated as discretionary. Moving home, securing independent accommodation, replacing essential documents, addressing coerced debt, obtaining legal advice, or accessing support to rebuild independence may all be necessary consequences of leaving an abusive or controlling relationship.
- 73. The key distinction should be between genuine luxuries and provision that is necessary to meet safety, dignity, health, disability, children’s welfare, access to justice, or realistic financial independence. A qualifying nuptial agreement should not be able to exclude needs that are essential to prevent hardship or protect victim-survivors and children.

**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?**

- 74. We agree that a pre-marital cohabiting relationship should count towards the length of marriage where it moves seamlessly into marriage. This reflects the reality of many relationships, where couples live as a family before formal marriage and make financial, caring and housing decisions during that period. It is also important for women who may have made sacrifices before the legal marriage, such as leaving employment, relocating, having children or becoming financially dependent. The court should consider the whole relationship context rather than treating the legal wedding date as the only relevant starting point.

**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?**

75. We agree that the court should take account of the Law Commission-style factors when assessing whether there has been seamless cohabitation prior to marriage, including the existence of a shared household, the duration and stability of the relationship, financial arrangements, responsibility for children, mutual commitment, and public acknowledgement of the relationship. The Law Commission's 2007 report considered the financial consequences of cohabiting relationship breakdown, including eligibility for a cohabitation scheme, so these factors provide a useful starting point for assessing whether a relationship was sufficiently committed and family-based.
76. In applying those factors to pre-marital cohabitation, the key question should be whether the pre-marital relationship and the subsequent marriage formed one continuous family relationship in substance. The court should consider whether the parties moved into marriage without a meaningful break, and whether one party made financial, employment, housing or caring decisions in reliance on the relationship before the legal marriage took place.
77. This is particularly important where there was a religious ceremony, such as a nikah, before the civil marriage. In such cases, the parties, their families and their community may already have treated the relationship as a marriage, even though the legal marriage occurred later. Women may also have made significant sacrifices before the civil marriage, such as leaving employment, relocating, taking on caring responsibilities or becoming financially dependent.
78. We feel that temporary periods of separation should not automatically prevent a finding of seamless cohabitation if the relationship continued in substance. For example, the parties may have lived apart temporarily because of work, housing, pregnancy, childbirth, caring responsibilities, immigration issues, health needs or family circumstances. The focus should be on continuity of commitment, interdependence and family life, rather than uninterrupted physical co-residence.
79. The court should also be cautious about treating a sexual relationship as a necessary or determinative factor. Requiring evidence about intimacy may be intrusive, culturally insensitive and potentially retraumatising, particularly for victim-survivors of domestic abuse, spiritual abuse or coercive control. Through MWN Helpline, we are aware that some Muslim women are subjected to spiritual abuse, including religiously framed pressure or coercion within intimate relationships. This can include being told that they are religiously obliged to comply with their husband's wishes, that refusing intimacy makes them sinful, or that they are a "bad wife" if they do not submit. It may also include selective or distorted use of religious teachings to shame, silence or control women, discourage them from seeking help, or make them feel that abuse is something they must endure for religious reasons. In those circumstances, placing weight on the presence or nature of a sexual relationship may risk reinforcing harmful dynamics or requiring women to disclose deeply private and distressing matters in order to prove

the status of the relationship. The focus should instead remain on whether the parties' lives were joined in a way that makes it fair to treat the pre-marital period as part of the overall marital relationship. Relevant considerations should include commitment, interdependence, shared household or family life, financial arrangements, caring responsibilities, religious or community presentation, and the extent to which one party made life decisions in reliance on the relationship. Sexual intimacy should not be required or treated as determinative.

**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?**

80. We agree in principle with this definition as a starting point. It appropriately excludes casual relationships, flatmates and family members, while capturing committed partners who live as a family without being legally married or in a civil partnership. This is particularly important for Muslim women in religious-only marriages, who may believe they are married in all meaningful respects but do not have the legal protections of civil marriage.
81. However, we believe that the concept of "living together" should be applied flexibly and in a culturally competent way. In some family structures, relationships may not involve both parties living together full-time in a conventional nuclear household. For example, a husband in a religious-only marriage may spend part of the week with his wife and part of the week with his parents or wider family, particularly where there are caring responsibilities, financial constraints, cultural expectations, overcrowding, work patterns or immigration-related issues. There may also be periods where the parties live apart temporarily because of family pressure, domestic abuse, housing insecurity, hospitalisation, employment, caring duties or religious/community dynamics.
82. There may also be periods where the parties live apart temporarily but remain in an enduring family relationship. For example, a woman may return to her parents' home during pregnancy or after childbirth because of family practice, cultural expectation, practical support, health needs or childcare support. Such a period of temporary absence should not automatically be treated as ending cohabitation or undermining the existence of an enduring family relationship, particularly where the parties continue to present as a couple, maintain financial or emotional interdependence, share responsibility for children, and intend to continue the relationship.
83. The definition should therefore focus on whether the parties were living as a couple in an enduring family relationship in substance, rather than requiring a narrow or overly rigid model of continuous co-residence. Commitment and interdependence may be shown through a range of factors, including religious ceremonies, shared children, financial arrangements, caring roles, public recognition, family or community presentation, shared decision-making, mutual support and the way the parties organised their lives together.

84. We are not suggesting that casual or intermittent relationships should fall within the framework. Rather, the concern is that women in genuine, committed and interdependent relationships should not be excluded simply because their living arrangements reflect cultural, religious, economic or family circumstances that differ from a standard western model of cohabitation. Clear statutory guidance will be needed to ensure that courts can distinguish between genuine enduring family relationships and relationships that are casual, non-committed or insufficiently interdependent.

**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?**

85. We agree that the court should take account of the factors identified in the Law Commission's 2007 report, including whether there was a shared household, the duration and stability of the relationship, financial arrangements, responsibility for children, mutual commitment, and public acknowledgement of the relationship. However, these factors should not be applied rigidly or as a checklist where every factor must be present. We believe the court should look at the substance of the relationship and whether the parties were living as a couple in an enduring family relationship. This is particularly important for women in religious-only marriages or informal unions, where the relationship may be understood by the parties, family and community as a marriage, even though it is not legally recognised as a civil marriage.
86. We consider that the court should also be able to take account of additional factors particularly relevant to women in religious-only marriages and culturally recognised relationships. These may include religious ceremonies such as a nikah, family or community presentation as husband and wife, shared children, shared financial responsibilities, emotional and practical support, and the extent to which one party made life decisions in reliance on the relationship.
87. The court should also be able to recognise temporary or non-conventional living arrangements, provided the relationship remained committed, interdependent and family-based. Temporary stays with parents or wider family, including during pregnancy, after childbirth, for caring responsibilities, work, health, housing or immigration-related reasons, should not automatically prevent a finding of cohabitation.
88. The court should also recognise that some women may not have access to conventional evidence of cohabitation, such as joint bank accounts, joint tenancies, shared bills or formal documentation. This may be because of economic abuse, coercive control, language barriers, immigration-related vulnerability, family pressure, or because one party controlled the finances and documents. Evidence should therefore be capable of including a broader range of material, such as religious ceremony evidence, messages,

photographs, evidence from family or community members, evidence of financial support, evidence relating to children, and evidence of how the parties organised their lives.

89. We would ask that the court treat the presence of a sexual relationship with caution. It should not be a required or determinative factor. Requiring evidence of sexual intimacy may be intrusive, culturally insensitive and inappropriate, particularly for victim-survivors of abuse or those whose circumstances involve trauma, health issues, religious considerations or coercion. The focus should be on commitment, interdependence and family life, rather than intimate details of the relationship.

**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?**

90. MWNUK agrees that couples who are already legally married or civil partnered to each other should use the existing divorce or dissolution framework, and that those who are too closely related to marry should be excluded from the cohabitation framework.
91. However, the Government should clarify whether, and if so how, the proposed framework would apply where one party to the cohabiting relationship is already legally married to, or in a civil partnership with, another person. This may arise in a range of circumstances, including where a person is in a religious-only marriage, an informal union, or another relationship which they believe to be committed and family-based, but where the other party remains legally married or civil partnered elsewhere. For example, in one MWN Helpline case, a woman entered into a nikah-only marriage after meeting a man through a Muslim marriage platform. He lived with her only part of the week and said he needed to spend time with his parents and wider family. She is unsure whether he has another spouse or partner, and whether any other marriage is legally recognised. This illustrates why the Government should clarify how the framework applies where living arrangements are non-conventional and where one party may already be legally married or civil partnered elsewhere.
92. We are not suggesting that the law should recognise or legitimise polygamy, or give legal recognition to any relationship that could not be recognised as a valid civil marriage or civil partnership. (Under the legal framework for civil marriage and civil partnership, a person who is already legally married or civil partnered cannot enter into a further valid civil marriage or civil partnership with another person). However, the consultation should expressly address whether a person in such circumstances would be eligible for any protection under the cohabitation framework, or whether they would be excluded altogether.

93. This clarification is important to avoid assumptions around the rights an individual may have. Any clarification should be framed carefully as an eligibility and safeguarding issue, rather than as legal recognition or approval of polygamous relationships.

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

94. We support setting the eligibility age for the cohabitation framework at 18. This is an important safeguard and is consistent with the wider legal approach to protecting children and young people from child marriage, coercion and exploitation. The framework should not unintentionally give legitimacy to relationships entered into by children, particularly where there may have been family pressure, unequal power, lack of informed choice, or limited ability to understand the legal and financial consequences.
95. However, we consider that this position requires an important qualification. Where a relationship began before one or both parties turned 18 but continued into adulthood, the pre-18 period should not automatically be treated as irrelevant. Once an applicant is an adult and otherwise eligible to apply, the court should be able to consider the full factual history of the relationship where it is relevant to fairness, vulnerability and financial need.
96. This is particularly important for young women who may have entered religious-only marriages, informal unions or cohabiting relationships before 18. In some cases, those relationships may have involved family or community pressure, cultural or religious expectations, pregnancy, economic dependence, immigration-related vulnerability, or coercive control. The consequences of that relationship may also have begun before adulthood, including financial dependence, caring responsibilities, interruption to education, reduced employment prospects, isolation from support networks, and domestic or economic abuse.
97. The law should therefore avoid two risks. It should not validate or encourage underage cohabitation or child marriage. Equally, it should not compound the disadvantage experienced by young women by ignoring the consequences of a relationship simply because those consequences began before they turned 18. We therefore support an eligibility age of 18, but recommend that legislation or statutory guidance should make clear that the court may take account of cohabitation that began before 18 where the relationship continued into adulthood and where doing so is necessary to achieve a fair and protective 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? If you disagree with the three-year minimum duration period suggested above, what period would you propose having instead?**

98. We broadly accept that a minimum duration threshold is appropriate where a couple do not have children together, in order to provide certainty and ensure that the framework applies to relationships involving genuine commitment and interdependence. The appropriate threshold should be determined by the Government following careful consideration of the impact on women, children, victim-survivors, disabled women, migrant women, and women in religious-only marriages or informal unions.
99. However, we have concerns that a rigid three-year threshold may exclude some vulnerable women, particularly those in religious-only marriages, abusive relationships, or relationships involving economic dependency. A woman may have made significant financial, caring, housing, immigration-related or employment decisions in reliance on the relationship well before the three-year mark. A strict threshold could therefore leave some women with no remedy despite genuine interdependence and serious hardship.
100. We would therefore ask that any minimum duration requirement should be accompanied by a clear judicial discretion to reduce or waive the threshold where strict application would cause injustice. A minimum threshold may provide certainty, but it should not operate as a rigid barrier that prevents fair outcomes for vulnerable women.
101. There may also be an unintended consequence of differentiating between couples with and without children, as the child-based exception may be capable of being used as a pressure point against women. For example, a woman may be told that having a child would give her greater security, so it is actually for her benefit to have a child. However, the real reason for pushing for a child is to increase her dependence, reduce her ability to leave, and deepen the perpetrator's or wider family's control over her life. We recognise that the Government cannot prevent all misuse or misrepresentation of the child-based exception. However, it can reduce the risk by ensuring that public communications do not suggest that having a child is a route to legal security. The child-based exception should be explained as a protective measure for children and financially vulnerable parents where a child already exists, not as an incentive to have children. Guidance and training should also recognise that reproductive pressure or coercion may form part of domestic abuse and coercive control. Where there is evidence that pregnancy or childbearing has been used to increase dependency or control, this should be capable of being considered by the court when assessing vulnerability, need and fairness.

**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?**

102. We strongly agree that the minimum duration requirement should be disapplied where cohabitants are living together and there is a child of the family.

103. Children should not be disadvantaged because their parents were not legally married or because the relationship was shorter than three years. The primary carer's housing and financial security are directly linked to the child's welfare. This is especially important for women who have recently had a child, reduced work, become economically dependent or experienced abuse during pregnancy or early parenthood. The framework should ensure that children and their carers can access protection promptly.

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

104. We accept that a time limit can provide certainty and encourage claims to be brought promptly and this proposal is agreed in principle. However, we are also concerned that a strict two-year limit may disadvantage victim-survivors and other vulnerable applicants. Women leaving abuse may spend months or years dealing with immediate safety, housing, trauma, children's arrangements, immigration issues, religious divorce, community pressure or lack of legal advice before they are able to bring a financial claim. For example, in one MWN Helpline case, a woman had been in a long relationship with teenage children when her husband disappeared abroad with his money. She was left uncertain about what financial support she could claim, whether he would return, and how any time limit would affect her position. This illustrates why limitation periods must include judicial discretion, particularly where there is non-disclosure, overseas assets, abandonment, economic abuse or practical barriers to bringing a claim promptly.

105. We therefore consider that any two-year limitation period should be accompanied by a discretion for the court to extend time where it is just and equitable to do so. This discretion will be particularly important in cases involving domestic abuse, economic abuse, disability, language barriers, coercion, lack of knowledge of rights, immigration-related vulnerability or ongoing post-separation control. Without such discretion, there is a risk that in some cases, the limitation period could operate unfairly against the very women the cohabitation framework is intended to protect.

**Question 32. Do you agree that "needs" should be the guiding principle the court follows for determining outcomes when cohabitants separate?**

106. We agree that needs should be the guiding principle for determining outcomes when cohabitants separate. This is preferable to the current position, where cohabitants often have to rely on general property or trust law principles which were not in principle designed to address the specific consequences of family breakdown.

107. For example, in one MWN Helpline case, a woman in a nikah-only marriage had helped with the deposit and contributed towards mortgage payments, but the property was held in the man's sole name. When the relationship became abusive and ended, she had to go into refuge and was left without straightforward protection in relation to the home. In another MWN Helpline case, a woman had been in a long relationship and lived with teenage children in a council property held in her husband's name. When the relationship broke down, he told her she could move out and that the children could remain with him. These cases show why a narrow focus on legal ownership is inadequate and why a needs-based framework must be able to address housing insecurity, financial contribution and economic abuse. A needs-based framework is more capable of recognising unpaid care, economic dependence, children's welfare, disability, domestic abuse and economic abuse.
108. However, we strongly believe "needs" must be defined in a way that reflects the real circumstances of women's lives. It should include safe and suitable housing, income needs, capital needs, childcare and caring responsibilities, disability and health-related needs, debt, pension disadvantage where relevant, and the impact of domestic and economic abuse. The needs may also include the practical support required to rebuild independence after a relationship involving coercive control, financial dependence or isolation.
109. We therefore support needs as the guiding principle, but urges that the legislation and guidance make clear that needs should not be assessed at a bare subsistence level. The purpose of the framework should be to prevent hardship and promote safe, realistic independence, particularly for women and children who may have been made vulnerable by the relationship, caring responsibilities, disability, immigration-related vulnerability or 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?**

110. We agree in principle that the objective should be to terminate dependence and obligations as soon as is just and reasonable. However, the words "just and reasonable" are critical. The framework must not create pressure for a premature clean break where this would leave women or children in hardship, unsafe housing or ongoing financial insecurity.
111. Some women may need time-limited support to rebuild employment, secure housing, recover from abuse, address coerced or abuse-related debt, regularise immigration status, or manage disability and caring responsibilities. This is particularly important where there has been domestic or economic abuse, as the victim-survivor may need time to rebuild financial independence after a period of control, isolation or dependency.

112. The objective should be independence, but safe and realistic independence. It should not be based on an artificial assumption that dependence can end immediately, particularly where the relationship has created financial vulnerability, caring responsibilities, trauma, disability-related needs or disadvantage in the labour market.

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

113. We agree in principle that discretionary needs may be excluded for cohabitants in order to maintain a distinction between cohabitation and marriage. However, we feel the legislation and guidance must define discretionary needs carefully. Costs associated with safety, disability, health, childcare, relocation, transport to school, legal advice, language support, or rebuilding financial independence after abuse should not be treated as discretionary. We are concerned that essential needs may be minimised as “extras” if the court takes too narrow an approach.
114. Caution is also needed where the standard of living during the relationship has itself been shaped by coercive control or economic abuse. Some victim-survivors may have been forced to live extremely frugally, denied access to money, prevented from travelling, socialising, studying, working, pursuing hobbies, visiting family, or doing things that supported their wellbeing. In those circumstances, it would be unfair if the abuser were effectively rewarded because the victim-survivor’s life had already been restricted and deprived, and those losses are then dismissed as merely “discretionary”.
115. This is particularly important where women have experienced multi-stage or lifelong patterns of control. Through the MWN Helpline and our wider work, we are aware of cases involving Muslim women and other minoritised women who have been controlled by parents or family members before entering a relationship, including being prevented from travelling, socialising, studying, working, or pursuing ordinary leisure and personal development opportunities. Some women then enter a religious-only marriage or cohabiting relationship where similar restrictions continue. By the time the relationship ends, they may have had years of autonomy, confidence, opportunities and ordinary life experiences taken away. The court should not treat the absence of leisure, travel or personal development during the relationship as evidence that these matters were unimportant or irrelevant.
116. We are not suggesting that cohabitants should receive awards for luxury or lifestyle expectations equivalent to divorce. However, the exclusion of discretionary needs should not prevent the court from recognising the impact of coercive control, economic abuse, isolation and deprivation on a victim-survivor’s ability to rebuild an independent life. The court should retain flexibility to distinguish between genuine

luxuries and provision that is practically necessary to restore safety, dignity, wellbeing, confidence and independence after abuse.

**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?**

117. We strongly agree that the court should take account of needs arising from wider circumstances than the relationship, including serious health conditions and disabilities. Many women who separate from cohabiting partners may have disabilities, mental health impacts from abuse, trauma, caring responsibilities, pregnancy-related needs or long-term health conditions that affect their ability to work and live independently. A framework that excludes these needs would fail to protect the most vulnerable.
118. The court should be able to consider health, disability, neurodiversity, pregnancy, caring responsibilities, language barriers, immigration-related vulnerability and the practical consequences of domestic and economic abuse when assessing financial provision. These factors may directly affect a woman's housing needs, income needs, ability to work, ability to access advice, and ability to rebuild safe and independent living arrangements after separation.
119. The Government should also consider the position of women with insecure immigration status or no recourse to public funds, who may face particular barriers to leaving abusive relationships, accessing housing, obtaining advice or pursuing remedies.

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

120. We agree that there should be a checklist of matters the court must particularly consider when applying the needs principle. A checklist would improve consistency, transparency and accessibility, particularly for litigants in person and those who may have limited knowledge of their legal rights. It would also help ensure that important factors are not overlooked, especially where a woman's financial vulnerability is not obvious from legal ownership of assets alone.
121. The checklist should include the parties' financial resources, income, earning capacity, housing needs, capital needs, pension position, debts, age, health, disability, neurodiversity, pregnancy, caring responsibilities, responsibility for children, and the length and nature of the relationship. It should also include the extent to which either party made financial, employment, immigration-related, housing or caring decisions in reliance on the relationship.

122. We strongly feel the checklist should expressly include domestic abuse, economic abuse, coercive control, post-separation abuse, litigation abuse and spiritual abuse. By spiritual abuse, we mean the misuse of religion, religious authority, religious teachings or spiritual beliefs to control, shame, isolate, threaten or coerce a person. This may include using religious arguments to pressure a woman to remain in a relationship, discouraging her from seeking legal advice, withholding or delaying a religious divorce, threatening community or spiritual consequences, or using faith-based language to justify financial control or abuse. The concern is not religious belief or practice itself, but the exploitation of religion or spirituality as a mechanism of coercion and control.

123. The checklist should also include factors particularly relevant to women in religious-only marriages or informal unions, including whether one party believed they were in a secure family relationship, whether the relationship was presented to family or community as marriage-like, whether there were language barriers, immigration-related vulnerability, family or community pressure, or lack of access to independent legal advice.

124. We also feel that the checklist should not be exhaustive. The court should retain flexibility to consider any other matter relevant to needs, vulnerability, fairness, safety, the welfare of children, or the ability of either party to rebuild independence after separation.

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

125. We support the proposed range of remedies, including property adjustment orders, lump sum orders, pension sharing orders and time-limited maintenance in exceptional circumstances. A broad remedial toolkit is necessary because cohabiting relationships vary significantly. Some women may need housing provision, others may need a lump sum to address debt or relocation, and others may need pension adjustment after long periods of unpaid care. Limiting the court's remedies would risk unfair outcomes and may force courts into unsuitable awards. The key safeguard is that remedies should be needs-based and proportionate, not equivalent to automatic sharing on divorce.

**Question 38. In relation to maintenance in particular, do you agree with the following 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.**

126. Our overall response is as follows:
- a. Statement 1: Agree
  - b. Statement 2: Agree
  - c. Statement 3: Agree only with qualification, because there should be limited discretion to extend.
127. We agree in principle that maintenance for cohabitants should generally be available only in exceptional circumstances and should usually be time-limited. However, we do not agree that a maintenance order should never be extendable beyond the original period set by the court. There should be a limited judicial discretion to extend a maintenance term where refusing to do so would cause serious hardship or injustice. This may be particularly important where the receiving party has a disability, serious health condition, caring responsibilities, or has experienced domestic abuse, economic abuse, trauma, immigration-related vulnerability or other barriers to rebuilding independence.
128. A rigid non-extendable rule may produce unfair outcomes where the original term was based on assumptions that later prove unrealistic. For example, a woman may not be able to return to work as quickly as expected because of ongoing caring responsibilities, health needs, trauma recovery, housing instability or the continuing effects of economic abuse. In those circumstances, the court should not be forced to end maintenance if doing so would leave the recipient or children in hardship.
129. We therefore support maintenance being exceptional and time-limited, but ask that the court retain discretion to extend the term in clearly defined circumstances where this is necessary to achieve a fair and protective outcome. This would preserve the limited nature of maintenance for cohabitants while avoiding injustice in cases involving vulnerability, abuse, disability or caring responsibilities.

**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?**

130. We agree in principle that cohabitants should not receive a higher award than would reasonably have been made on divorce in identical circumstances. This helps preserve the legal distinction between marriage and cohabitation. However, the comparison must not be used to drive awards down artificially. In many cases, a needs-based cohabitation award will already be narrower than a divorce award because the sharing principle will not apply. The safeguard should therefore operate as an upper limit only, and not as a reason to deny necessary provision for housing, children, disability, safety or recovery from abuse.

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

131. MWNUK's concerns in relation to qualifying nuptial agreements apply equally to opt-out agreements. Procedural safeguards are necessary, but they should not be treated as conclusive where there is evidence that the agreement was affected by coercion, undue pressure, economic abuse or a material power imbalance. The court should retain a clear discretion to set aside or disapply an opt-out agreement where enforcing it would be unsafe or unfair.
132. More fundamentally, we are concerned by the policy need for an opt-out mechanism at all. If a person genuinely does not wish to exercise rights under the cohabitation framework, they can choose not to bring a claim if the relationship ends. An opt-out agreement, by contrast, risks requiring a person to give up rights in advance, at a point when they may not fully understand their future vulnerability, may not have equal bargaining power, or may feel unable to refuse.
133. This is particularly concerning for Muslim women in religious-only marriages. MWNUK's experience is that women may already face pressure not to insist on a civil marriage, leaving them without the protections of marriage despite believing they are in a secure family relationship. There is a real risk that the same dynamics could arise in relation to opt-out agreements, with women being pressured to give up cohabitation rights in order to proceed with a relationship, religious ceremony, family arrangement or shared household. The concern is not simply whether legal advice was technically provided. A woman may receive advice but still feel unable to refuse because of family pressure, community expectations, financial dependence, immigration-related vulnerability, fear of stigma, emotional pressure, or economic abuse. In some cases, the very protections introduced by the cohabitation framework could be removed by the same pressures that prevented the woman from securing a civil marriage in the first place.
134. We therefore urge the Government to consider carefully whether an opt-out mechanism is necessary. If it is retained, the safeguards must be robust, mandatory and accompanied by a clear judicial discretion to set aside or disapply the agreement where there was coercion, undue pressure, economic abuse, lack of genuine consent, material power imbalance, or where enforcement would be unsafe or unfair.

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

135. MWNUK strongly agrees that an opt-out should not prevent an application on behalf of a child.

136. Children are not parties to opt-out agreements and should not lose legal protection because of decisions made by adults. This is especially important where one parent has been coerced into signing an agreement or did not understand its consequences. Child maintenance, Schedule 1 claims and any other child-focused remedies must remain available. The welfare and financial security of children should be protected regardless of their parents' relationship status or private arrangements.
137. Through the MWN Helpline, we regularly hear from women whose partners leave the relationship and do not provide meaningful financial support for the children. While child maintenance may be available, child maintenance alone may not address housing insecurity, debt, relocation, or the wider financial vulnerability of the parent caring for the children. This reinforces why child-related remedies and applications must remain protected regardless of any private agreement between adults.

**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?**

138. The reforms should be communicated through a sustained, multilingual public legal education campaign, not simply through GOV.UK guidance. The "common law marriage" myth is deeply embedded and cannot be corrected by passive online information alone. Many people, particularly women in long-term cohabiting relationships or religious-only marriages, may believe they already have legal protections when they do not. Public messaging should therefore clearly explain the difference between civil marriage, religious-only marriage, civil partnership and cohabitation, and should set out what rights do and do not arise in each situation.
139. We would propose targeted outreach through schools, colleges, maternity services, registrars, mosques and other faith settings, community organisations, domestic abuse services, family hubs, GP surgeries, housing services, social media, ethnic minority media and legal advice clinics. Information should be available in community languages and accessible formats, including easy-read materials, videos, audio explainers and translated guidance. The messaging should be practical and direct, including clear examples of common situations, such as couples living together for many years, couples with children, religious-only marriages, and partners who separate or die without a will.
140. In particular, the Government should work closely with women's organisations, domestic abuse charities, specialist "by and for" organisations, migrant women's organisations, faith-sensitive support services and community legal advice providers to design and deliver the campaign. These organisations are often trusted by women who may not engage with government guidance or mainstream legal services, including women experiencing domestic abuse, economic abuse, language barriers,

immigration-related vulnerability or family/community pressure. Working with specialist organisations would also help ensure that the information is trauma-informed, culturally competent and accessible to those most at risk of being excluded from legal protection.

141. Public awareness work should also include specific guidance for victim-survivors of domestic and economic abuse. Any campaign must recognise that some women may be unable to access information safely, may have their internet use monitored, or may be prevented from seeking advice. Domestic abuse services and women's charities should therefore be resourced to provide safe, confidential information about the reforms, including how legal rights may apply on separation, how opt-out agreements work, and where to seek independent advice.
142. Public education on the cohabitation framework should be linked to wider information about civil marriage, religious-only marriage, financial dependence, children, housing, wills and inheritance. The reforms should be presented as part of a broader effort to improve legal awareness and prevent women and children from being left without protection. A one-off communications campaign will not be sufficient. The Government should commit to ongoing public legal education, evaluation of public understanding, and continued partnership with women's and domestic abuse organisations to ensure the message reaches the communities most affected.
143. The Government should also consider practical access to justice, including legal aid availability, affordable legal advice, disability-related adjustments, digital exclusion, safe access to information for victim-survivors, and interpretation or translation support.

**Question 43. Should qualifying cohabitants receive the same intestacy rights as spouses or civil partners?**

144. We support qualifying cohabitants receiving intestacy rights equivalent to spouses or civil partners, provided that the qualifying criteria are clear, carefully defined and appropriately protective. Where a couple has built a shared life, home and family together, it can be deeply unfair for the surviving partner to be left with no automatic entitlement simply because there was no valid will. This can be particularly devastating for women in long-term cohabiting relationships or religious-only marriages who believed, socially, religiously or practically, that they were in a secure family relationship.
145. This issue is especially important for women who may have lived with the deceased for many years, raised children with them, provided unpaid care, contributed to the household, or become financially dependent on them. In some cases, the surviving partner may have limited independent income, limited knowledge of the

family finances, language barriers, immigration-related vulnerability, or may have been subject to domestic or economic abuse. Without automatic intestacy rights, such women may be left reliant on discretionary claims, negotiation with the deceased's family, or litigation at a time of grief and financial insecurity.

146. However, the qualifying criteria should be clear enough to reduce uncertainty and avoid disputes, particularly in blended families or where there are children from previous relationships. The framework should also address what happens where the deceased leaves a surviving legal spouse or civil partner. Our view is that the reform should not be interpreted as displacing the legal status of marriage or civil partnership, and the Government should make clear how competing claims would be managed in those circumstances.
147. The Government should also consider the risk of coercion, financial abuse or disputed relationships. For example, there may be cases where the surviving partner's status as a cohabitant is challenged by family members, or where the deceased's children or other dependants are concerned about the impact of the claim. Clear eligibility rules, appropriate evidence requirements and access to dispute resolution will therefore be important.
148. This reform should also be accompanied by clear public education on the importance of making a valid will. Intestacy reform should provide a safety net, not replace proper estate planning. This is particularly important for blended families, families with children from previous relationships, religious-only marriages, and communities where religious, cultural and civil legal understandings of marriage and inheritance may differ. Public information should make clear that the safest way to ensure a person's wishes are followed, and to reduce conflict after death, is still to make a valid will.

**Question 44. Should qualifying cohabitants have the same priority as spouses and civil partners to apply for a Grant of Administration where their partner dies intestate?**

149. We agree that qualifying cohabitants should have the same priority as spouses and civil partners to apply for a Grant of Administration where their partner dies intestate (subject to the priority of any surviving legal spouse or civil partner). It would be illogical and distressing for a surviving cohabitant to inherit under the intestacy rules but be unable to administer the estate. This could cause delay, conflict and practical hardship, particularly where relations with the deceased's wider family are strained. Aligning inheritance entitlement and administration priority would create a clearer, fairer and more workable system.
150. However, it is essential that the Government should make clear that where there is a surviving legal spouse or civil partner, that spouse or civil partner should retain priority in accordance with the existing approach. This is important to avoid

uncertainty and to ensure that the reform is not interpreted as displacing the legal status of marriage or civil partnership.

**Question 45. What, if any, are the other factors the Government should consider when deciding on the definition of a cohabitant for the purposes of intestacy rights?**

151. In defining a cohabitant for intestacy purposes, the Government should balance certainty with fairness. Relevant factors should include whether there was a shared household, the duration of the relationship, financial interdependence, responsibility for children, mutual commitment, public presentation of the relationship, religious ceremonies, shared caring responsibilities, and periods of involuntary absence, such as hospitalisation, caring duties, immigration issues or work-related separation.
152. The definition should be capable of recognising religious-only marriages and culturally recognised unions where the couple lived as spouses in all practical respects, even if there was no legally valid civil marriage. This is particularly important for women who may have believed they were in a secure family relationship but later discover that they do not have the legal status or protections of a spouse.
153. At the same time, succession law requires clarity in order to minimise disputes, particularly in blended families or where there may be competing claims from children, former partners or wider family members. The Government should provide clear guidance on the evidence required to establish cohabitation, while recognising that some women may not have access to conventional evidence such as joint bank accounts, joint tenancies or shared bills, particularly where there has been economic abuse, coercive control, immigration-related vulnerability or family opposition.
154. Guidance should also address competing claims, abuse, coercion and the position of vulnerable surviving partners. The definition should be clear enough to reduce uncertainty, but flexible enough to avoid excluding women who were in genuine, committed and interdependent relationships but whose circumstances do not fit a narrow or document-heavy model of cohabitation.
155. The Government should also consider cases involving overseas assets or where religious and civil understandings of inheritance differ, as these may create additional confusion or disputes for surviving partners and children.

**Question 46. What do you consider to be an appropriate minimum duration period where the couple do not have a child together? What are the potential unintended consequences of setting either a shorter or a longer minimum duration period?**

156. We agree that, where a couple do not have a child together, a minimum duration period may be appropriate in order to provide certainty and reduce disputes in the context of intestacy. We do not propose a specific minimum period at this stage and the appropriate threshold should be determined by the Government following careful consideration of the likely impact on women, vulnerable surviving partners, blended families, children from previous relationships and other dependants.

157. The Government should ensure that any minimum duration period does not create arbitrary unfairness. A shorter period may better protect vulnerable surviving partners, including women in religious-only marriages or informal unions who believed they were in a secure family relationship, but may also increase disputes where relationships are relatively new or contested. A longer period may provide greater certainty, but may exclude genuine relationships involving financial dependence, caring responsibilities, disability, domestic abuse, economic abuse or immigration-related vulnerability.

158. We ask that any minimum duration requirement is supported by clear statutory guidance and appropriate safeguards to prevent serious injustice. The court should also have a limited discretion to reduce or disapply the minimum duration requirement where strict application would produce an unfair or unjust outcome.

**Question 47. What do you consider to be an appropriate minimum duration period where the couple have a child together? Are there any specific risks or benefits you have identified that the Government should consider when setting a minimum duration period for couples with a child together?**

159. We believe that the presence of a shared child should be treated as a significant factor when setting any minimum duration period. Where there is a shared child, the relationship is likely to have created financial and caring responsibilities which may continue after death, particularly for the surviving parent. However, we does not propose a specific minimum period. The appropriate threshold should be determined by the Government following careful consideration of the impact on surviving parents, children, blended families and other beneficiaries.

160. The Government should ensure that any minimum duration period does not operate unfairly against children or surviving parents who may already be financially vulnerable. We recommend that, where there is a shared child, the court should have discretion to reduce or disapply any minimum duration requirement where strict application would cause hardship or injustice to the surviving parent or child. This would help ensure that the minimum period operates as a safeguard for certainty, rather than as a rigid barrier to protection in cases where the relationship created real financial dependence, caring responsibilities or vulnerability.

**Question 48. Do you agree with the Government's proposal to extend eligibility for I(PFD)A 1975 claims where cohabitants have shared children?**

161. We agree in principle with extending eligibility for Inheritance (Provision for Family and Dependants) Act 1975 claims where cohabitants have shared children. Under the current law, a cohabitant must generally have lived in the same household as the deceased, as if married or civil partnered, for the whole period of two years immediately before death in order to apply as a cohabitant. This can exclude surviving partners who had children with the deceased but did not meet the two-year requirement.
162. We recommend that the Government clarifies what is meant by “shared children”, including how the provision would apply to biological children, adopted children, and children treated as children of the family. Clear wording would help avoid uncertainty and ensure consistency.

**Question 49. Are there any wider impacts of extending eligibility for I(PFD)A 1975 claims where cohabitants shared children that the Government should consider?**

163. The Government should consider the potential for an increase in claims, but this should be balanced against the benefit of preventing serious hardship for surviving parents and children. It is important to emphasise that this reform would not guarantee an award in every case. It would simply allow the court to consider whether reasonable financial provision should be made from the estate.
164. Clear guidance will be needed to reduce uncertainty and avoid unnecessary litigation, particularly around evidence of the relationship, the meaning of “shared children”, financial dependence, caring responsibilities, domestic abuse, economic abuse and the needs of the surviving parent and child. The Government should also consider the possibility of competing claims, including where the deceased had children from different relationships, children from a previous marriage or relationship, adopted children, or children who were treated as children of the family.
165. We recognise that courts are already used to considering competing claims under the Inheritance (Provision for Family and Dependants) Act 1975. However, clear statutory drafting and guidance would help reduce uncertainty, particularly where there may be disagreement about whether a person qualifies or what provision should be made. Public education about wills should accompany any reform, so that this change is understood as a safety net rather than a substitute for making a valid will.

**Final Comments**

166. MWN UK also recommends that the Government monitors the equality impacts of any reforms after implementation, including by sex, ethnicity, religion, disability, age and immigration-related vulnerability. This would help assess whether the reforms

are delivering meaningful protection for Muslim women, minoritised women, disabled women, migrant women and victim-survivors of domestic and economic abuse.

167. We would like to thank the Ministry of Justice for holding this consultation and providing us with the opportunity to share our comments and insights. We hope it proves to be useful in your considerations.

**On behalf of Muslim Women's Network UK,  
Nazmin Akthar  
Co-Chair**

**14 August 2026**

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