

# Dividing property and finances on divorce: what happens in cases involving domestic abuse?

Report

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## The research

This report explores a subset of the Fair Shares dataset to answer several policy and practice focused questions to help understand more about the profile, experiences and outcomes of divorcees who had experienced domestic abuse during their marriage. The study was led by Professor Emma Hitchings at the University of Bristol.

More information about the Fair Shares project can be found at:

<https://www.bristol.ac.uk/law/fair-shares-project/>

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ISBN: 978-1-9164642-6-1

## Contents

1. Introduction .....	1
2. What is the profile of divorcees who were survivors of domestic abuse? .....	5
3. What routes did survivors of domestic abuse go through to reach a financial settlement, and what was their experience of the process? .....	19
4. What were the asset splits for survivors of domestic abuse, and what ongoing financial support was there? .....	38
5. For those with children, what child arrangements were made? .....	50
6. How are these divorcees doing financially up to five years after divorce? .....	56
7. Conclusions .....	60

## 1. Introduction

The Fair Shares Report,<sup>1</sup> published in November 2023, provided a comprehensive overview of the financial settlements that people make on divorce, being the first fully representative study in England and Wales of those arrangements. There is currently interest in understanding more about the experiences and outcomes of divorcees who had experienced domestic abuse during their marriage and the relationship between domestic abuse and financial remedies.<sup>2</sup> This paper provides a timely fresh exploration of the Fair Shares dataset to answer several policy and practice focused questions to help understand more about the profile and experiences of divorcees in these cases, and the arrangements they came to.

Domestic abuse, including controlling behaviour,<sup>3</sup> has received greater recognition in relation to disputes over child arrangements than financial matters in England and Wales.<sup>4</sup> Consequently, there is limited existing evidence on domestic abuse in financial and property cases on divorce. Court file surveys in England and Wales have found evidence of domestic abuse in around one third of financial remedy cases that go through the courts,<sup>5</sup> whilst international research has provided evidence on the outcomes of financial proceedings in such cases, an Australian study showing that a history of domestic abuse in the relationship is correlated with poorer financial outcomes for women.<sup>6</sup>

The Fair Shares dataset therefore provides a unique basis on which to aim to answer questions in the England and Wales context about the profile and experiences of, and the financial arrangements reached by divorcees who identified domestic abuse as a reason for

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<sup>1</sup> E Hitchings, C Bryson, G Douglas, S Purdon and J Birchall, *Fair Shares?: Sorting out money and property on divorce* (University of Bristol, 2023).

<sup>2</sup> For example, as part of its scoping exercise, the Law Commission is considering the operation of 'conduct' as a factor to which the court must have regard when deciding to make financial remedy orders. Law Commission, *Terms of Reference – Financial Remedies on Divorce and Dissolution*. In addition, Resolution established a working group to consider the issue of economic abuse in financial cases which reported on their own practitioner survey and provided recommendations for reform, Resolution, *Domestic abuse in financial remedy proceedings* (2024).

<sup>3</sup> See Domestic Abuse Act 2021, s 1(3), which includes 'controlling or coercive behaviour' within the definition of abusive behaviour.

<sup>4</sup> But see Resolution, *Domestic abuse in financial remedy proceedings* (2024); J Crisp et al, 'Domestic Abuse in Financial Remedy Cases' (2022) *Financial Remedies Journal* 123-126; O Piercy and A Mehta, 'Is It Time to Consign the 'Gasp' Factor to the History Books?' (2023) *Financial Remedies Journal*, blog post, 18 October 2023, <https://financialremediesjournal.com/>

<sup>5</sup> See E Hitchings, J Miles and H Woodward, *Assembling the jigsaw puzzle: understanding financial settlement on divorce* (University of Bristol, 2013) where alleged conduct amounting to domestic abuse was described in the divorce paperwork in 25 per cent of consent order cases and 38 per cent of contested cases. Given the fact that divorce paperwork will not necessarily reflect a history of domestic abuse in the relationship, the figures in the *Jigsaw Puzzle study* are likely to be an underestimate.

<sup>6</sup> See B Fehlberg and C Millward, 'Family Violence and Financial Outcomes After Parental Separation', in A Hayes and D Higgins (eds) *Families, Policy and the Law: Selected Essays on Contemporary Issues for Australia* (AIFS, 2014) 235; R Kaspiw et al, *Domestic and Family Violence and Parenting: Mixed Method Insights into Impact and Support Needs: Final Report* (Australian Institute of Family Studies and Australian National Research Organisation for Women's Safety, 2017) and G Sheehan and B Smyth 'Spousal violence and Post-Separation Family Law' [2000] 14 *Australian Journal of Family Law* 102.

the breakdown of their marriage. The study collected quantitative data via a bespoke large-scale online survey of recent divorcees alongside in-depth qualitative interviews. The survey was carried out by the research organisation YouGov through its online panel, with 2,415 online survey responses. Additional qualitative data were gathered through interviews with individuals who had been divorced in the past five years. The sample of 53 interviewees were purposively selected to ensure our interview sample reflected the ‘top-line’ statistics in the survey sample (i.e. those with and without dependent children / those with court orders and without).<sup>7</sup>

This paper is based on the reports of 670 divorcees who reported in the Fair Shares survey that the abusive behaviour of their ex-spouse<sup>8</sup> was a reason for the breakdown of their relationship.<sup>9</sup> They account for three in ten (28 per cent) divorcees within the survey, eight in ten (79 per cent) of whom were women. Because our survey question focused on the reasons for the end of the relationship,<sup>10</sup> rather than asking specifically about any incidences of domestic abuse during the marriage, we expect not to have identified all relationships featuring domestic abuse within our survey sample. For that reason, we do not seek to quantify the size or profile of the domestic abuse survivor population among divorcees.

The qualitative data were drawn from the interviews of 12 divorcees, a large proportion of whom were women, who reported abuse on the part of their ex-spouse during the marriage.<sup>11</sup> This accounts for just under a quarter (23 per cent) of the qualitative sample. Identifying the existence of abuse is not clear cut: actions by a spouse which may come across as merely dishonest or manipulative in isolation may amount cumulatively to a pattern of abusive behaviour. We have therefore taken an inclusive approach to bringing interviewees into the qualitative sample, including: (i) any interviewees who expressly noted in the pre-interview survey that abusive behaviour was the or a reason for the marriage breakdown; and (ii) cases where the researcher identified what amounted to a pattern of domestic abuse described within the interview.<sup>12</sup>

Our understanding of the financial settlements made in all of these cases, in both the survey and interview samples, comes from the reports of those who said that their ex-spouse was the perpetrator of the abuse. For the sake of brevity, we refer to these divorcees as survivors

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<sup>7</sup> For a full account of the methods used in the study, see E Hitchings, C Bryson, G Douglas, S Purdon and J Birchall, *Fair Shares? Sorting out money and property on divorce* (University of Bristol, 2023), ch 2.

<sup>8</sup> The survey question asked ‘Why would you say you split up?’, with response categories including ‘abusive/controlling behaviour’. A follow up question asked whether this was the behaviour of their ex-spouse, of themselves or of both parties.

<sup>9</sup> The divorcees in the study received their Decree Absolute before the introduction of ‘no-fault’ divorce (Matrimonial Causes Act 1973, s 1, as amended by the Divorce, Dissolution and Separation Act 2020), at which point the basis for the breakdown of a marriage was no longer relevant to obtaining a divorce. The reasons they gave in the survey for the relationship breakdown will not necessarily have been reflected in the given reason in the divorce application.

<sup>10</sup> Survey participants were asked to think back to the period that they separated with their ex-spouse and asked the reasons why they and their ex-spouse had split up.

<sup>11</sup> No further details of the gender breakdown are provided. This is due to the size of the qualitative sub-sample and to protect the identity of the interview participants.

<sup>12</sup> There were four cases within the qualitative sample where the interviewee did not mention domestic abuse until the interview and one further case where the interviewee did not recognise the economic abuse they had been subject to as domestic abuse.

of domestic abuse, or survivors. Very few divorcees in the survey cited their own abusive behaviour as a reason for the relationship breakdown.<sup>13</sup>

Because the profile of the female and male survivors differed quite substantially, we report on them separately. We are more limited in what we can say about male survivors, of whom we had only 142 in the survey. Furthermore, the very limited number of male survivors in the qualitative sample means that what we cannot comment on their particular experiences and outcomes.

## Research questions

In this paper, we address the following research questions, each time comparing survivors of domestic abuse with other divorcees:

- a) What is the profile of divorcees who identified domestic abuse on the part of their ex-spouse as a reason for the breakdown of their relationship?
- b) What routes did they go through to reach a financial settlement, and what was their experience of the process?
- c) What were the asset splits for these divorcees, and what ongoing spousal support was there?
- d) For those with children, what child arrangements were made, both in relation to living arrangements and finances?
- e) How are these divorcees doing financially up to five years after divorce?

## Note on the presentation and interpretation of the findings

The survey findings are presented in Figures and Tables, with further detail and explanation in the text. Where we make comparisons between survivors of domestic abuse and other divorcees, differences in the findings have been tested for statistical significance, with the p-value showing the probability that a difference we observe is simply down to chance, rather than being a real underlying difference between the two groups. A p-value of less than five per cent (p-value <0.05) is conventionally taken to indicate a statistically significant difference. Unless otherwise stated, only statistically significant findings are reported, with the term 'statistically significant' often abbreviated to 'significant' in the text. The majority of the statistical tests for the comparisons across groups are based on chi-squared statistics, taking into account the weighting of the data.

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<sup>13</sup> It is unsurprising that perpetrators may choose to provide other reasons for the marriage breakdown, but, as a result, our data severely underrepresent them. Only one per cent of divorcees reported that their own abusive behaviour was a reason for the marriage breakdown and a further one per cent reported that it was due to both spouses abusive behaviour. (We restrict our 'survivor' sample to those who cited only their ex-spouse as the perpetrator, rather than situations where they were both abusive.) Likewise, nearly all those who raised domestic abuse within the qualitative interviews were survivors.

Due to rounding, percentages in the Figures and Tables do not always total 100 per cent. Where participants said that they did not know or would prefer not to answer the question, these participants are included in the base. However, for ease of reading, they are not included in the Figures and Tables unless they represent a notable proportion of the total (e.g. where high levels of 'don't knows' is a finding in itself, highlighting a lack of knowledge about a particular issue). The unweighted sample sizes are cited at the end of each Figure or Table. All analysis was conducted within SPSS v 28.0.1.1.

Owing to the small size of the qualitative sample, the sensitive and confidential nature of the material under discussion, and to avoid potential identification, data from the interviews are presented without an identifier to indicate the source of any quote or example relied upon.

## 2. What is the profile of divorcees who were survivors of domestic abuse?

### Key findings

**On divorce, the vast majority of domestic abuse survivors were women, with half of female survivors reporting financial abuse and many having responsibilities for children.**

- Three in ten (28 per cent) divorcees, the vast majority of whom were women (79 per cent), reported that the abusive behaviour of their ex-spouse was a reason for the breakdown of their relationship.
- Domestic abuse was more common among women with dependent-age, notably younger, children (e.g. 61 per cent of survivors had dependent-age children compared to 52 per cent of other women).
- Almost all survivors (94 per cent of women and 89 per cent of men) said that there had been emotional or psychological abuse. Among survivors, half (51 per cent of women and 44 per cent of men) reported financial abuse; four in ten (38 per cent of women and 43 per cent of men) reported physical abuse; and a quarter (25 per cent) of women and one in ten (10 per cent) men reported sexual abuse.

**The overall picture is one of relative financial disadvantage for female survivors of domestic abuse at the end of their marriage.**

- Female survivors were significantly less likely than other divorcing women to have been working at the point at which they separated, and less likely to have been working full-time (e.g. 41 per cent of survivors compared to 49 per cent of other women) which has the potential to leave such women in a financially precarious situation on divorce.
- The matrimonial home of female survivors was significantly less likely to be owner-occupied (61 per cent compared to 69 per cent of other women) and female survivors were less likely than other women to have a pension (55 per cent compared to 62 per cent).
- They were significantly less likely than other women to feel that they had a good knowledge of their ex-spouse's finances (e.g. 29 per cent said their knowledge was 'not at all good' compared to 17 per cent of other women) and less likely than other women to know about the levels of any savings or debts within the marriage (e.g. 22 per cent did not know the value of the debts compared to 13 per cent of other women).
- The monetary value of combined assets from the marriage was significantly lower for female survivors of domestic abuse than for other women (e.g. 56 per cent had total assets of under £100,000 compared to 44 per cent of other women).

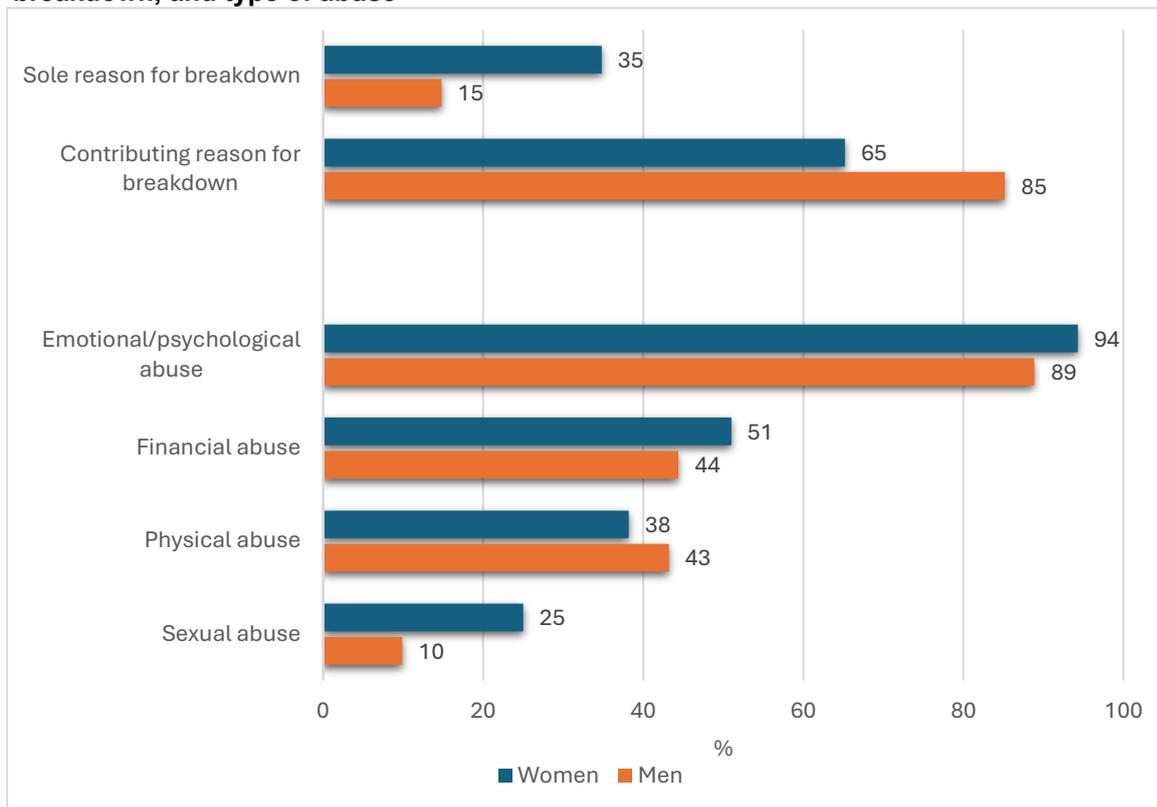
**In sharp contrast to women, there were few significant differences between male survivors of domestic abuse and other men in relation to their family circumstances, assets or incomes during the marriage. Like female survivors, male survivors knew significantly less about their ex-spouse's finances (e.g. 28 per cent said their knowledge was 'not at all good' compared to 14 per cent of other men) and were less likely to manage their finances jointly (39 per cent compared to 52 per cent of other men).**

## The nature of the abuse

Among divorcees, the vast majority (79 per cent) of survivors of domestic abuse were women. Overall, women were three times as likely as men (40 per cent compared to 13 per cent) to report that domestic abuse perpetrated by their ex-spouse contributed to their relationship breakdown. Women were also significantly more likely than men (35 per cent compared to 15 per cent<sup>14</sup>) to say that the domestic abuse was the sole reason, rather than a contributing reason among others, for the end of the relationship (Figure 1).

Divorcees could, and often did, cite more than one form of abuse.<sup>15</sup> Almost all survivors (94 per cent of women and 89 per cent of men) said that there had been emotional or psychological abuse. Half (51 per cent of women and 44 per cent of men) reported financial abuse and four in ten (38 per cent of women and 43 per cent of men) reported physical abuse. The only type of abuse more commonly cited by women than men was sexual abuse, which women were more than twice as likely as men to report (25 per cent compared to ten per cent<sup>16</sup>).

**Figure 1: Whether domestic abuse was the sole or a contributing factor to relationship breakdown, and type of abuse**



Unweighted bases: Female (528) and male (142) survivors

<sup>14</sup> P-value <0.001.

<sup>15</sup> Among women citing domestic abuse, one in ten (11 per cent) cited all four forms of abuse, with a further two in ten (18 per cent) citing three forms. Only three in ten (31 per cent) cited only one form of abuse (where in the vast majority of cases (28 per cent) this was psychological or emotional abuse).

<sup>16</sup> P-value <0.001.

## Length of marriage, age and children with their ex-spouse

In this, and the following subsections, we provide a picture of survivors of domestic abuse during their marriages compared to other divorcees. We are not attempting to make causal inferences to suggest either that particular circumstances or demographics are linked to domestic abuse or that any domestic abuse in the relationship had an impact on these circumstances (e.g. working patterns). Rather, the purpose of this section is to provide context for subsequent discussion about the experiences that survivors went through during their divorces, and their financial outcomes.

Among women, marriages which ended because of domestic abuse had lasted less time on average than other marriages. A third (36 per cent) of female survivors said their marriage lasted five years or fewer, compared to a quarter (24 per cent) of other women (Figure 2).<sup>17</sup> Perhaps linked to this, domestic abuse was more common among women with dependent-age, notably younger, children. Six in ten (61 per cent) survivors had dependent-aged children at the time of divorce, compared to half (52 per cent) of other women.<sup>18</sup> Among women with dependent-aged children, domestic abuse was related to a greater likelihood of divorce when children were still under five (40 per cent compared to 22 per cent of marriages not ending due to domestic abuse)<sup>19</sup> (Figure 3). Mirroring the findings on parenthood, female survivors were more likely to be in the middle age bands (for example, 34 per cent were aged 35 to 44 compared with 28 per cent of other divorcees), with a greater proportion of other women getting divorced under the age of 35 or once they were 60.<sup>20</sup>

The fact that female survivors were leaving their marriages earlier than other divorcees is worth noting. Although there are a range of financial, property, legal and emotional hurdles in leaving an abusive marriage, the fact that survivors were doing so earlier than other divorcees, particularly in the case of wives in mid-life with young children, speaks to the general point that these findings might potentially point to a willingness for survivors to leave their marriage to escape the abuse and its potentially detrimental impact on their children.

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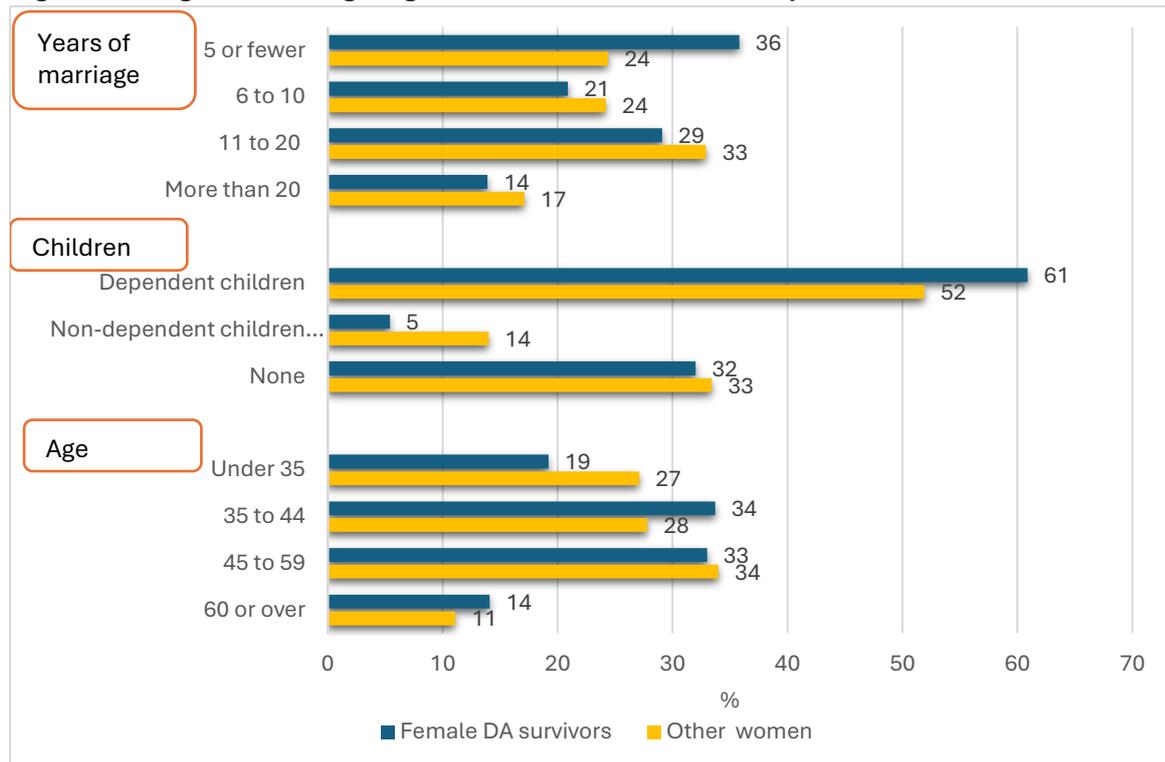
<sup>17</sup> P-value 0.005.

<sup>18</sup> P-value <0.001.

<sup>19</sup> P-value <0.001.

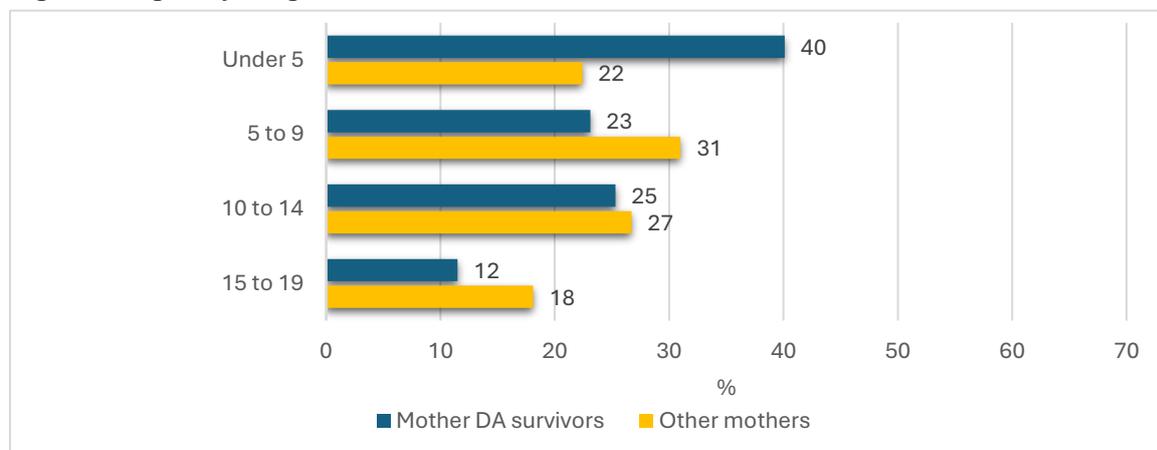
<sup>20</sup> P-value 0.038.

**Figure 2: Length of marriage, age and children with their ex-spouse – women**



Unweighted bases: Female survivors (528); other female divorcees (852)

**Figure 3: Age of youngest child – mothers**



Unweighted bases: Female survivors with dependent children (297); other mothers with dependent children (388)

There were fewer differences between male survivors of domestic abuse and other men in relation to these characteristics. Although there were similar differences to women in terms of the age profile of male survivors and other men,<sup>21</sup> there were no significant differences between them in relation to the length of their marriages, whether or not they had children, or the age of any children. This is an interesting finding which raises a question as to why male survivors are not leaving their marriages earlier like female survivors. Whilst we were unable

<sup>21</sup> Male domestic abuse survivors were more likely than other male divorcees to be in the middle age bands, p-value 0.006.

to explore this in the qualitative sample, this finding may be due to a number of factors, including: male survivors not being believed in relation to the abuse inhibiting their ability to leave; cultural stigma;<sup>22</sup> their perception about a lack of male survivor support; or potentially the associated risks or worry of not being able to see their children if they leave. However, further research is needed to explore why male survivors appear less likely to leave an abusive marriage earlier than their female counterparts.

### Income, financial stability, and paid work

Comparing divorcees whose marriages ended because of the domestic abuse of their ex-spouse and other divorcees, there appears to be little difference between the two groups in terms of the levels of household income that couples had during the marriage<sup>23</sup> and, among men, their propensity to be in paid work.

However, among women, survivors of domestic abuse were less likely than other divorcing women to have been working at the point at which they separated, and particularly less likely to have been working full-time.<sup>24</sup> This is likely to be at least partly related to the fact that they were more likely to have younger children.<sup>25</sup> A quarter (24 per cent) of female survivors were not working prior to separation, compared to 16 per cent of other women. Moreover, among women who were working, survivors were earning less on average than other women.<sup>26</sup> For instance, twice as many survivors as other women earned under £1,000 per month each (39 per cent compared to 22 per cent) (Figure 4). Being poorer and more vulnerable financially makes it particularly difficult for female survivors to get on the 'path to independent living' following divorce.<sup>27</sup>

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<sup>22</sup> J C Taylor, E A Bates, A Colosi and A J Creer, 'Barriers to Men's Help-Seeking for Intimate Partner Violence' [2022] 37(19-20) *Journal of Interpersonal Violence*, NP18417-NP18444, <https://doi.org/10.1177/08862605211035870>

<sup>23</sup> Excluding those who said they did not know or preferred not to say their household income, the differences in Figure 4 between female survivors and other women were not statistically significant.

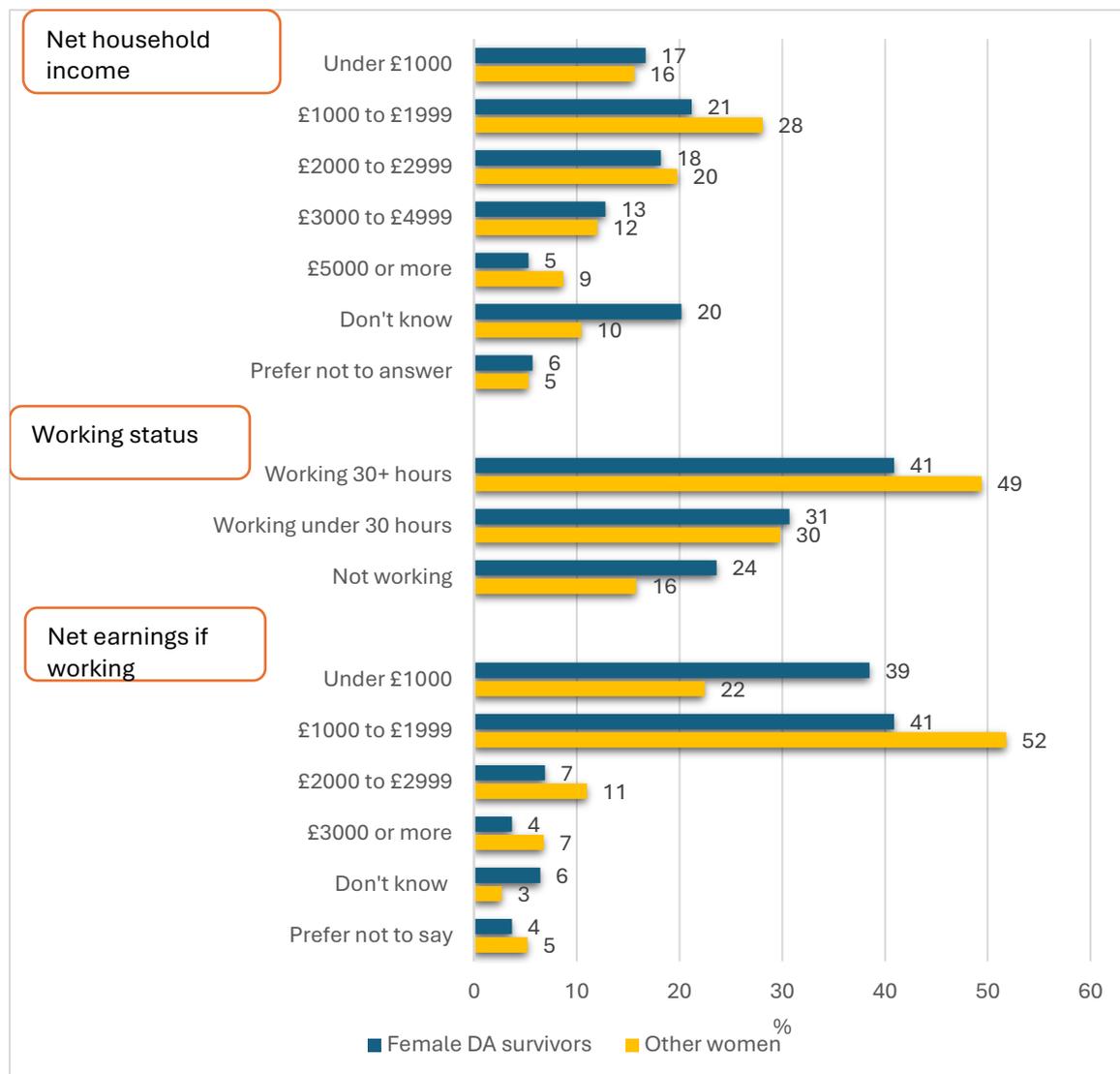
<sup>24</sup> P-value 0.012.

<sup>25</sup> Among mothers whose youngest child was under five, the percentage of female survivors who were in work was smaller than other women (75 per cent compared to 89 per cent), but the difference did not quite reach statistical significance (p-value 0.052).

<sup>26</sup> P-value <0.001.

<sup>27</sup> *Miller v Miller; McFarlane v McFarlane* [2006] UKHL 24, per Baroness Hale at para 144.

**Figure 4: Household income prior to separation – women**



Unweighted bases: Female survivors (528); other women (852); female survivors (400) and other women (725) working at separation

### Money management

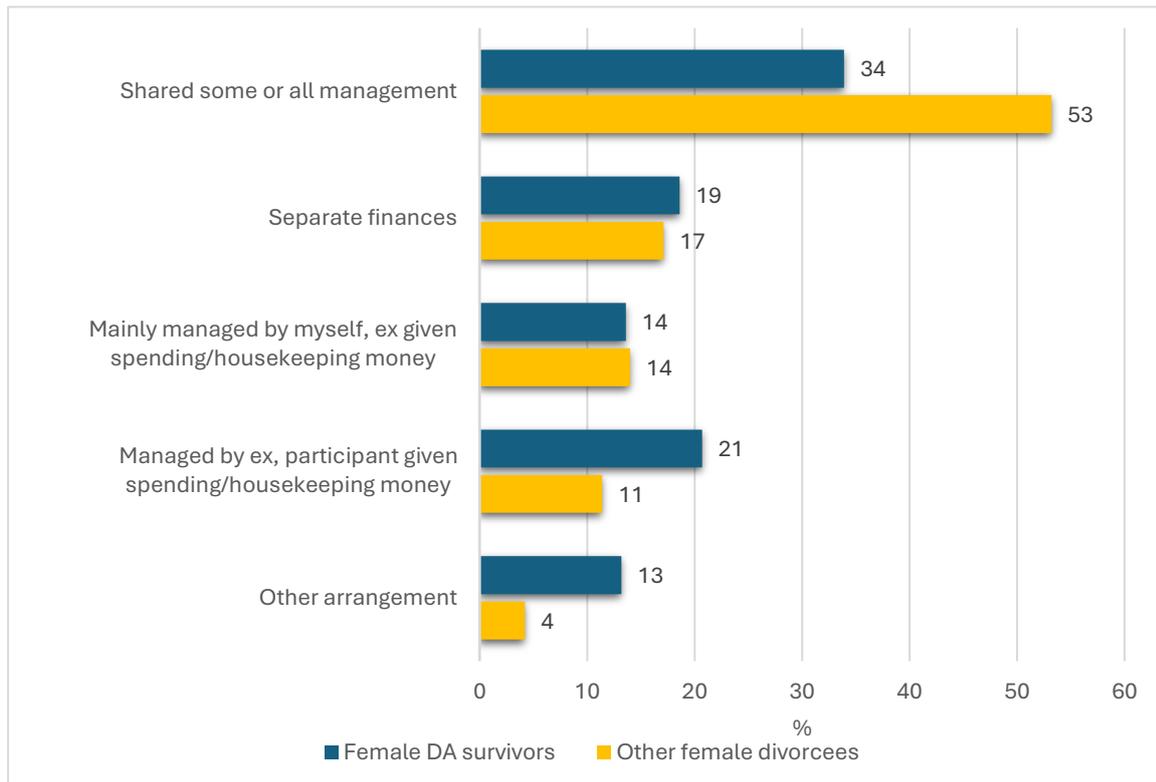
Looking back at Figure 4, one in five (20 per cent) female survivors of domestic abuse said that they did not know what their household income had been prior to separation, twice as many as among other women (among whom 10 per cent did not know).<sup>28</sup> This is one of a number of ways in which survivors were less knowledgeable than other divorcees about their financial situation when they entered their divorce.

Among both men and women, there were differences between survivors and other divorcees in relation to the way in which money had been managed during the marriage, and their knowledge of their ex-spouse’s finances.

<sup>28</sup> P-value <0.001.

When asked whether all or some of the finances were shared and managed jointly during the marriage, whether finances were kept separate, or whether one spouse looked after most of the money management, female survivors were more likely than other women to report having less control of the money management. While half (53 per cent) of other women said that all or some of their finances were jointly managed, this was true for only a third (34 per cent) of female survivors. Instead, one in five (21 per cent) of female survivors said that their ex-spouse was mainly in control of their finances, compared to one in ten (11 per cent) among other women<sup>29</sup> (Figure 5).

**Figure 5: Money management during marriage – women**



Unweighted bases: Female survivors (528); other female divorcees (852)

The following case offers an example of one female survivor’s ex-spouse controlling the finances. Her ex-husband looked after the family finances and gave her housekeeping money when she asked for it:

‘Basically I just used to put my hand up and say I need to go shopping, I want this, I want that. He liked to have spreadsheets on the computer. He could calculate things on the computer, well this bill is this, this bill is this, he used to fiddle the electricity, he used to fiddle the gas. If he could fiddle something, he would fiddle it. He basically used to hand it [housekeeping] over but what I didn’t know, what he was doing behind my back, as my son was getting older and went out to work, he was charging my son quite a lot of rent as well and satellite bills. He was bleating to my son that I had money and I was this, that and the other

<sup>29</sup> P-value <0.001.

and I was spending more money but he was the one who was controlling the money.'

Another wife commented that 'I never did anything with the money when [husband] was here. He did everything. I didn't even know what bank we used'.

However, the qualitative data also provided examples of how what was described as 'joint management' of finances did not necessarily entail a 'shared' money-management style in practice. The following interviewee, who had opted for the 'jointly managed' response in the survey, provided a stark example of her everyday reality when it came to 'joint' money management in her marriage:

'I used to get fined for doing things wrong, and I used to get money deducted from my monthly allowance. Because all our wages went into a joint account to pay bills and then go into savings and then we were each given like a monthly allowance and my allowance would be deducted if I did things that I didn't ask to do or if I went and bought something for the house and didn't ask, it was deducted from my allowance. [...] If I went out in the car and it wasn't needed and he didn't deem it worthy then he'd take it out of my allowance, what he thought the petrol cost would be.'

Another example from the qualitative sample highlights how survivors of domestic abuse who have a regular income and consider themselves to be in control of their finances during their marriage can still be subject to dishonesty and/or financial manipulation by their ex-spouse. One wife discovered, after they had split up, that he had used her credit cards to run up thousands of pounds of debt. Looking back, she reflected on how this happened to her:

'I don't consider myself a daft person, I've got a degree, I've got a good job, but yeah, these men are master manipulators. It's amazing really. So, now I think to myself, 'Oh, you were so stupid,' but at the time it's like you have goggles on, I can't explain it, you just don't see things.'

The qualitative data also showed how financial abuse could occur in situations where the female survivor was working full-time, and therefore arguably more financially secure. The following example highlights how little control this interviewee had over her earnings:

'... from day one it was my financial payments towards him, supporting him like I was you know the breadwinner in the home sort of thing, yeah, so it was not just mental abuse it was in every way, financial abuse as well, you know. And helping himself to my money every time he wanted it and that control, that aspect of having everything that whatever came into the house that was his right of everything, so I had all that.'

Likewise, although this next wife had also worked full-time during the marriage, her ex-husband had altered the mortgage payments on her own property to interest-only and her money was put into joint savings. On separation, she discovered that all of those joint savings had gone:

‘Yeah, so the frustrating thing about it was, he changed my rental property because he controlled all the finances. He changed my rental property – which was obviously my only asset then – to interest-only because what he said was there was no point wasting money on it because, ‘We’re not going to keep it, we’re going to wait for the housing market to change and we’re going to sell it. So, there’s no point paying off the mortgage and we’re better off putting the money into savings.’ So, we did not pay anything off the house that was previously mine – which was my house – that was just kept as an interest-only mortgage to keep it low. And then the house that we lived in, we paid the mortgage together. So, yeah, I moved into a house with no equity paid on it for eight years.’

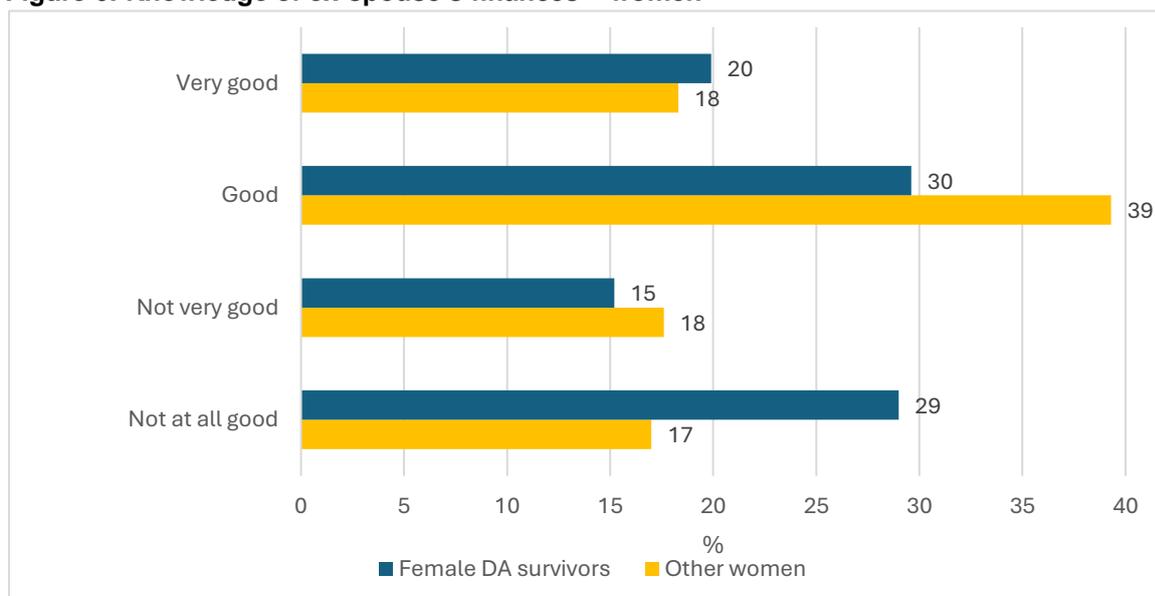
So we can see that, while female survivors of domestic abuse who do no paid work may be particularly vulnerable on separation, even survivors who *are* in work may also be exposed to financial risk and possible future hardship arising from the nature of abuse within the relationship. Lack of savings, a build-up of debt in the survivor’s name, and limited equity in property are just three examples from the qualitative data of some of the consequences of financial abuse.

Turning to the men in the survey, here the differences in money management were not as stark. However, male survivors of domestic abuse were less likely to report the joint sharing of finances than other men (39 per cent compared to 52 per cent).<sup>30</sup>

### Knowledge of the finances

Overall, female survivors were less likely than other divorcees to feel that they had a good knowledge of their ex-spouse’s finances. Three in ten (29 per cent) said that they felt their knowledge was ‘not at all good’, almost twice as many as other female divorcees (17 per cent) (Figure 6).<sup>31</sup>

**Figure 6: Knowledge of ex-spouse’s finances – women**



Unweighted bases: Female survivors (528); other women (852)

<sup>30</sup> P-value 0.021 comparing ‘joint’ vs not.

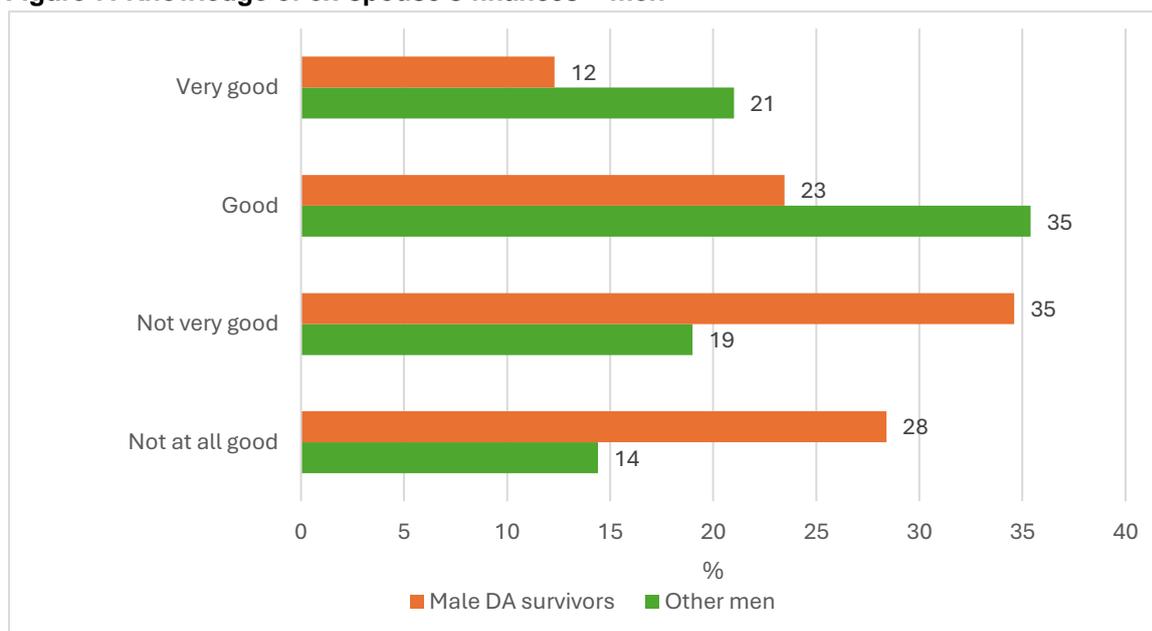
<sup>31</sup> P-value 0.002.

The qualitative data provided examples of female survivors who knew about some elements of the couple’s finances, but not others. For example, although the following wife had a good awareness of issues relating to their former rented matrimonial home (social housing tenancy in her sole name), her knowledge of her ex-husband’s finances, and in particular household bills, was not good.

‘[T]he bills were in his name, but he wasn’t paying them, like [water company name] was in his name originally but he wasn’t keeping up with the payments of the monthly debit. [...] Any bills that were left from him moving out it was down to me paying them because he no longer lived here and [water company name] didn’t chase him for anything, they said because he’s moved out and the bill has now been transferred to my name, it was my responsibility.’

The picture in the survey was very similar for male survivors of domestic abuse. As with their female counterparts, male survivors were less knowledgeable going into the divorce than other men about their ex-spouse’s finances (Figure 7). A third (35 per cent) of male survivors said their knowledge was ‘not very good’ and a further three in ten (28 per cent) said it was ‘not at all good’, compared to figures of 19 per cent and 14 per cent among other men.<sup>32</sup>

**Figure 7: Knowledge of ex-spouse’s finances – men**



Unweighted bases: Male survivors (142); other men (883)

### Matrimonial home, pensions and other assets

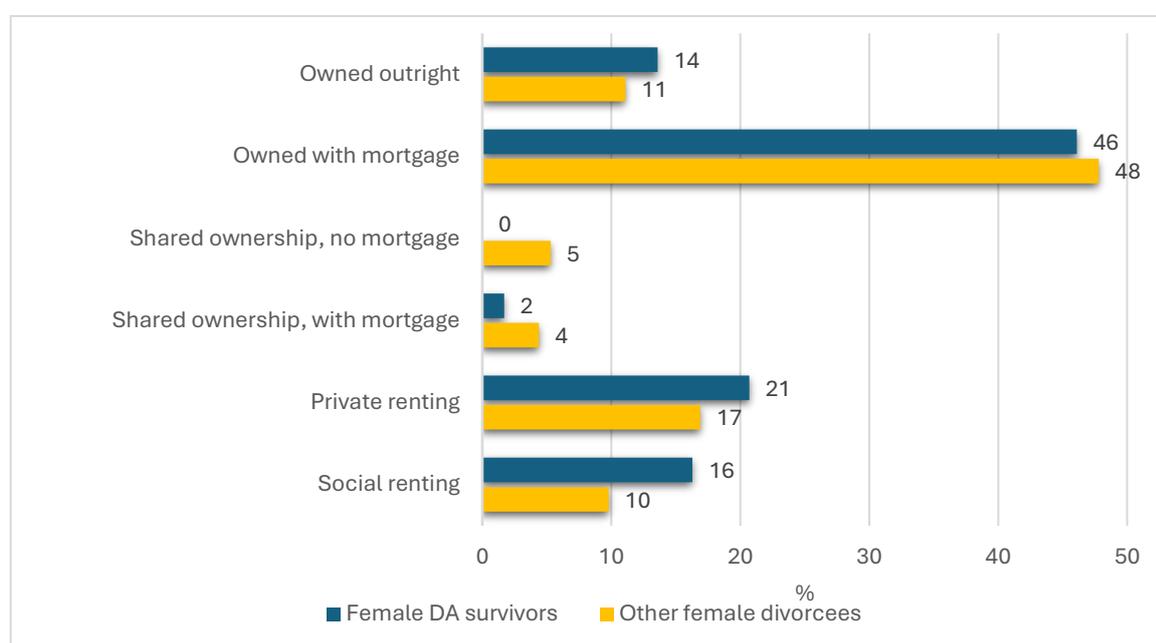
Returning to female survivors of domestic abuse, the picture of relative disadvantage continues to build when we look at the financial assets available from the marriage. The matrimonial home was more likely to be a rental, and they were less likely to have their own pension. Again, this will partly reflect their relatively younger ages, having dependent children and being less likely to be working. In addition, as we saw in terms of their

<sup>32</sup> P-value <0.001.

knowledge of their household income, female survivors were less likely than other women to know about the levels of any savings or debts within the marriage.

Starting with the question of the tenure of the matrimonial home, female survivors were more likely than other women to have been living in rented (notably social rented), rather than owner occupied, housing. A third (37 per cent) of female survivors were in rented housing prior to separation, compared to a quarter (27 per cent) of other women, while six in ten (61 per cent) were in homeowner housing compared to seven in ten (69 per cent) among other women<sup>33</sup> (Figure 8). However, among homeowners, there were no significant differences in terms of the level of equity available in the home (i.e. the capital value available after any mortgage was paid off).

**Figure 8: Tenure of the matrimonial home – women**



Unweighted bases: Female survivors (528); other female divorcees (852)

Female survivors were also less likely than other women to have a pension (other than a state pension) (55 per cent compared to 62 per cent).<sup>34</sup> Moreover, among those with a pension, the value of the pensions of female survivors was more likely than other women's to be of lower value (Figure 9). The bandings of low, mid and high value are based on the size of the pension pot for those yet to draw their pension and on the monthly amount they received for those already drawing it.<sup>35</sup> Among those with a pension, half (50 per cent) of

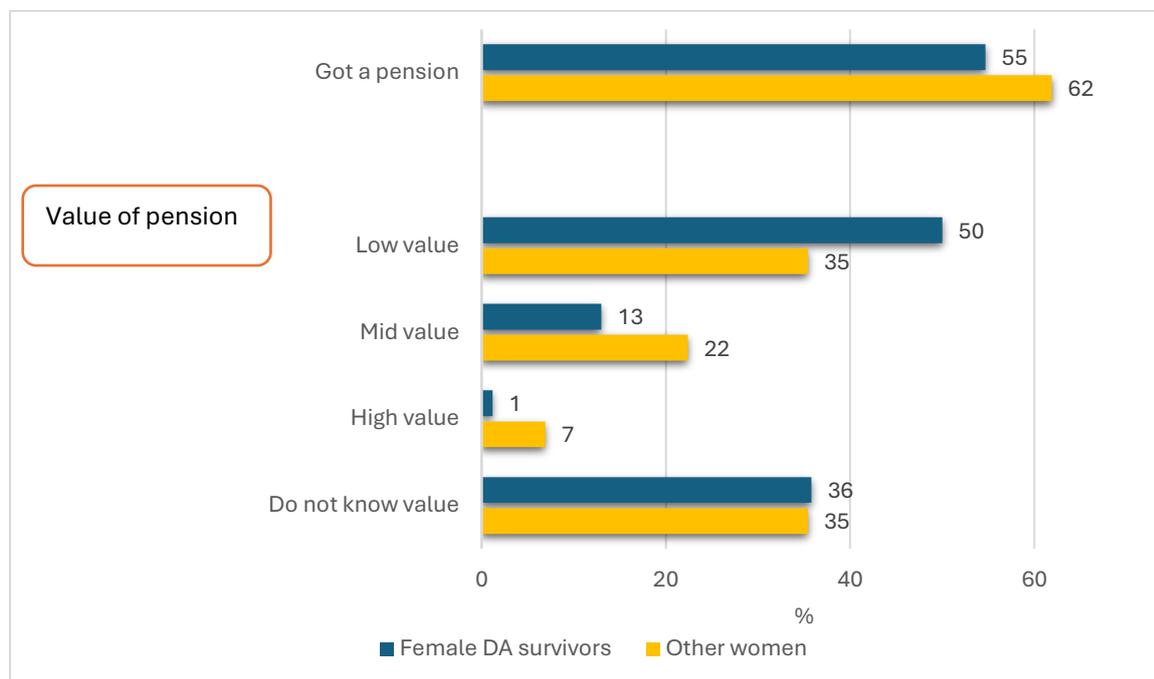
<sup>33</sup> P-value <0.001.

<sup>34</sup> P-value 0.050. The vast majority of women with pensions (92 per cent of survivors of domestic abuse and 85 per cent of other divorcees) were not yet drawing them.

<sup>35</sup> Low value: pot of under £50,000 or monthly draw of under £500; Mid value: pot of £50,000 to £299,999 or monthly draw of between £500 and £1,499; High value: pot of £300,000 or more or monthly draw of £1,500 or more. For findings about the lack of awareness amongst divorcees as to the value of their pension pot, see E Hitchings, C Bryson, G Douglas, S Purdon and J Birchall, *Fair Shares? Sorting out money and property on divorce* (University of Bristol, 2023), section 3.6.

female survivors had a low value pension pot, compared to a third (35 per cent) of other women.<sup>36</sup>

**Figure 9: Pensions – women**



Unweighted bases: Female survivors (528); other women (852); female survivors of abuse (351) and other women (612) with a pension

By contrast, the ex-spouses of female survivors were as likely to have had a pension as ex-spouses of other women (48 per cent compared to 52 per cent),<sup>37</sup> with little difference in the value of those pensions.

As regards the levels of savings and debts that spouses had on separation, although there were no significant differences in the levels of savings and debts that female survivors and their ex-spouses had compared to other women,<sup>38</sup> survivors were less likely than other women to know the amounts.<sup>39</sup> One in five female survivors said that they did not know what they had in terms of savings (19 per cent) or debts (22 per cent), compared to one in seven (14 per cent in relation to savings and 13 per cent in relation to debts) among other women.

### Size of the overall asset pot

Overall, taking all property and assets into account,<sup>40</sup> female survivors of domestic abuse and their ex-spouses were more likely than other women to leave their marriages with nothing or a small asset pot for potential division. Fifty-five per cent of survivors of domestic abuse left a marriage in which the total assets were under £100,000, compared to 47 per

<sup>36</sup> P-value <0.001. These findings on pensions likely reflect the lower earnings and younger age profile of female survivors of abuse.

<sup>37</sup> Among both groups of women, high proportions (26 per cent of domestic abuse survivors and 18 per cent of other women) did not know if their ex-spouse had a pension.

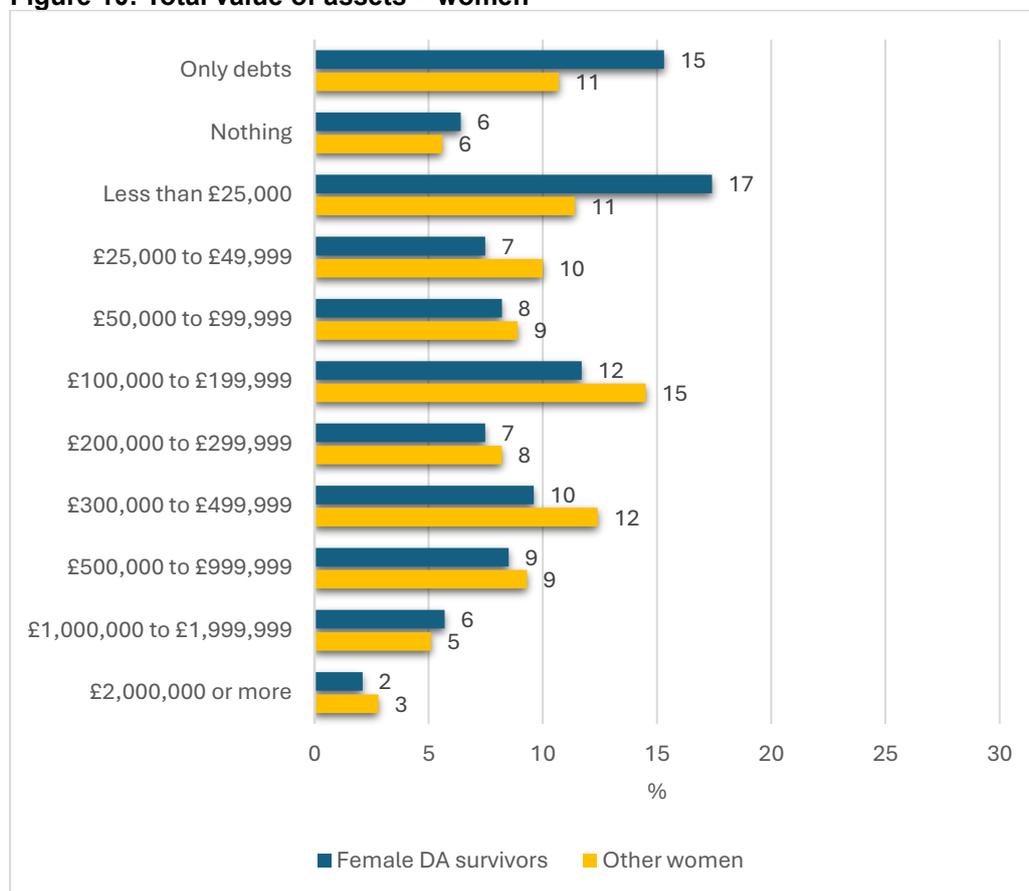
<sup>38</sup> Among those who knew the level, excluding those saying they did not know or preferred not to say.

<sup>39</sup> P-value 0.043 in relation to savings; p-value <0.001 in relation to debts.

<sup>40</sup> See Section 3.8 of the *Fair Shares* report (n 1 above) for details of how this was calculated.

cent of other women.<sup>41</sup> Of particular note is the proportion of female survivors whose assets amounted to nothing or only debts (22 per cent compared to 16 per cent of other women<sup>42</sup>) or less than £25,000 (17 per cent compared to 11 per cent of other women). The full distribution of assets is shown in Figure 10.

**Figure 10: Total value of assets – women**



Unweighted bases: Female survivors (501) and other women (807) with an estimation of the value of their assets

The asset profile described above was reflected in the following interview, where the female domestic survivor and her ex-husband had been living in private rented accommodation, neither had pensions or savings, but there were some debts:

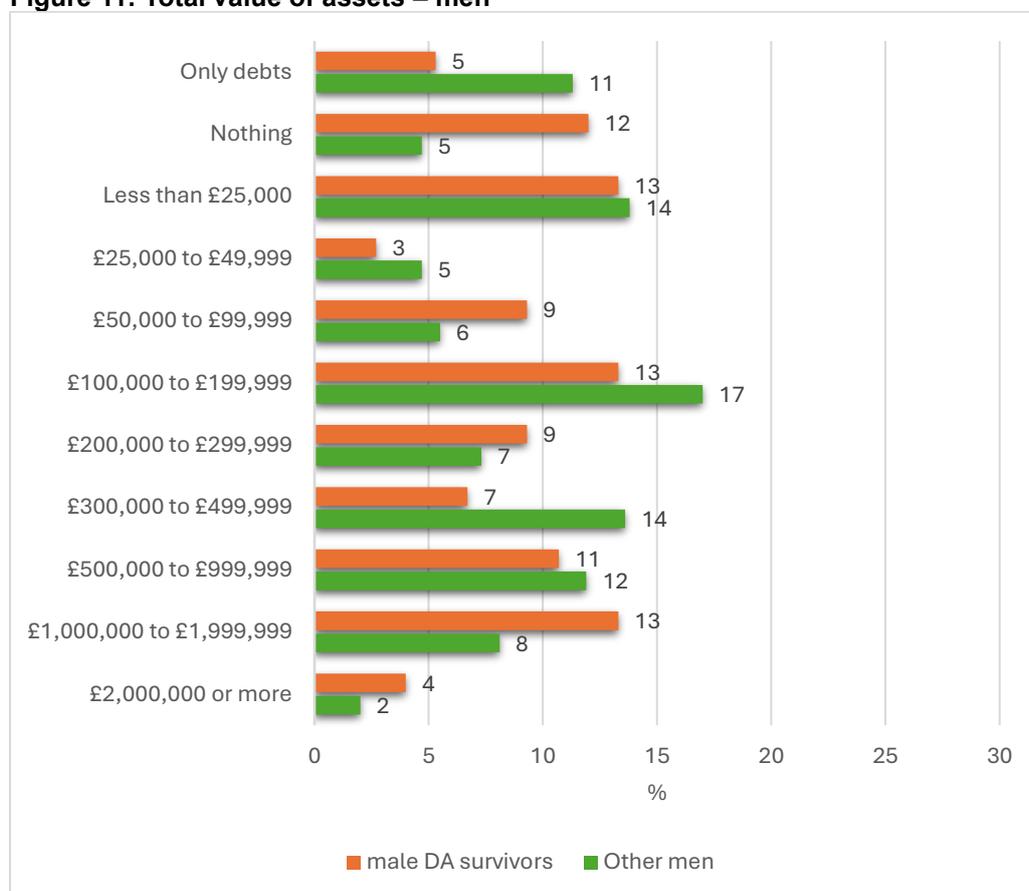
‘We didn’t really have anything. I think we may have had a car on finance but it wasn’t owned so it was just another bill that needed to be paid kind of thing. And everything was all a bill so it was just like the normal rents and stuff and we were just living kind of like pay cheque to pay cheque, that kind of stuff, so we didn’t actually have anything... so there wasn’t really anything to divvy up or anything like that.’

<sup>41</sup> P-value 0.044 when assets were split into ‘under £100,000 including only debts’, ‘£100,000 to £499,999’ and ‘£500,000 or more’. Although the differences between female survivors and other women were present across all age groups, they decreased by age.

<sup>42</sup> These percentages are slightly different to those in the Figure due to rounding to the nearest percentage point.

Among men, there were no significant differences between survivors of domestic abuse and other men in the total level of the assets in the marriage (see Figure 11).

**Figure 11: Total value of assets – men**



Unweighted bases: Male survivors (136) and other men (839) with an estimation of the value of their assets

Underpinning this overall picture is the fact that there were no significant differences among male homeowners in terms of the equity left in the matrimonial home after any mortgage was paid off, or in terms of any savings. Male survivors were also no more or less likely than other men to have a pension, or a pension of a particular value. However, one aspect in which male survivors were worse off than other men related to levels of gross debt that they or their ex-spouse had.<sup>43</sup> Four in ten (41 per cent) had at least £10,000 in debt, compared to a third (33 per cent) of other men.<sup>44</sup>

<sup>43</sup> That is debt (apart from a mortgage on the matrimonial home) not taking into account other assets.

<sup>44</sup> P-value 0.024.

### 3. What routes did survivors of domestic abuse go through to reach a financial settlement, and what was their experience of the process?

#### Key findings

**Although female domestic abuse survivors were less likely than other women to make financial arrangements, they were more likely to use lawyers – and less likely to have used mediation – in relation to finances. Moreover, where financial arrangements were made, those of female survivors were more likely to be made into orders.**

- Female survivors were significantly more likely than other women to have used a lawyer in relation to their finances (39 per cent compared to 31 per cent).
- They were far less likely than other women to report having come to any form of formal or informal arrangement about property and finances. While four in ten female survivors said that they had come to a full (31 per cent) or partial (seven per cent) arrangement, among other women the percentage was well over half (40 per cent with a full arrangement and 15 per cent with a partial arrangement).
- Where female survivors had an arrangement, most (61 per cent) were made into a court order (whether by consent or adjudicated), much more likely than for other female divorcees (42 per cent).
- Only four per cent of arrangements made by female survivors had been made via mediation compared to one in five (19 per cent) of arrangements made by other women.
- Arrangements for divorcees reporting domestic abuse were far more likely to have involved contested court proceedings, with 17 per cent of female survivors reporting that their case had been determined by a judge and a further five per cent settled after financial proceedings have begun. This compares to only four per cent determined by a judge and three per cent settled after proceedings began for other women.

**In contrast, male domestic abuse survivors were as likely to have come to a financial arrangement as other men. However, like female survivors, male survivors were more likely than other men to have used lawyers in relation to their financial and child arrangements.**

- Male survivors were more likely than other men to have used a lawyer in relation to their finances (47 per cent compared to 26 per cent). However, in a finding not replicated among women, male survivors were also more likely than other men (20 per cent compared to 11 per cent) to have engaged lawyers in relation to making child arrangements.
- Where an arrangement had been made, male survivors were more likely to have reached this with negotiations via lawyers rather than directly with their ex-spouse (25 per cent compared to 18 per cent). However, they were not more likely than other men to have a court order.

**Both male and female survivors of domestic abuse were more likely than other divorcees to have incurred legal or mediation costs in relation to sorting out their finances on divorce (70 per cent of female survivors and 73 per cent of male survivors, compared to 63 per cent of other women and 56 per cent of other men). However, only 16 per cent of female survivors and 19 per cent of male survivors had received legal aid.**

Divorcees in the survey were asked how they 'sorted out finances and property' as part of their divorce. They were asked what advice and support routes they had taken during the divorce process, including whether they had used lawyers at various points and whether

they had used other forms of negotiation. They were asked whether they had come to an arrangement and, if so, how that arrangement had been reached.<sup>45</sup> Again, the experiences of female survivors were often different from those of their male counterparts, and so we report separately on each.

We have seen from Section 2 the differences in the family circumstances of survivors of domestic abuse and other divorcees prior to their divorce. However, despite having lower earnings, female survivors were more likely than other women to use lawyers in relation to their finances and have financial arrangements made into orders via the court. We draw this out in the narrative, noting the potential availability of legal aid for survivors and drawing particularly on the qualitative interviews to help explain some of the survey findings.<sup>46</sup>

### Involving lawyers and out-of-court negotiations

Female domestic abuse survivors were more likely than other women (73 per cent compared to 59 per cent) to have been the party who petitioned for divorce.<sup>47</sup> However, this was not the case among men, where survivors were no more likely than other men (44 per cent of compared to 40 per cent) to have petitioned for divorce.

Among women, overall, survivors were no more likely than other women to have used a lawyer at all during the divorce process<sup>48</sup> (60 per cent compared to 57 per cent).<sup>49</sup> But when female survivors did use lawyers, they were more likely than other women to have instructed them to deal with the whole process (71 per cent compared to 61 per cent), rather than to choose to get advice or help at certain points.<sup>50</sup>

Figure 12 shows the percentage of women who used a lawyer for different elements of the divorce process – the divorce decree, finances, child arrangements and domestic abuse orders. Female survivors were more likely than other women to have used a lawyer in relation to trying to reach a financial settlement (39 per cent compared to 31 per cent)<sup>51</sup>, and for the divorce decree (47 per cent compared to 32 per cent).<sup>52</sup> This may be related to their eligibility for legal aid, given they had less money on average to pay for legal support. By contrast, there were no significant differences between survivors and other women in their use of lawyers in relation to making child arrangements.<sup>53</sup>

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<sup>45</sup> Survey participants chose from a list of options outlined in Figures 14 and 18 below.

<sup>46</sup> With the role of this paper to describe the profile, experiences and outcomes of domestic abuse survivors, we do not attempt to 'control' for the differences in divorcees pre-marriage circumstances (many of which are likely unobservable from the survey data).

<sup>47</sup> P-value <0.001.

<sup>48</sup> That is, advice or support in relation to the divorce decree, finances, child arrangement or domestic abuse order.

<sup>49</sup> We include Legal Services Companies within this.

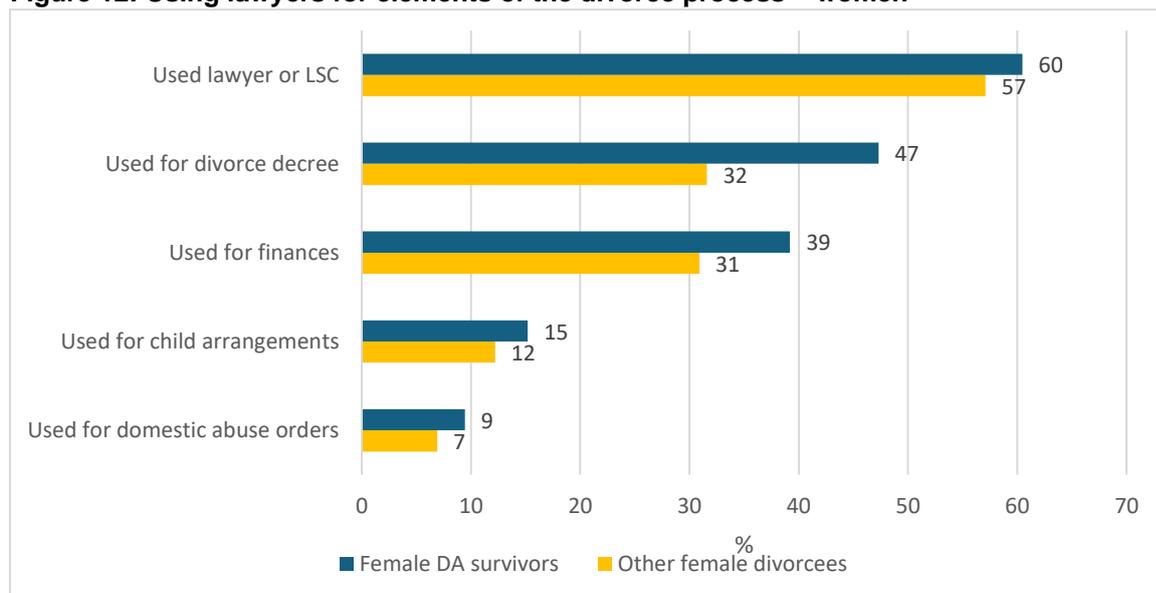
<sup>50</sup> P-value 0.007.

<sup>51</sup> P-value 0.011.

<sup>52</sup> P-value <0.001.

<sup>53</sup> If the analysis is restricted to mothers with dependent children, the comparable figures are 25 per cent and 20 per cent.

**Figure 12: Using lawyers for elements of the divorce process – women**



Unweighted bases: Female survivors (528); other women (852)

Divorcees were asked why they chose to obtain, or not obtain, legal advice or support during the divorce process, with the questions to each survey participant varying depending on their pattern of use:

- Those who had used lawyers throughout were asked why they had done so;
- Those who had used lawyers during certain parts of the process were asked why they had not used them throughout;
- Those who did not use a lawyer at all were asked why they had not.

Divorcees were able to choose as many of the responses as they felt applied to them.<sup>54</sup> Their survey responses are laid out in Tables 1 to 3.

Table 1 shows the reasons that women gave for using a lawyer throughout the divorce process. The most common responses among female survivors related to their inability to negotiate with their ex-spouse, rather than because they thought they would get a better financial deal by using lawyers. While this was similar among other women, survivors were more likely to express this in terms of not feeling comfortable negotiating with their ex-spouse (61 per cent compared to 43 per cent of other women<sup>55</sup>) or because of domestic abuse (47 per cent compared to three per cent<sup>56</sup>), while other women described not being able to discuss things well with their ex-spouse (68 per cent compared to 42 per cent of survivors<sup>57</sup>). In the qualitative data, one survivor interviewee said that she had sought legal advice because of threats from her ex-spouse in relation to the children's future living

<sup>54</sup> Participants were also able to write in an 'other' answer or say don't know or prefer not to say, but these are not included in the tables.

<sup>55</sup> P-value 0.006.

<sup>56</sup> P-value <0.001. Given our definition of survivors is based on their reason for the relationship breakdown, the 'other divorcees' will contain people who experienced domestic abuse but did not include it among the reasons for the relationship breakdown.

<sup>57</sup> P-value <0.001.

arrangements, whilst another interviewee highlighted two occasions where she needed swift help and advice from her solicitor due to ongoing domestic abuse:

‘there were two occasions that I needed them to act really urgently and they were amazing at that and the police were involved.’

**Table 1: Reasons for using lawyer throughout – women**

	<b>Female survivors</b>	<b>Other women</b>
	%	%
Didn't feel comfortable negotiating with my ex	61	43
Because of domestic abuse	47	3
Ex and I couldn't discuss things well	42	68
Thought that the lawyer would be able to get me a better deal	32	21
Thought that the lawyer would help me keep my assets	28	33
We had lots to settle or arrange	21	22

Unweighted bases: Female survivors (209) and other women (222) who used a lawyer throughout the process

Table 2 focuses on divorcees' responses to the question of why they used lawyers for part of the process, but not throughout. Although access to publicly funded legal support and advice remains available for some survivors of domestic abuse (despite the legal aid cuts otherwise effected by the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO)), this is subject to a stringent financial means test, as well as the requirement to provide evidence that demonstrates that the survivor or their children were at risk of harm.<sup>58</sup> It is therefore perhaps unsurprising that the most common reason given by both female survivors (49 per cent) and other women (47 per cent) was cost, suggesting that these divorcees may have wanted to use lawyers more than they were able to afford and that their financial situation meant that they did not pass the means test. However, even for those women who did manage to access legal aid, its limitations meant that issues could arise which were unable to be dealt with fully. One interviewee, for example, who cited a range of abuse (including financial abuse) in the pre-interview survey as the reason why her marriage broke down, explained that she was convinced her husband was hiding assets abroad, but that the limits on legal aid meant that getting full disclosure was problematic:

‘She asked, you know the solicitor when I spoke to her, she said you have to have more solid evidence than just basically verbal and when I did provide that, the addresses, the deeds and everything, but they just couldn't do it, there's not enough funding for them to do that, it needed more in-depth details, it was challenging.’

A key difference between the two groups of women who used a lawyer for only part of the process outlined in Table 2 was that, while a quarter (25 per cent) of other (non-abuse case) women said that this was because they could discuss things well with their ex-spouse, this was rarely the case (just four per cent) for survivors of domestic abuse.<sup>59</sup>

<sup>58</sup> See [Legal aid: Overview - GOV.UK \(www.gov.uk\)](http://www.gov.uk). See also, Civil Legal Aid (Procedure) Regulations 2012, Regulation 33 which sets out the evidence requirements in relation to domestic abuse.

<sup>59</sup> P-value <0.001.

**Table 2: Reasons for using lawyer for certain parts of the process – women**

	<b>Female survivors</b>	<b>Other women</b>
	%	%
Cost	49	47
Only wanted help with certain parts of the process	29	37
Not much to settle or arrange	29	34
Didn't know what lawyer could/would do	20	10
Didn't want to make relations difficult	18	24
Ex and I could discuss things well	4	25

Unweighted bases: Female survivors (94) and other women (141) who used a lawyer for part of the process

The picture was very similar among those women who did not use lawyers for any part of the process (Table 3). Half (49 per cent) of survivors and four in ten (43 per cent) other women were constrained by the cost of obtaining legal advice or support. As one interviewee explained: 'I haven't got the money to go to solicitors, to get the money back off him.' In order to get some legal advice at a very low cost, another wife in the interview sample had made the most of an online legal services company where she paid a £5 joining fee and had a free trial period where she was able to ask a range of questions in the free trial period. Very few (nine per cent) female survivors in the survey (compared with 28 per cent of other women) said that they did not seek legal support because they were able to discuss things well with their ex-spouse.<sup>60</sup>

**Table 3: Reasons for not using a lawyer – women**

	<b>Female survivors</b>	<b>Other women</b>
	%	%
Cost	49	43
Did not feel a need to use a lawyer	37	42
Not much to settle or arrange	32	40
Didn't want to make relations difficult	11	10
Ex and I could discuss things well	9	28
Didn't know what lawyer could/would do	6	2
Distrust lawyers	4	1
My ex asked me not to	3	2

Unweighted bases: Female survivors (171) and other women (352) who did not use a lawyer

Similar to female survivors, male survivors of domestic abuse were no more likely than other men to have used a lawyer at some point during the divorce process.<sup>61</sup> Also similar to female survivors, they were more likely – in fact in the case of men, nearly twice as likely – than other men (47 per cent compared to 26 per cent) to use lawyers in relation to their finances<sup>62</sup> (Figure 13).

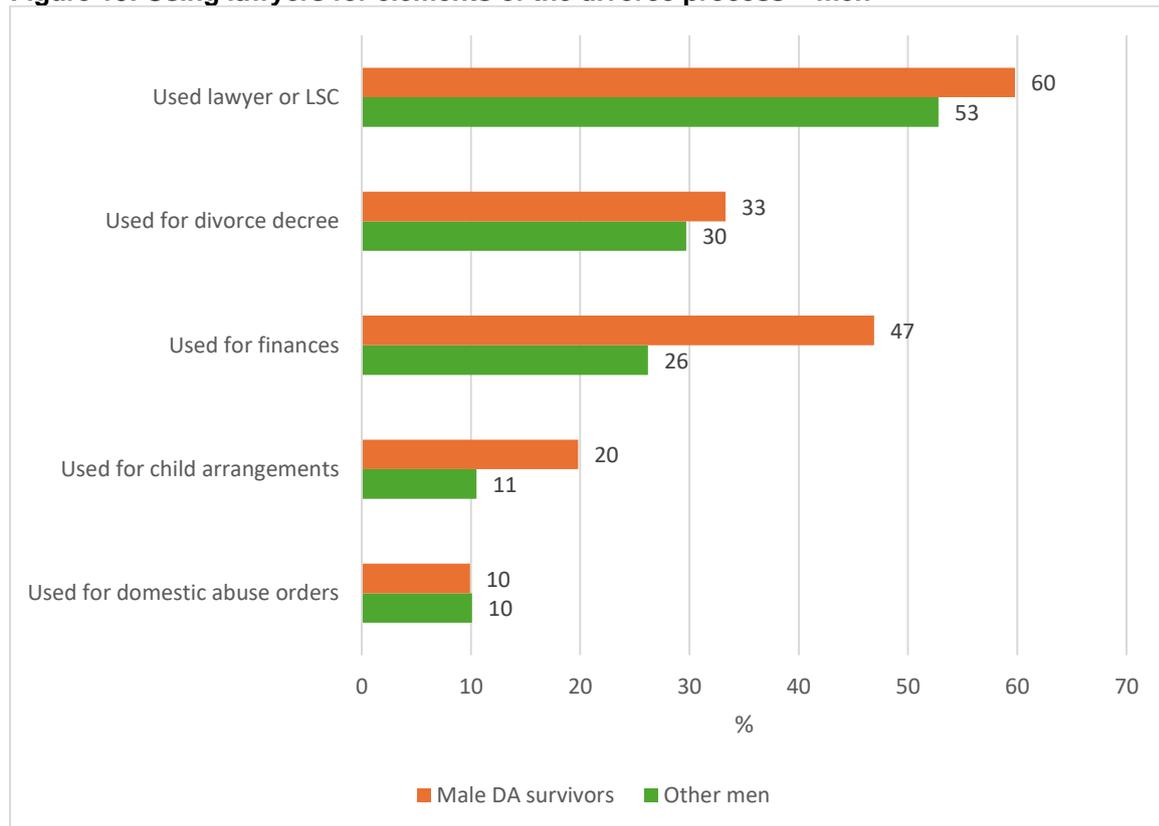
<sup>60</sup> Significantly different to other female divorcees, p-value <0.001.

<sup>61</sup> Unlike female domestic abuse survivors, male domestic abuse survivors were no more likely than other men to have used lawyers for the whole versus part of the process. The numbers of male domestic abuse survivors using legal advice for all, some or none of the process were too small to look in any detail at the reasons for doing so.

<sup>62</sup> P-value <0.001.

A notable difference from female survivors, however, was that male survivors were twice as likely as other men (20 per cent compared to 11 per cent) to engage lawyers in relation to making child arrangements.<sup>63</sup> This may reflect male survivors' perceptions or experiences of making child arrangements, with it potentially being more of a struggle for them to make such arrangements with their ex-spouse given the background of abuse. Unfortunately, there were no data in the qualitative sample to shed any light on why male survivors were more likely to engage lawyers in relation to child arrangements and it is an issue that remains to be explored in further research.

**Figure 13: Using lawyers for elements of the divorce process – men**



Unweighted bases: Male survivors (142); other male divorcees (883)

## Reaching an arrangement

### *Whether an arrangement was reached*

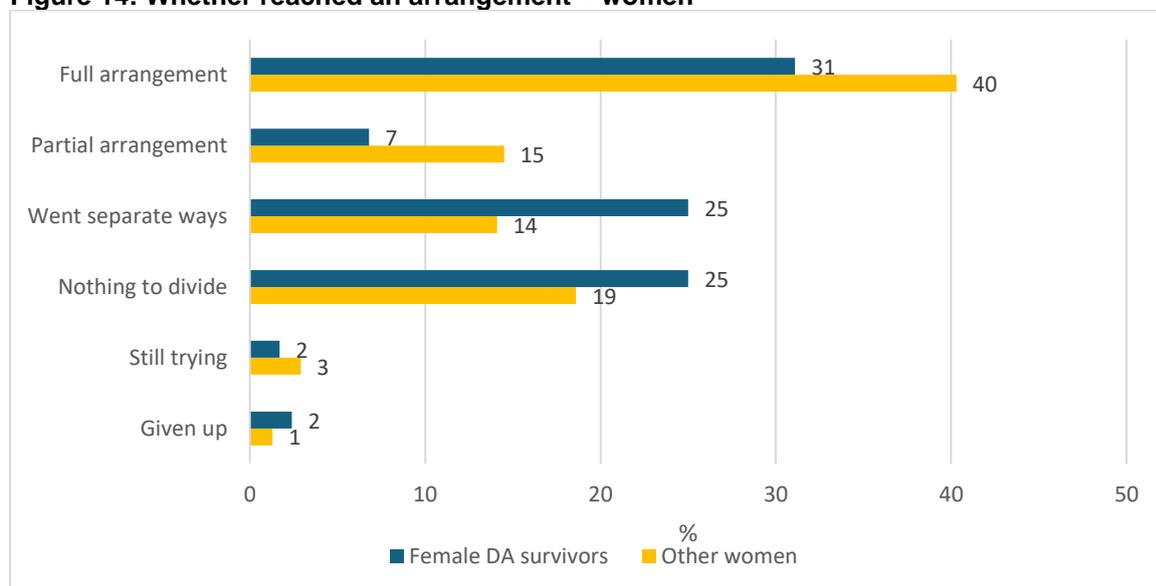
Survivors of domestic abuse – both women and men – were no more or less likely than other divorcees to try out-of-court routes to reaching a financial arrangement. Sixteen per cent of female survivors and 13 per cent of other women had attempted mediation; for men, this was 27 per cent of survivors and 19 per cent of others. Combining reported use of lawyer negotiations, mediation, arbitration or collaborative law, a third (33 per cent) of female survivors had attempted out-of-court negotiations via one or more of these routes, compared to four in ten (39 per cent) among other women; among men, the percentages were 49 per

<sup>63</sup> P-value 0.033. These figures include all men, including those without dependent children. If we restrict the analysis to fathers with dependent children the comparable percentages are 27 per cent and 14 per cent.

cent and 58 per cent respectively.<sup>64</sup> On the one hand, this could be considered a surprising finding: we might expect out-of-court modes of negotiation to be lower amongst domestic abuse survivors given the potential issues regarding imbalance of bargaining power in such relationships. However, this finding may be understandable given broader policy and practices designed to drive all divorcees (including domestic abuse survivors) towards out-of-court settlement across the family justice system.

Despite being more likely to use lawyers in relation to a financial settlement, female survivors were far less likely than other women to report having actually reached an arrangement about property and finances (Figure 14), whether through formal or informal routes.<sup>65</sup> Four in ten female survivors said that they had come to a full (31 per cent) or partial (seven per cent) arrangement, compared with well over half of other women (40 per cent with a full arrangement and 15 per cent with a partial arrangement). Instead, half of female survivors said that they either just went their separate ways (25 per cent) or that they had nothing to divide (25 per cent), while just a third of other women fell into one or other of these categories (14 per cent going separate ways, 19 per cent nothing to divide).

**Figure 14: Whether reached an arrangement – women**



Unweighted bases: Female survivors (528); other women (852)

The qualitative data provide a number of reasons why female survivors were less likely to report coming to an arrangement about their property and finances. These ranged from: problems in getting the domestic abuse perpetrator to engage in the process; the survivor just wanting to get away from the situation; the costs involved in coming to an arrangement; prioritising the use of legal advice for child arrangements issues rather than finances; threats from and/or controlling and coercive behaviour by the dominant spouse. One of the interviews exemplifies this last reason: the wife had legal aid and was represented by a

<sup>64</sup> No differences in the paragraph are statistically significant.

<sup>65</sup> P-value <0.001. 'Full arrangements' were described as 'We have made an arrangement on all aspects of the finances and property' while 'partial arrangements' were described as 'We have made an arrangement on some aspects of the finances and property but not others'.

solicitor, but the couple had experienced particular issues over the former matrimonial home as the ex-husband would not agree to sell even though neither party was living there.<sup>66</sup>

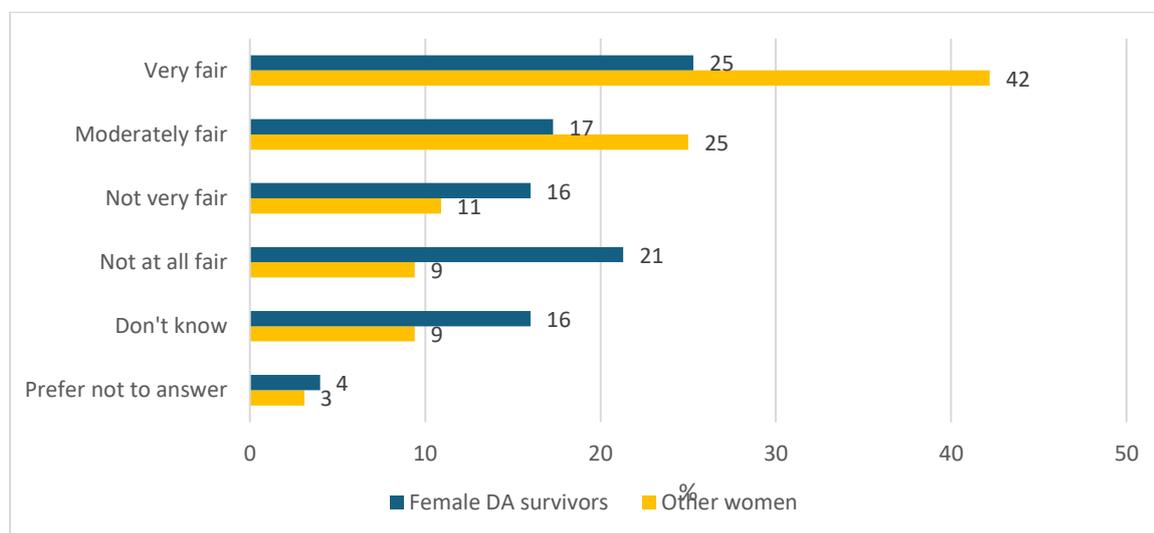
‘He was just being difficult from day one, he, I think he just wants to be still bound by the house so he gives me a bit more grief you know, not to release and so I don’t have the peace of mind, you know, that sort of thing. So it’s always to have that upper hand on the other individual so they can still have that control. Nothing else, I feel that, that he doesn’t want to settle the house, that he wants that upper hand, that control’s still somewhere there, you know.’

For those who reported having nothing to divide or going their separate ways, it was not in fact the case that they had no assets – or debts – to divide from within the marriage. Among these women, only one in ten (10 per cent of survivors and 11 per cent of other women) had nothing while one in five (24 per cent of survivors and 18 per cent of other women) had debts only to divide. The remaining two thirds of these women (66 per cent of domestic abuse survivors and 71 per cent of other women) had assets of some value.

### Perceived fairness of arrangements

When those who just went their separate ways were asked how fair they thought this was, female survivors of domestic abuse were significantly more likely to feel that this decision had been unfair compared to other women (Figure 15): a third (37 per cent) of survivors felt that it was not very or not at all fair, compared to one in five (20 per cent) among other women.<sup>67</sup>

**Figure 15: Fairness of having gone separate ways – women who had no arrangement and gone separate ways**



Unweighted bases: Female survivors (111); other women (136) who went their separate ways

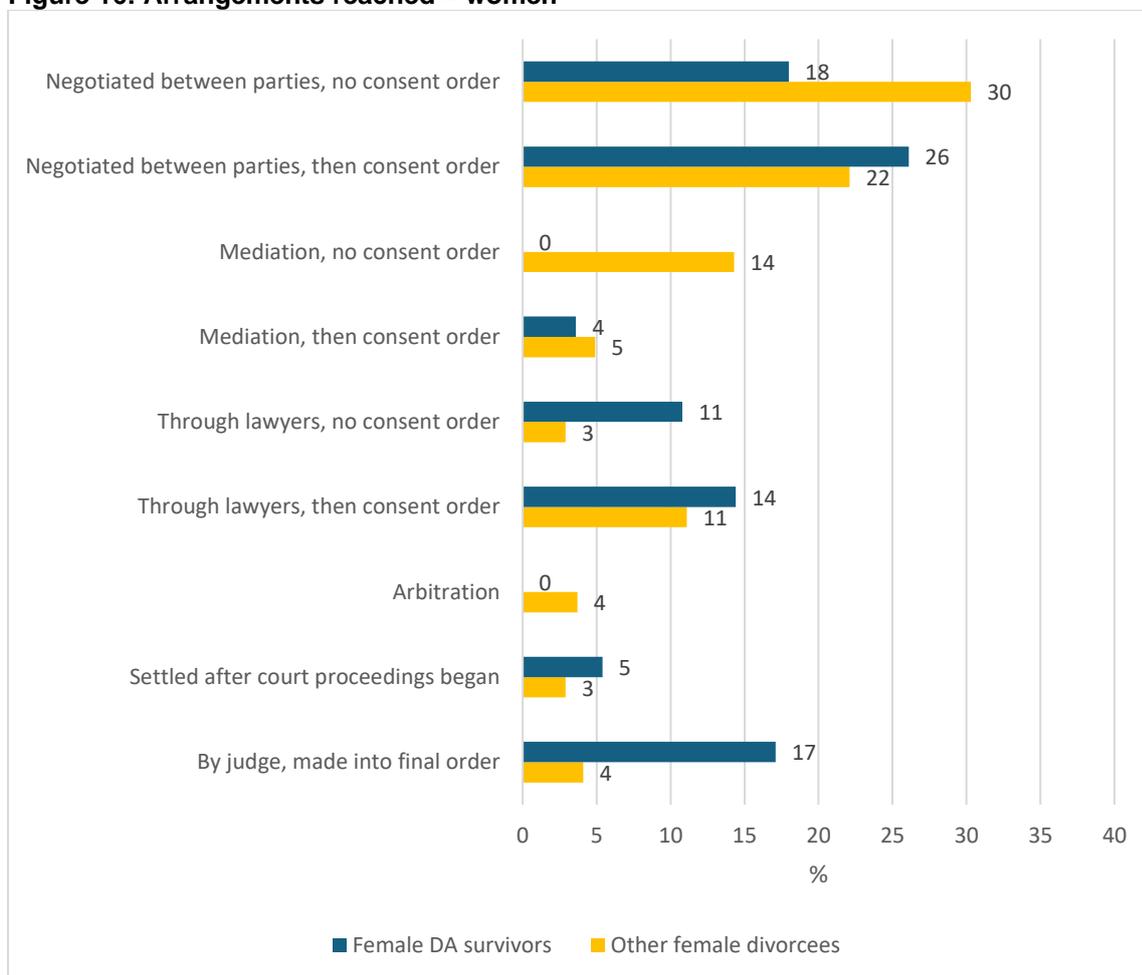
<sup>66</sup> For discussion of the issue of joint mortgage economic abuse in relation to a current or former partner, see Surviving Economic Abuse, *‘Locked into a mortgage, locked out of my home’: How perpetrators use joint mortgages as a form of economic abuse and how to stop them*, [2024]. <https://survivingeconomicabuse.org/wp-content/uploads/2024/09/SEA-Joint-Mortgages-Report-2024.pdf>

<sup>67</sup> P-value 0.013 when comparing ‘fair’, ‘not fair’, ‘not answered’.

### Routes taken to reaching an arrangement

Figure 16 shows the routes by which any arrangements had been made by women. A key finding is that among female domestic abuse survivors, the majority (61 per cent) of arrangements had been made into a court order whether by consent or adjudicated, much more likely than for other female divorcees (42 per cent).<sup>68</sup>

**Figure 16: Arrangements reached – women**



Unweighted bases: Female survivors (257) and other women (499) with an arrangement

These findings in relation to court orders are particularly important for members of the legal profession. As there is an increased likelihood of domestic abuse survivors having their financial and property arrangements made into a court order (whether by consent or adjudicated), it would be helpful for the legal profession to become more cognisant of the issue of domestic abuse in financial remedy cases and the implications of this during the course of survivors' decision-making, particularly in light of the surprising finding that 11 per cent of female survivors' financial arrangements made through lawyers were not formalised into a consent order. An example of why this is important can be seen in the interview data where a lack of understanding from one wife's solicitor about the nature and extent of coercive control and financial abuse was one of the reasons why the wife walked away with no arrangement. In this case, the ex-husband had told his wife (the survivor) that if she argued for a division of the assets he would 'tie [her] up in legal fees'. In this quote, the wife

<sup>68</sup> P-value <0.001.

was discussing the fact that the money in the joint savings account had been taken by the husband, but the solicitor did not appear to recognise this as coercive control:

'But, yeah, there was nothing. There was a lot of credit card debt but there was no cash. The savings didn't exist. But my solicitor said it was my own fault for being silly because why wasn't I looking at it and I was like, 'I didn't. I just trusted my husband.' And she said, 'Well, no judge is going to look kindly upon that because you're not stupid but you've done something stupid so I wouldn't think that you would be looked kindly upon for doing it. I don't think they'll go in your favour because you should have been a part of it, not just letting someone else control your money.'

When examining the reasons why domestic abuse survivors are more likely to have their financial and property arrangements made into a court order, this could be linked to the increased likelihood of female survivors of domestic abuse using lawyers in relation to their finances compared with other women, possible access to legal aid and wanting a legally binding order. However, this does not explain why those who negotiated between themselves and/or did not use lawyers were also more likely than other women who had used that route to have their arrangement made into a court order. Unfortunately there are limited data within the qualitative sample to explore this, but it could be linked to the survivor's (reasonable) concern to ensure the abuser fulfils their side of the bargain.

However, in relation to non-consent order cases, the qualitative sample provided more data about why court orders were not obtained by domestic abuse survivors. A number of interviewees suggested that this was due to the fact that it was not something they were aware of or there was 'no need' to do so. This lack of 'need' was down to several factors including: the older age of children; the actual and perceived lack of assets to divide (which, as the earlier findings demonstrated, was particularly prevalent amongst domestic abuse survivors), not wanting to rock the boat or cause problems within the wider family; and concern that they could end up with getting less. The latter point was made by one interviewee who had identified financial and emotional/psychological abuse as a reason for the divorce:

'He's got nothing so it was almost like what's the point? And actually it probably wouldn't have worked in my favour because he probably would have tried to get something off of me.'

### *Contested court proceedings*

Arrangements involving domestic abuse were far more likely to have involved contested court proceedings: 17 per cent of female domestic abuse survivors in the survey reported that their case had been determined by a judge and a further five per cent settled after financial proceedings have begun (Figure 16). This compared with only seven per cent of other women (four per cent determined by a judge, three per cent settled after proceedings began). Given that adjudicated cases are atypical, it is unsurprising that the entire qualitative sample of 53 only contained two final order cases, and only one of these had domestic

abuse allegations,<sup>69</sup> but this means that we have limited basis on which to identify the sort of reasons why domestic abuse cases were more likely to have involved court. However, an earlier study examining reasons for settlement of financial matters on divorce suggested that a wide range of factors influence why cases go to court, loosely falling into two categories: those that are personal to the parties, and those of a legal or process-related nature.<sup>70</sup> The former includes such matters as: the parties' continuing emotional entanglement within the relationship leaving them focused simply on fighting rather than making any real attempt at settlement; one party, for whatever reason, choosing not to engage or dragging their feet; parties focused on their own issues, to the neglect of any children's interests. The legal or process-related issues identified in the earlier study as delaying or precluding settlement include issues such as: one or both parties wanting to have their 'day in court'; disclosure problems; the case being highly conflicted, with related ongoing proceedings.<sup>71</sup> These types of issues do not occur in isolation, but as Hitchings et al note, it was 'the combination of some of these characteristics and / or their particularly extreme or complex manifestation that required adjudication of some cases'.<sup>72</sup>

### *Arrangements reached via mediation*

With regard to mediation, only four per cent of female domestic abuse survivors had made their financial arrangements via mediation, compared to one in five (19 per cent) of other women<sup>73</sup> (Figure 16). It is particularly timely to note the comparatively very low occurrence of mediated arrangements amongst female survivors, given changes recently made to FPR Part 3 and Part 28 with a revised Finance Pre-Action Protocol to promote non-court dispute resolution (29 April 2024).<sup>74</sup> For example, the court is now required to encourage parties to use out-of-court dispute resolution; and failure (without good reason) to attend out-of-court dispute resolution is now an express reason for the court to consider making a costs order. In considering whether non-court dispute resolution is appropriate for survivors of domestic abuse, the court is required to take into account 'whether a valid MIAM exemption has been claimed'.<sup>75</sup> But if, as this study indicates, domestic abuse survivors are not using mediation as a route to making financial arrangements on divorce, it is important to consider why this is so and whether general measures prioritising use of non-court dispute resolution in financial cases may need to be further modified where domestic abuse is a factor.

A number of survivors in the interview sample did not use mediation. Reasons for this included: a lack of communication between the parties; mediation not being raised as a

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<sup>69</sup> Although the proportion of domestic abuse contested cases are under-represented in the qualitative sample, this is not by a huge proportion. Out of the 12 interviews where domestic abuse was identified, one ended up as a contested final order.

<sup>70</sup> E Hitchings, J Miles and H Woodward, *Assembling the Jigsaw Puzzle: Understanding financial settlement on divorce* (University of Bristol, 2013) ch 4. For other research examining experiences of private family non-court dispute resolution and reasons for settlement, see A Barlow, R Hunter, J Smithson and J Ewing, *Mapping Paths to Family Justice* (Palgrave, 2017), p 159.

<sup>71</sup> E Hitchings, J Miles and H Woodward, *Assembling the Jigsaw Puzzle: Understanding financial settlement on divorce* (University of Bristol, 2013), Table 4.1.

<sup>72</sup> *Ibid*, p 88.

<sup>73</sup> P-value <0.001.

<sup>74</sup> Amendments made by the Family Procedure (Amendment No 2) Rules 2023.

<sup>75</sup> FPR r3.3(2)(b).

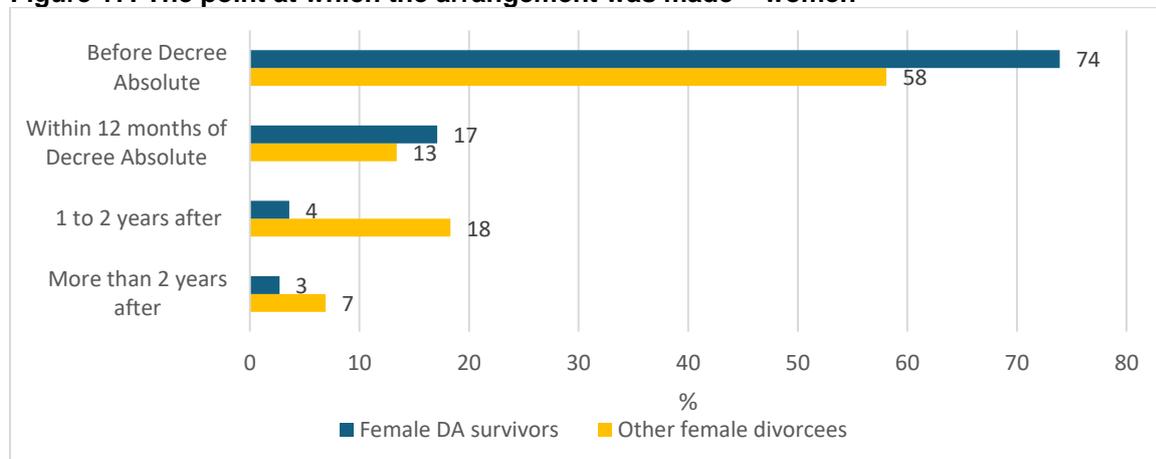
possibility; costs; not being ready to mediate; and not having any/sufficient assets to warrant going to mediation.

Only two female survivors in the sample had either tried mediation or had attended a MIAM. The experience of the survivor who tried mediation was not positive as she had felt pressurised, both into attending mediation by her solicitor and in the mediation itself, where she had felt pressurised to agree to a 50/50 split on the home. Perhaps significantly, the interviewee had not identified domestic abuse in the pre-interview survey but it only emerged during the course of the interview, where she outlined a range of incidences of economic abuse and controlling behaviour including credit card debt he had incurred in her name and unpaid child maintenance. The issue surrounding self-identification as a victim of domestic abuse highlights the potential problems when screening cases suitable for mediation, where the survivor may be either unaware of the abuse or reluctant to self-identify out of shame or fear for example and the mediator is therefore unable to provide a MIAM exemption.

### *Timing of the arrangements*

Where arrangements had been made, for female survivors of domestic abuse these were significantly more likely to have happened earlier in the divorce, notably before the Decree Absolute,<sup>76</sup> than for other female divorcees (Figure 17).<sup>77</sup> For instance, three quarters (74 per cent) of arrangements among female survivors were made before the Decree Absolute, compared to six in ten (58 per cent) of those for other women.

**Figure 17: The point at which the arrangement was made – women**



Unweighted bases: Female survivors of domestic abuse (257) and other women (499) with an arrangement

This is a surprising finding given that some of the qualitative data suggest that perpetrators of domestic abuse would attempt to extend proceedings or draw out any negotiations, in either case sometimes simply by failing to engage, as a means of prolonging the abuse by attempting to exert ongoing control. One interviewee’s divorce involved protracted

<sup>76</sup> The old term ‘Decree Absolute’ is used here rather than the new term ‘Final Order’ as the survey was conducted prior to the language changes in the Divorce, Dissolution and Separation Act 2020.

<sup>77</sup> P-value <0.001.

negotiations over the home which were exacerbated by the fact that her ex-husband was not represented:

‘My ex didn’t have a solicitor, he represented himself and that was a big spanner in the works because he just didn’t respond, he just caused delays so my whole divorce took seven years from beginning to the end and it was me chasing and he’d just say, ‘Oh I didn’t get that paperwork. I didn’t receive this.’ It was just really hard.’

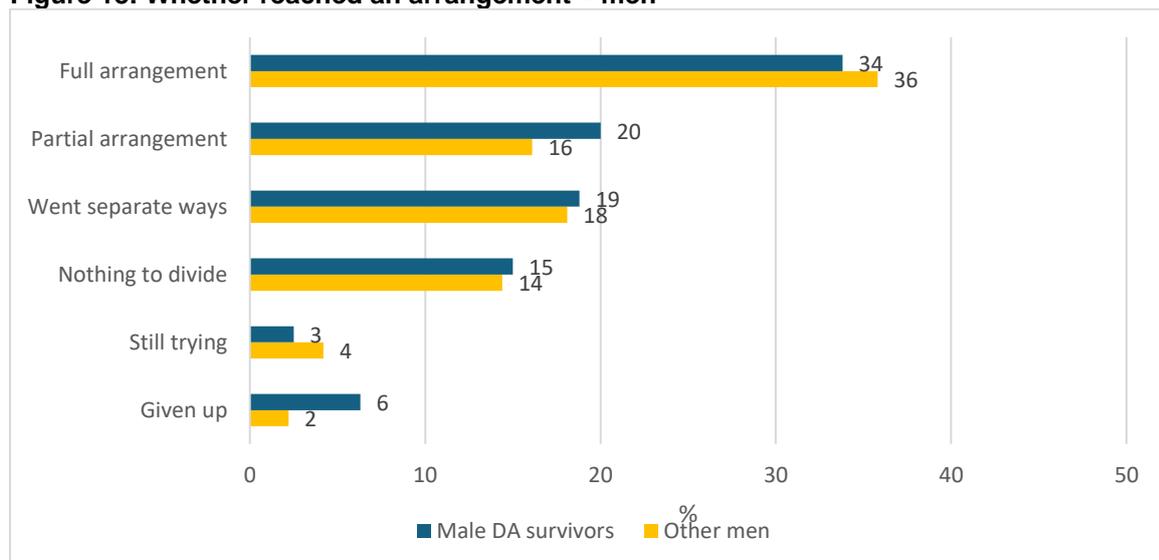
For another interviewee, the continuation of control by the abuser following separation was evident through her ex-husband using ‘every delay tactic he could’, thereby causing her to incur more costs.

The findings from the survey data that female survivors reach arrangements earlier than other women could reflect the (more urgent) financial need of survivors. Given earlier findings reported above that they were less financially secure than other women, the need to come to an arrangement sooner rather than later could reflect a need to establish some form of financial independence from the abuser. However, a speedy process could also be about the abuser controlling the process: quicker completion of the legal process may enable the abuser to shut down any discussion of the financial and property aspects. Further qualitative work is needed to determine why arrangements in these cases were made earlier and with what outcomes for the women involved.

### Arrangements among male survivors

While female survivors were less likely to have a financial arrangement than other female divorcees, this was not true for male survivors (Figure 18). Just over half (54 per cent) of male survivors had a full or partial settlement – the same proportion (52 per cent) as other men.<sup>78</sup>

**Figure 18: Whether reached an arrangement – men**

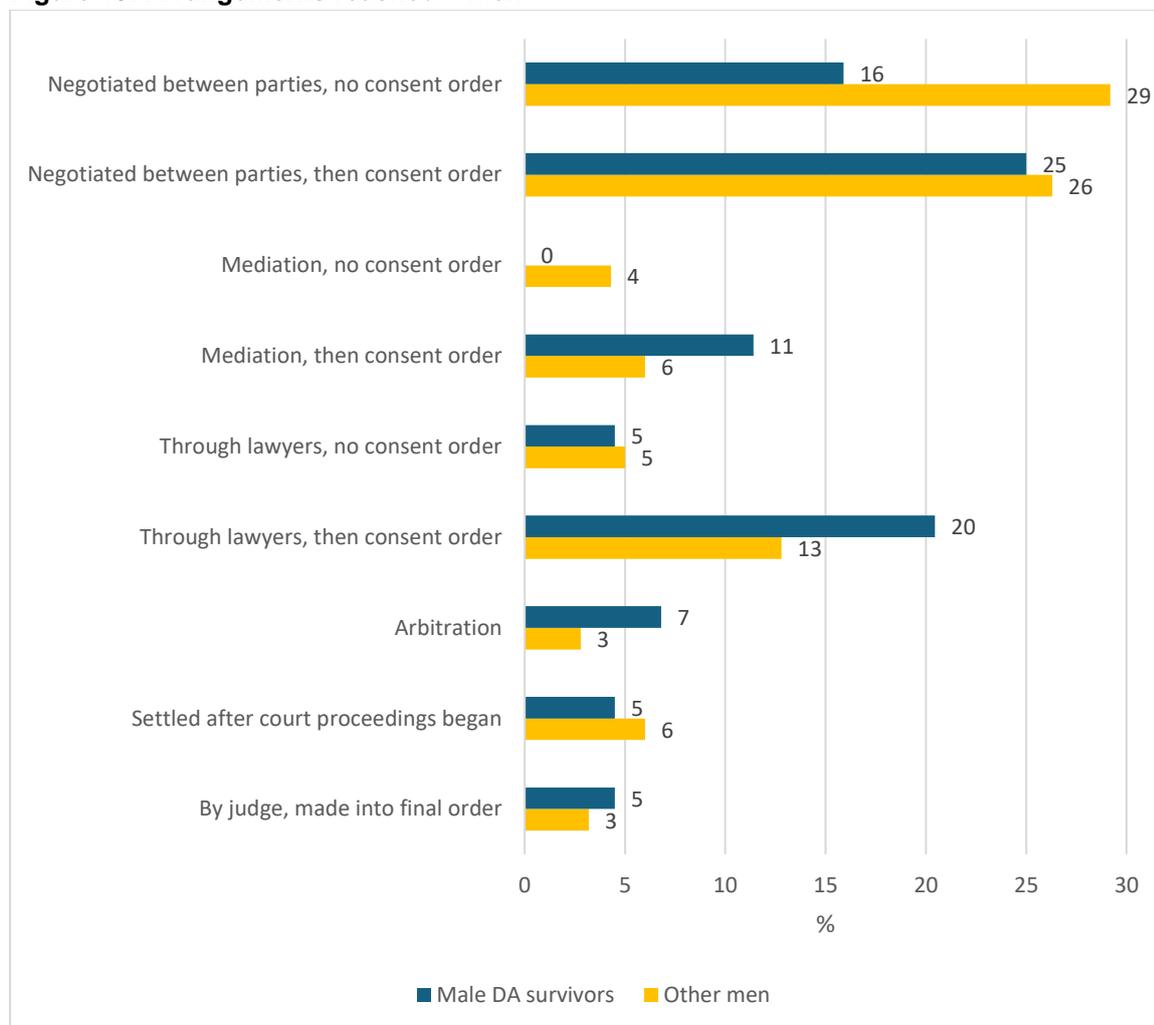


Unweighted bases: Male survivors (142); other men (883)

<sup>78</sup> There were also no significant differences in relation to when any settlement was reached. The sample sizes are too small to look at perceptions of fairness of having gone their separate ways.

While male survivors who had reached a financial agreement appeared more likely than other male divorcees to have an order (61 per cent compared to 48 per cent), this difference is not statistically significant.<sup>79</sup> Like female survivors, male survivors were less likely than other men to have reached an agreement themselves with their ex-spouse (41 per cent compared to 55 per cent) and more likely to have reached one through negotiation with the help of lawyers (25 per cent compared to 18 per cent) (Figure 19).<sup>80</sup>

**Figure 19: Arrangements reached – men**



Unweighted bases: Male survivors (84) and other men (549) with an arrangement

### *Perceived fairness of arrangements*

Among both women and men who had come to a full arrangement, there were no significant differences between survivors and other divorcees in terms of how fair they felt the settlement had been. However, survivors were less likely to feel that they had had at least an equal say in the nature of the arrangement. Among those with a full financial arrangement, female survivors were more likely than other women to say that their ex-spouse had more say (38 per cent compared to 19 per cent) and less likely to say that they had an equal say

<sup>79</sup> P-value 0.094.

<sup>80</sup> P-value 0.014.

(24 per cent compared to 44 per cent).<sup>81</sup> Whilst the pattern was the same<sup>82</sup> among women who did or did not use a lawyer in relation to their finances, the differences between survivors and other women were more pronounced among those who had not had legal help.<sup>83</sup> The pattern was similar among men, but did not reach statistical significance.

Explanations offered by interviewees for why their ex-spouse had more say included: abusers manipulating and drawing out the process; not engaging; not offering anything in negotiation, which gave the abuser the 'financial upper hand'; and survivors' own mental health reasons:

'I've got a good job, I'm not stupid, I'm quite strong – believe it or not – and independent, and then when I look back at some of the things I think I literally must have been a wreck of a person. [...] So, clearly I was a broken person by that point. And plus, he'd gaslighted me for the whole time he'd had the affair, telling me I was completely imagining it for like a year when I was convinced it was happening. So, he'd gaslighted me for a year. Mentally I just wasn't equipped for it.'

### *Factors taken into account when negotiating arrangements*

Those who had a financial settlement were asked what factors they had taken into account in shaping that settlement (Table 4). To some extent, differences in the factors taken into account by female survivors and other women may reflect the fact that their arrangements were more likely to have been negotiated by lawyers or in court, and then made into an order. They were more likely than other women to say that they took into consideration what lawyers or other professionals had told them (43 per cent compared to 18 per cent<sup>84</sup>) and less likely to say that the arrangement was based on what one or both of them thought was fair (29 per cent compared to 38 per cent<sup>85</sup>). Moreover, female survivors were significantly more likely to talk about the value of the home (54 per cent compared to 31 per cent<sup>86</sup>) and pension (29 per cent compared to 13 per cent<sup>87</sup>), the length of the marriage (28 per cent compared to 14 per cent<sup>88</sup>), and so on. However, other factors related to experiences during the marriage. For instance, they were significantly more likely than other women to have factored in their desire for a clean break – having no ongoing financial ties - (46 per cent compared to 31 per cent<sup>89</sup>) and fear of or feeling of intimidation by their ex-spouse (26 per cent compared to four per cent<sup>90</sup>).

There are fewer significant differences between the reports of male survivors and other men. However, male survivors were, like their female counterparts, more likely than other men to report taking into account the views of lawyers or other professionals (27 per cent compared

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<sup>81</sup> P-value <0.001.

<sup>82</sup> And both statistically significant (p-value 0.001 and 0.036 respectively).

<sup>83</sup> For instance, among those not using a lawyer, half (50 per cent) of domestic abuse survivors reported that their ex-spouse had more say, compared to 14 per cent of other women.

<sup>84</sup> P-value <0.001.

<sup>85</sup> P-value 0.044.

<sup>86</sup> P-value <0.001.

<sup>87</sup> P-value <0.001.

<sup>88</sup> P-value <0.001.

<sup>89</sup> P-value 0.002.

<sup>90</sup> P-value <0.001.

to 15 per cent<sup>91</sup>) and less likely to say that the arrangement was made on the basis of what one or both of them thought was fair (16 per cent compared to 34 per cent<sup>92</sup>). Like women, male survivors were also more likely to report feelings of intimidation and fear of their ex-spouse (12 per cent compared to four per cent).<sup>93</sup>

**Table 4: Factors taken into account when making a financial arrangement**

	Women		Men	
	Survivors	Other women	Survivors	Other men
	%	%	%	%
<b>Financial and practical considerations</b>				
The value of the home	54	31	41	34
Having a clean break	46	31	34	38
The value of the pension	29	13	21	18
Whose name the property/money/pension/assets/belongings were in	20	17	23	16
Whose name the debts were in	15	14	16	9
Who had paid in more during the marriage	10	15	23	13
Who had money/property before marriage	9	20	23	13
A pre-nuptial agreement	1	1	2	3
<b>Family and caring considerations</b>				
Where the child(ren) were living	35	16	18	19
Who most needed the money after the divorce	21	14	9	11
The time I/my ex had spent looking after the home/children	14	20	25	9
Providing ongoing financial help for me/my ex	9	6	5	10
Giving some of it to our child(ren)	3	6	9	5
<b>Legal considerations and fairness</b>				
What we were advised by a lawyer/other professional	43	18	27	15
What one/both of us thought was fair	29	38	16	34
The length of the marriage	28	14	14	13
What the law said/we thought it said	19	11	14	13
<b>Relationship considerations</b>				
Frightened or intimidated by my ex <sup>94</sup>	26	4	12	4
Trying to keep a good relationship with my ex	18	18	20	25
Whose fault it was the marriage had ended	7	9	12	8

Base: Female survivors (257), other women (499), male survivors (84) and other men (549) with a full or partial arrangement

<sup>91</sup> P-value 0.020.

<sup>92</sup> P-value 0.004.

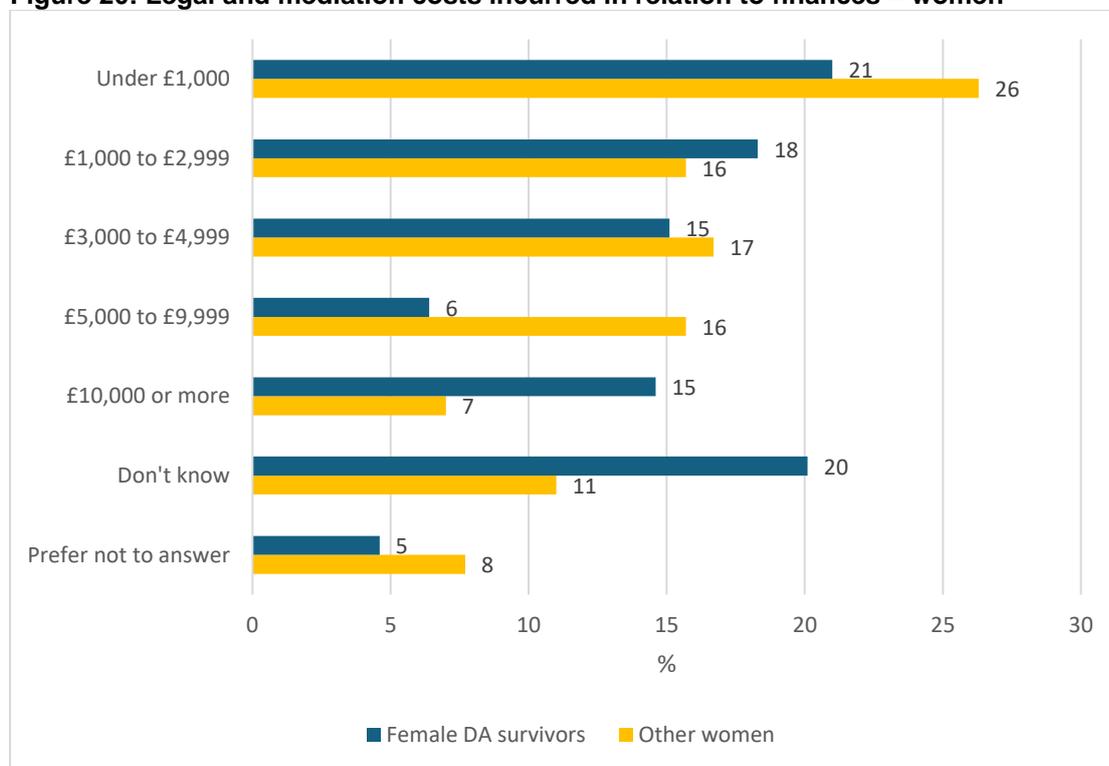
<sup>93</sup> P-value 0.004.

<sup>94</sup> This response was not provided as an option for two of the questions.

## Costs

Female domestic abuse survivors were more likely (70 per cent compared to 63 per cent)<sup>95</sup> than other women to have incurred legal and mediation costs in attempting to reach a financial arrangement. Moreover, among those who incurred costs, survivors spent, on average, more than other women (Figure 20).<sup>96</sup>

**Figure 20: Legal and mediation costs incurred in relation to finances – women**



Unweighted bases: Female survivors (410) and other women (588) incurring legal costs

Like their female counterparts, male survivors of domestic abuse were more likely than other men (73 per cent compared to 56 per cent) to have incurred legal or mediation costs in relation to sorting out their finances on divorce.<sup>97</sup> In light of our earlier finding that both male and female survivors were more likely to use lawyers in relation to their finances, the fact that both sets of divorcees incurred more legal or mediation costs is unsurprising. The interview data provided additional reasons as to why survivors incurred costs. Some interviewees felt reassured by having somebody representing and protecting them given to the 'manipulative' nature of their ex-spouse; for others, their peace of mind and mental health drove the decision to instruct a solicitor:

Yeah, and it sounds silly but it's all about my peace of mind, my mental health, because for me to feel that I've got control [...] She [solicitor] gave me all the advice I needed, I mean expensive but that's just the way it is, isn't it? She was really helpful, answered all my questions and put my mind at rest. I do feel that even though it was expensive it was worth it for the peace of mind.

<sup>95</sup> P-value 0.044. Participants were asked about legal and mediation costs excluding court fees.

<sup>96</sup> P-value <0.001.

<sup>97</sup> P-value 0.003. There were no significant differences in the level of costs incurred, although this may be related to the limited sample sizes.

Although this wife balanced the expense against the support provided to her, the qualitative data showed that not all survivors felt that the costs incurred had been worth it:

'Solicitors are very expensive, aren't they, and I knew that from day one. I still think I've paid a lot of money. I think we were quite simple, like we didn't have any off-shore bank accounts, we didn't have any properties. We were just us with a house and nothing else. So, I think I thought it was quite a simple case, which it was, but I think because it dragged on and every email in and every email out was 30 quid. They all added up. I think for what I've ended up with I could have ended up with that without having a solicitor. They've been lovely and wonderful but I think I've paid a lot of money for not very much really.'

As noted earlier, female survivors were more likely than other women to have been the party who applied for divorce and the qualitative data provided examples of survivors who paid the divorce application fee themselves because they just wanted to 'put a line underneath' the relationship. One such interviewee suggested that costs and high court fees could be off-putting for survivors of domestic abuse, and might potentially prevent them from leaving an abusive relationship:

'Because I feel like sometimes the law is a bit like, 'Oh, keep yourselves together' but you know sometimes when you've shut down or you're emotionally quite hurt by the situation, all you want to do is just walk away. And then when you've got costs after costs, you just think, oh, is it even worth it?'

Most commonly, divorcees paid for these costs themselves (50 per cent of female survivors, 43 per cent of other women; 51 per cent of male survivors, 52 per cent of other men). However, 16 per cent of female survivors and 19 per cent of male survivors received legal aid for these costs (compared to nine per cent of other women<sup>98</sup> and four per cent of other men<sup>99</sup>). Given that some domestic abuse survivors have access to legal aid in the wake of LASPO, this figure seems to be a particularly low proportion receiving legal aid.<sup>100</sup> Of course, it could simply be a reflection of the financial means test that must be passed in order for survivors to access legal aid. However, as the earlier findings show, given that domestic abuse survivors often have lower incomes and lower value capital assets than other women, we might have expected a higher proportion of survivors in our study to have accessed legal aid. Without legal aid, the financial costs involved may make it very difficult for a survivor to remove themselves from an abusive environment. One of the interviewees who had this experience also suggested a way forward:

'There are many women like me where everything looks on the outside perfectly okay but behind the closed door there could be somebody who desperately, desperately, wants to break free but can't find any route out. I think by taking away the legal costs that used to be available, that prohibits them, it doesn't give them anywhere to go. These days you can't even get a half hour free appointment and

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<sup>98</sup> P-value 0.030.

<sup>99</sup> P-value <0.001.

<sup>100</sup> See discussion on p 22 for reference to the test required to obtain legal aid.

if you want to see the Citizens Advice well, book the appointment in a year's time. I do feel there could be more help legally for people even if it's just a 30-minute free appointment saying right this is what we can do to help with this, this is what we can't, this is what it could cost you but you could claim for some of this. I think that would be a great help. It's a hard life at the moment for people.'

#### 4. What were the asset splits for survivors of domestic abuse, and what ongoing financial support was there?

##### Key findings

**The overall picture for survivors of domestic abuse in relation to asset splits is rather messy. However, some issues stood out, such as the clean break motivation, limited pension provision, and low levels of spousal maintenance.**

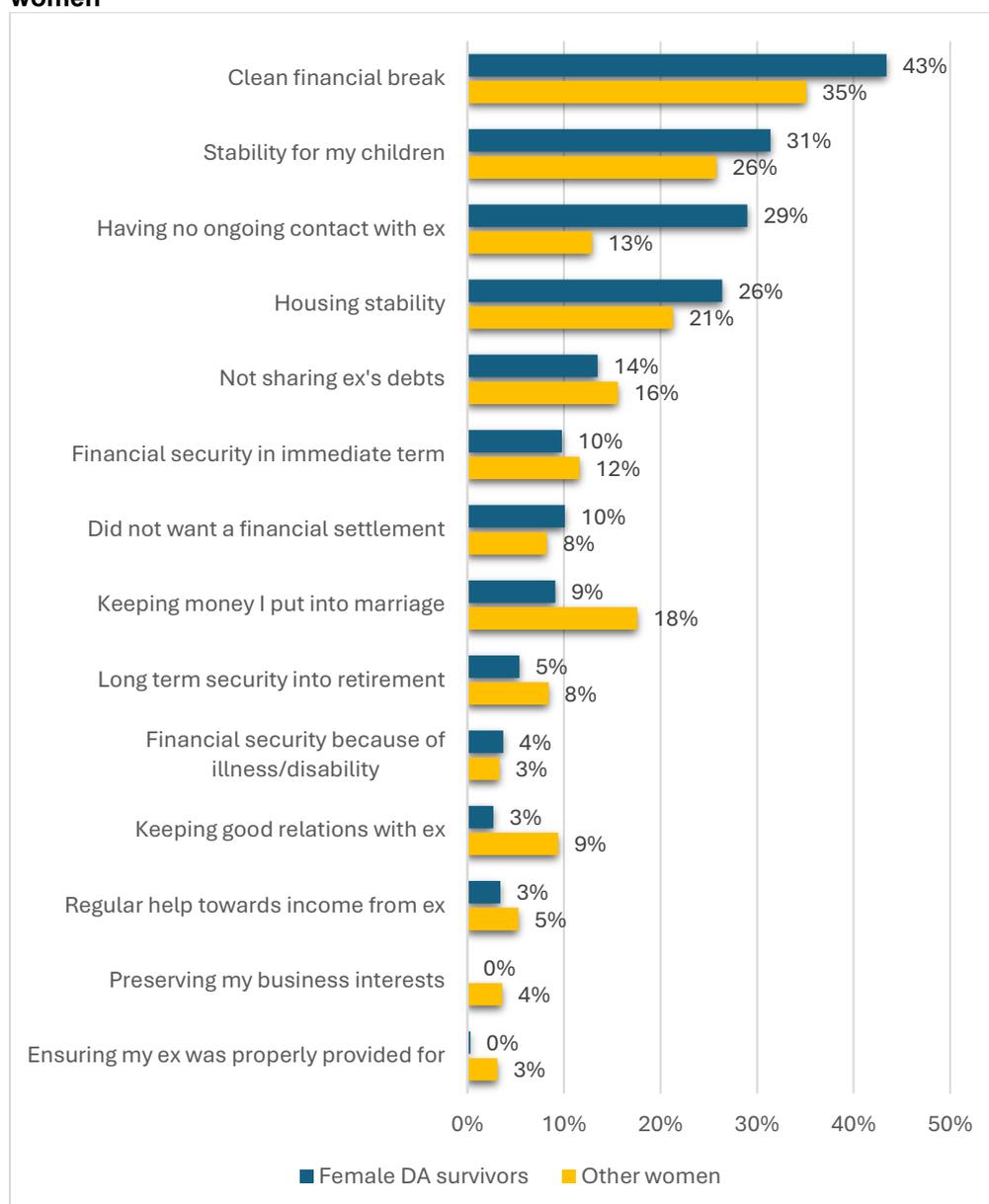
- Both female and male survivors were often motivated by having a clean financial break from their ex-spouse (e.g. 43 per cent of female survivors compared to 35 per cent of other women) and by having no ongoing contact with them (e.g. 29 per cent of female survivors compared to 13 per cent of other women) .
- Reflecting this, among women, where the former matrimonial home was owner-occupied, a decision to sell the home was more common where there had been domestic abuse than in other marriages (35 per cent compared to 27 per cent). The clean break motivation was also reflected in the use of transfers of the former matrimonial home.
- Where the home was transferred to a woman, in cases of domestic abuse, it was much more likely that the home had been given over in its entirety, without the woman giving a compensating payment to their ex-spouse (45 per cent of cases involving abuse compared to 26 per cent of others).
- Female survivors came out worse than other women in relation to pensions: they were less likely themselves to have a pension and no more or less likely than other women to receive a pension share. Male survivors were more likely than other men to have had a pension sharing agreement where their ex-spouse received a share of their pension (24 per cent compared to 12 per cent of other men).
- Female survivors were more likely than other women to have taken on only a minority share of any gross debt (34 per cent had taken on less than half, compared to 23 per cent of other women).
- Fewer female survivors than other women had arrangements to receive ongoing financial support in the shape of spousal maintenance (e.g. seven per cent had an arrangement for their ex-spouse to pay at the time of divorce, compared to 13 per cent of other women). However, the same was not the case for men, with male survivors just as likely as other men to have an arrangement to pay or receive spousal maintenance.

In this section, we report on the ways in which any property or assets were divided when couples divorced, as well as whether there was any ongoing financial support, as before comparing cases involving domestic abuse with other cases. We start by setting out the context in which any arrangements were made, reporting on what divorcees told us about what they wanted from a financial arrangement. Often, clear preferences for a clean financial break and to minimise ongoing contact with their ex-spouse likely shaped the *kinds* of financial settlements that were made, although there were no differences in the overall *percentage share* received by survivors of domestic abuse and other divorcees.

## Motivations

When divorcees were asked in the survey what they regarded as the most important things they wanted from a financial arrangement,<sup>101</sup> female survivors of domestic abuse were more likely than other women to focus on having an arrangement which involved no future links with their ex-spouse (Figure 21). Whilst having a clean financial break was the most commonly cited factor for both female survivors of abuse and other women, survivors were more likely to say this (43 per cent compared to 35 per cent).<sup>102</sup> They were also twice as likely as other women to say that they were motivated by having no ongoing contact with their ex-spouse (29 per cent compared to 13 per cent).<sup>103</sup>

**Figure 21: The most important things that divorcees wanted from a financial arrangement - women**



Unweighted bases: Female survivors (528); other women (852)

<sup>101</sup> Participants could choose up to three options.

<sup>102</sup> P-value 0.014.

<sup>103</sup> P-value <0.001.

In exploring why a clean break was particularly important for survivors of domestic abuse, some interviewees seemed resigned about their circumstances, feeling that having a clean break was the only feasible option, enabling them to go their separate ways and close the door on the past:

‘Just once this is all resolved it’s closed door, an actual closed door because I know it sounds harsh and maybe this sounds bad, but I just think you know, I’ve had a long time of going through a lot of rubbish with this person and a lot of mess and bills he’s left me with, and I just feel you’ve been an abusive person and you’ve just walked away with no care in the world.’

For interviewees such as this wife, a clean break was important because they considered it would enable them to get on with their life, to ‘break free’. Other women emphasised factors such as their own safety and wellbeing, usefully illustrating why survivors might prioritise other things over sorting out finances:

‘There’s a domestic violence order on the house and things like that. It was quite nasty. So, I just wanted to do it in the least disruptive way because obviously I was living on my own as well and it’s not... I was very lucky, I’ve got two lovely neighbours – the two guys next door – and they really did look out for me and if they saw his car then they’d phone or text me and go, ‘Yeah, the car’s outside. We’ll stay and keep an eye out’, and stuff like that.’

Stability for their children was also a key concern for many female survivors, with three in ten (31 per cent) identifying this as a key motivation in the survey. This was reflected in the qualitative data, with interviewees such as the following wife explaining that: ‘my daughter was at the top of my list [...] my prime concern was the child arrangements and to make sure I could afford to pay for my daughter.’

Conversely, female survivors were less likely to say that they were motivated by keeping good relations with their ex-spouse (three per cent compared to nine per cent),<sup>104</sup> and fewer talked about being motivated by retaining their assets (e.g. nine per cent said that they wanted to ensure they kept the money that they put into the marriage compared to 18 per cent of other women).<sup>105</sup>

In several respects, the picture was similar for male survivors (Figure 22). They were more likely than other men to say that they were motivated by a clean financial break (59 per cent compared to 37 per cent)<sup>106</sup> and by a desire to have no ongoing contact with their ex-spouse (37 per cent compared to 13 per cent).<sup>107</sup> Conversely, they were less concerned about keeping good relations with their ex-spouse (six per cent compared to 16 per cent).<sup>108</sup> However, where male survivors differed from other men (and indeed female survivors) in their motivations was in their concern to secure a good financial future. Male survivors were

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<sup>104</sup> P-value <0.001.

<sup>105</sup> P-value <0.001.

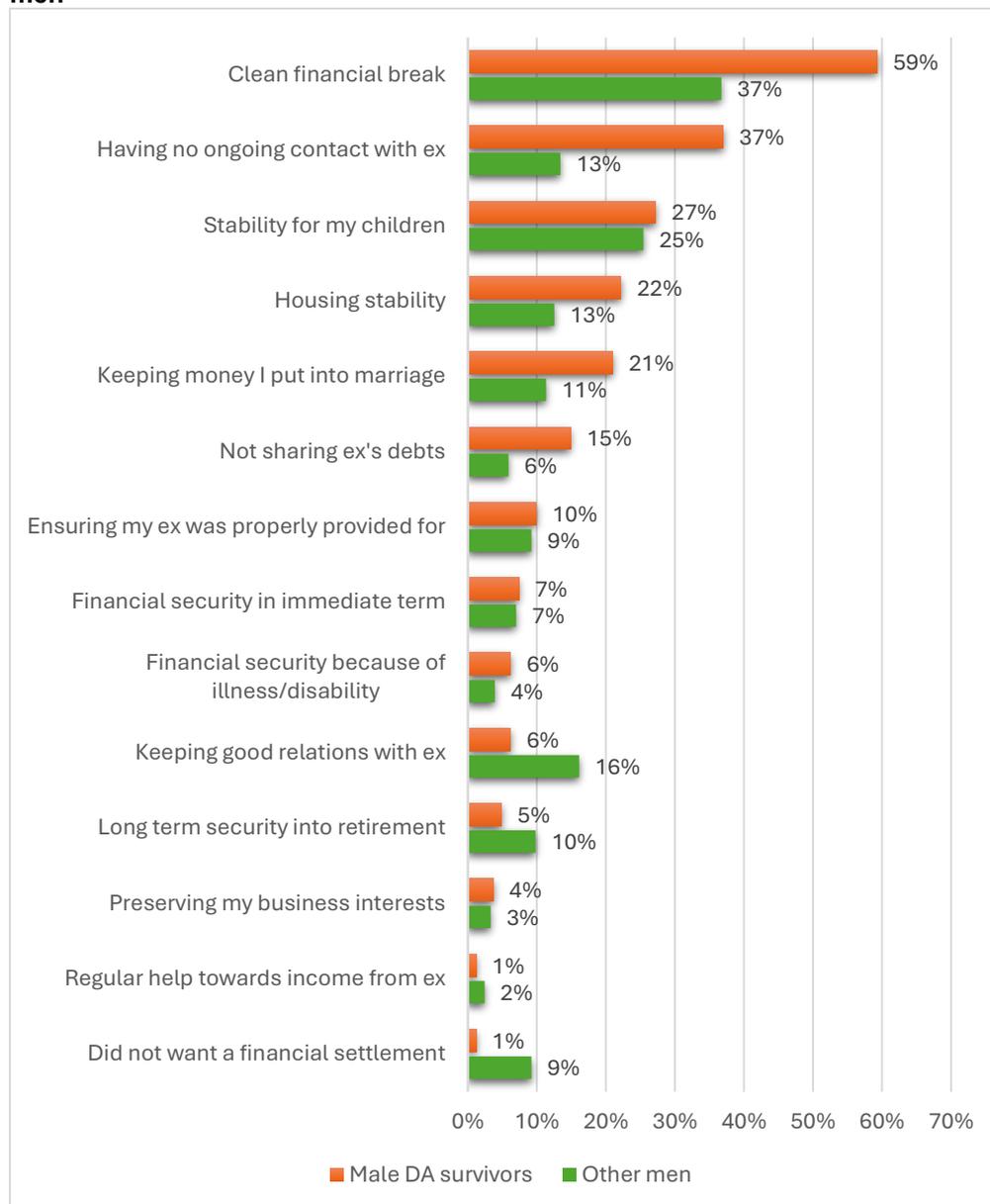
<sup>106</sup> P-value <0.001.

<sup>107</sup> P-value <0.001.

<sup>108</sup> P-value 0.003.

more likely than other men to cite housing stability (22 per cent compared to 13 per cent),<sup>109</sup> keeping the money they put into the marriage (21 per cent compared to 11 per cent)<sup>110</sup> and not sharing their ex-spouse's debts (15 per cent compared to six per cent).<sup>111</sup> They also appeared very keen to reach a financial settlement compared to other men: only one per cent said that they did not want a financial settlement compared to nine per cent of other men.<sup>112</sup>

**Figure 22: The most important things that divorcees wanted from a financial arrangement - men**



Unweighted bases: Male survivors (142); other men (883)

<sup>109</sup> P-value 0.012.

<sup>110</sup> P-value 0.011.

<sup>111</sup> P-value 0.008.

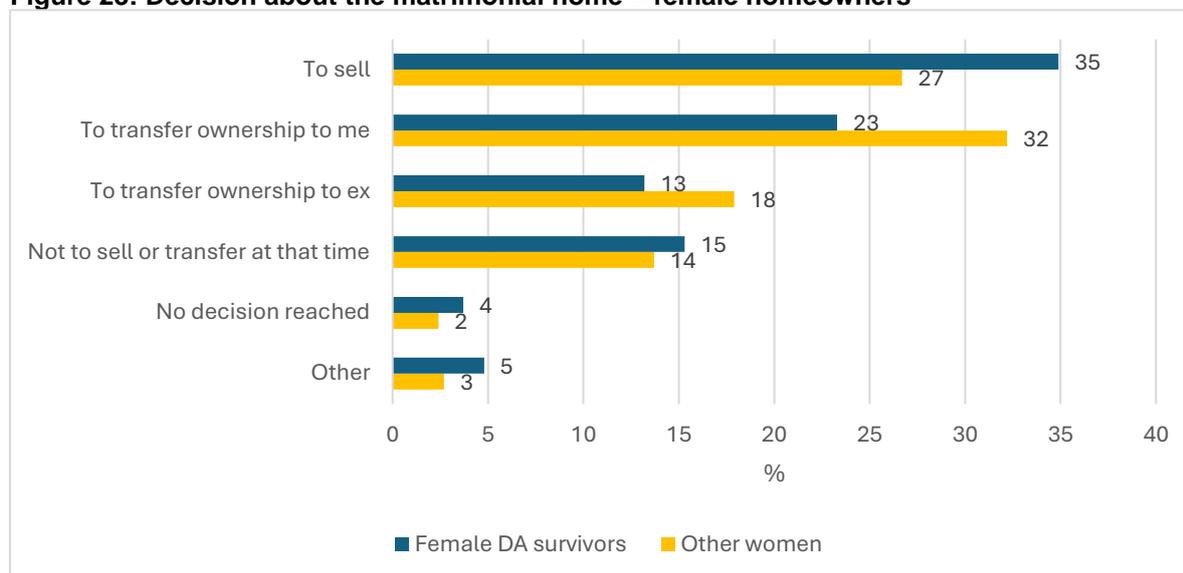
<sup>112</sup> P-value <0.001.

## The matrimonial home

As we reported in Section 2, fewer female survivors had lived in an owner-occupied matrimonial home. Among women whose matrimonial home was owner-occupied, a decision to sell the home was more common where there had been domestic abuse than in other marriages (Figure 23). However, where the home was transferred to the woman, female survivors were more likely than other women to acquire the home outright without giving a compensating payment to their ex-spouse.

When asked what had happened to the matrimonial home, a third (35 per cent) of female survivors reported that the decision was to sell the home, compared to a quarter (27 per cent) of other women. A further third (35 per cent) of female survivors reported an outright transfer of ownership to themselves (23 per cent) or their ex-spouse (13 per cent), but this outcome was more common for other women (50 per cent).<sup>113</sup> A property transfer or a sale of the former matrimonial home is consistent with our finding in the previous section concerning domestic abuse survivors' primary motivation being a clean break.

**Figure 23: Decision about the matrimonial home – female homeowners**



Base: female survivors (375) and women (666) whose matrimonial home was owner-occupied

Unfortunately, due to the low number of survivor-interviewees in the qualitative sample who had owned their former matrimonial home, it is difficult to explore why the decision to sell the former home was equally as common as a transfer. However, possible explanations include both spouses wanting a clean break and to move on with their lives with either option providing that opportunity. For one female interviewee who had sold the former matrimonial home, the decision to sell was due to her ex-spouse wanting to ensure he obtained his 'share'. In this case, the husband was determined to get his 'share' irrespective of the needs of the children and their schools being nearby. The wife had cited emotional/psychological abuse as a reason for the breakdown of the marriage. Here, the interviewee reflects on how she might have approached the situation differently:

<sup>113</sup> P-value comparing selling, transferring or other 0.002.

'In hindsight maybe I should have fought to stay [in former matrimonial home] and everything would have just carried on as it was [...] But maybe for the children and in terms of keeping everything as same as they're used to it might have been better.'

Once there had been a decision to sell the home, the percentage or monetary value of the equity received by female survivors did not differ significantly in the survey from that received by other women. However, when the decision was to *transfer* ownership of the home to the woman, in cases of domestic abuse this was more likely to happen without a compensating payment to the ex-spouse than in cases without domestic abuse.<sup>114</sup> Just under half (45 per cent) of ownership transfers were made without a compensating payment, compared to a quarter (26 per cent) in cases without domestic abuse. Given the earlier finding about this group's weaker financial position, the lack of compensating payment is consistent with the fact that there may be no money available to make such a payment, although in cases where there was no other significant capital to offset an outright transfer, a sale rather than transfer may have been expected. The lack of compensating payment could also be due to other influences such as child arrangements (the legal priority in these cases being to house any children of the relationship<sup>115</sup>) and in those cases where other assets were available, offsetting any pensions.

Moreover, when the decision was to transfer ownership to the perpetrator of the domestic abuse, within the survey, the value of the compensating payment to the woman was significantly higher than in cases without domestic abuse.<sup>116</sup> In this respect, survivors appear to be getting a better deal than other women, but this may well be due to the greater likelihood of survivors having had legal advice compared with other women.

In cases where the former matrimonial home was rented, there were few differences between female survivors and other women in relation to what had happened to the home. By the time the divorce had come through, three in ten female survivors (29 per cent) and other women (30 per cent) were still living in the home, their ex-spouse having moved out, while in 15 per cent of cases (for both groups of women), the woman had moved out and their ex-spouse was living there. This was reflected in the qualitative data with a number of the female survivors retaining the rented former matrimonial home, for example because the tenancy was in the wife's sole name or the wife having the history of paying the rent. In another case, which went to trial, with allegations of domestic abuse from both sides and the ex-wife receiving legal aid, the main issue was who would have the tenancy of their social housing. At the final hearing, the judge decided that the interviewee's ex-wife should have the tenancy and he was moved in to shared temporary accommodation. This case reflects a particular problem with divorce and social housing where the tenancy is in both parties' names:

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<sup>114</sup> P-value 0.016. Where a compensating payment was made, there were no significant differences in the percentage or monetary amounts paid.

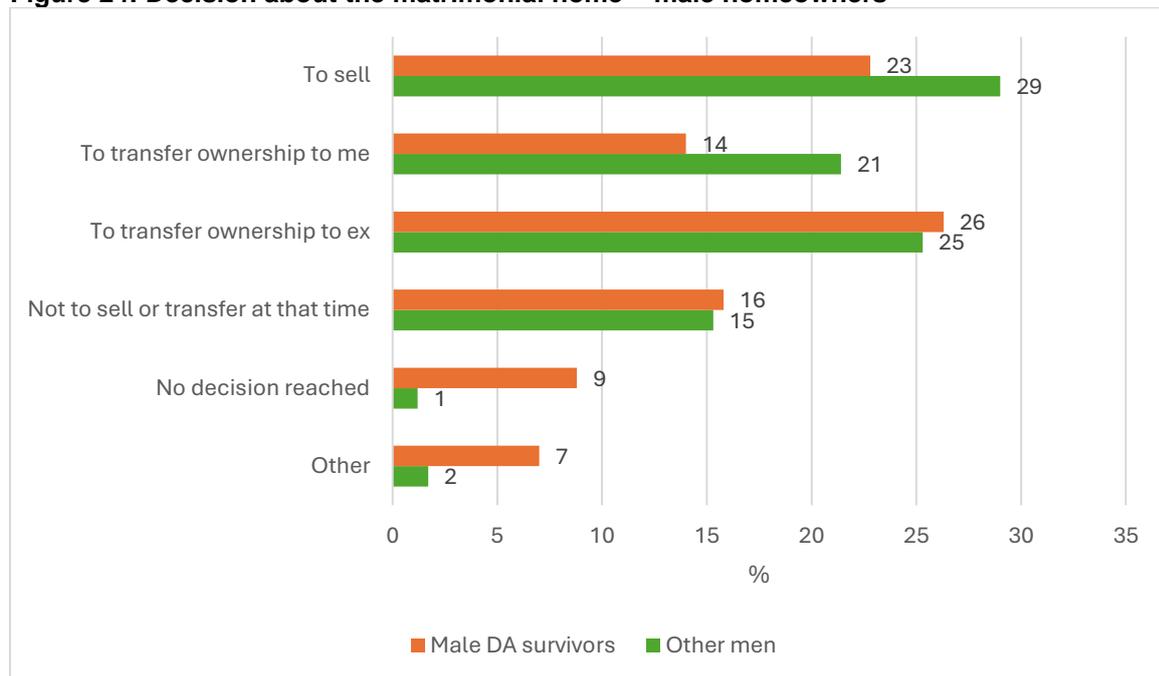
<sup>115</sup> Matrimonial Causes Act 1973, s25(1) where the first consideration is the welfare of any minor children of the family. See also *M v B (Ancillary Proceedings: Lump Sum)* [1998] 1 FCR 213 (CA).

<sup>116</sup> P-value 0.028. Where ownership of the home was transferred to the perpetrator, there were no significant differences in whether or not a compensating payment was made; rather the difference was in the value of any payments.

'That was the main reason for going to court, to sort out the tenancy, because we'd both been told not to give up our side of the tenancy otherwise we would be making ourselves intentionally homeless and therefore we wouldn't get any help from the local authority.'<sup>117</sup>

The small number of male survivors whose matrimonial home was owner-occupied in the survey means we are more limited in what we can say about the division of the matrimonial home in their cases. However, among homeowners, there is little evidence of a difference in decisions to sell or transfer ownership of the matrimonial home compared with other men. There does, however, seem to be more of a tendency to delay a decision about the home (Figure 24).<sup>118</sup>

**Figure 24: Decision about the matrimonial home – male homeowners**



Base: male survivors (104) and other men (724) whose matrimonial home was owner-occupied

## Pensions

We reported earlier that female survivors of domestic abuse were less likely than other women to have had a pension at the time of divorce, or to have a higher value pension.<sup>119</sup>

<sup>117</sup> Housing Authorities are not required to offer a person housing if they consider that they have made themselves intentionally homeless. See Housing Act 1991, s 191 and Ministry of Housing, Communities and Local Government, *Homelessness Code of Guidance for Local Authorities*, ch 9.

<sup>118</sup> There is a significant difference (p-value 0.002) across these responses. However a test across sell vs transfer vs other shows no significant differences (p-value 0.105).

<sup>119</sup> For discussion of the various issues and difficulties with valuing a pension, see Pension Advisory Group, *A Guide to the Treatment of Pensions on Divorce* (Second Edition) [2024], Part 3. In collecting the pensions value for the *Fair Shares* survey, we asked participants for the rough total value of their pension pot. After consideration and discussion with our Advisory Group members, we opted for this approach on the basis that asking a more detailed valuation question (i.e. the Cash Equivalent Value) would be confusing for participants. We also asked about type of pension scheme (i.e. personal pension, employer pension) and if the latter, whether defined contribution or defined benefit for example.

However, their ex-spouse was just as likely as the ex-spouses of other women to have had a pension, or a pension of higher value.

Despite being less likely than other women to have any pension of their own, or a pension of higher value, female survivors were no more or less likely than other women to have received a share their ex-spouse's pension.<sup>120</sup> Focusing on pensions yet to be drawn,<sup>121</sup> 12 per cent of survivors and 13 per cent of other women had received a share of their ex-spouse's pension.<sup>122</sup> However, when it came to the divorce settlement overall, female survivors came out worse than other women in relation to pensions, due mainly to the fact that their own pension wealth was more limited to start with. This is likely related to a combination of factors, including their age (being younger) and their work status (more likely to have dependent children and therefore working part-time). These points are reflected in the position of one interviewee:

'I mean I didn't really want to go down this route [trying to get a financial order/legal aid to pay for solicitor advice] but in the long haul I've spent a good 15 years with him, raising his children which both have autism and I'm still having to be a full-time mum because of their special needs, so it's not easy for me to go out and get a job because I've always got to go to different meetings and different places with regards to his children, so obviously my pension I will not have hardly anything and I just think I'm raising your children with all the needs they have, at least you know he could help support what I've had to not been able to do.'

Other interviewees described how they did not think about pensions or even consider that they could be relevant, whilst another survivor did not consider applying for a pension sharing order as she was so focused on cutting all financial ties (although of course, in this respect she was mistaken, as having a pension share is compatible with having a clean break): 'I wouldn't want his pension, I just wouldn't. [...] I would just want that separation and just to have that clear cut financial break and that was my biggest thing, I just wanted that financial break.'

The situation was different for male survivors of domestic abuse, who were more likely than other men to have had a pension sharing agreement where their ex-spouse received a share of their pension. Again focusing on those not yet drawing their pension, a quarter (24 per cent) of male survivors had a pension sharing agreement compared to 12 per cent of other men.<sup>123</sup> In addition, a further 17 per cent of male survivors said that the issue was still to be sorted out (Figure 25).<sup>124</sup>

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<sup>120</sup> Pension holders were also no more or less likely to have made a pension sharing agreement in relation to their own pension.

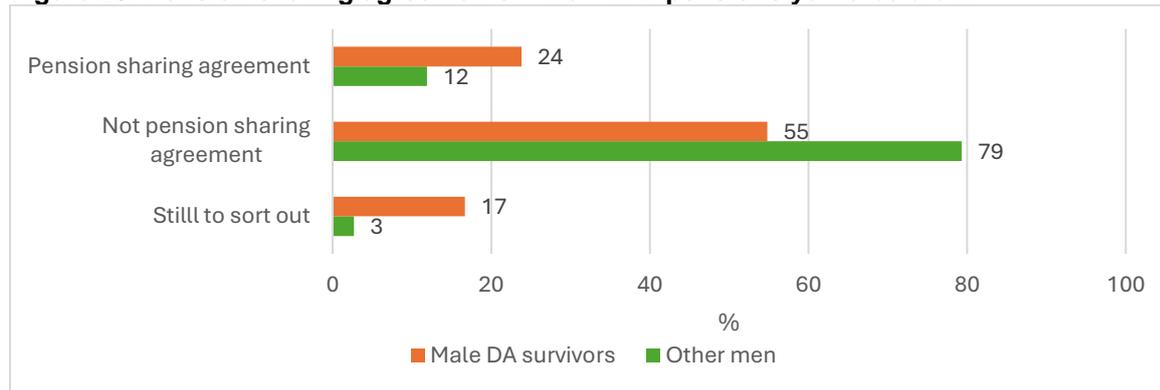
<sup>121</sup> As in the *Fair Shares* report (n 1 above), we focus on pension sharing agreements rather than on the division of any pensions already being drawn.

<sup>122</sup> Among female divorcees with a pension not yet being drawn, five per cent of domestic abuse survivors and two per cent of other women had a pension sharing agreement in relation to their own pension.

<sup>123</sup> Among men whose ex-spouse had a pension yet to be drawn, six per cent of domestic abuse survivors and five per cent of other men said there was a pension sharing agreement in relation to their ex-spouse's pension.

<sup>124</sup> P-value <0.001.

**Figure 25: Pension sharing agreements – men with pensions yet to be drawn**

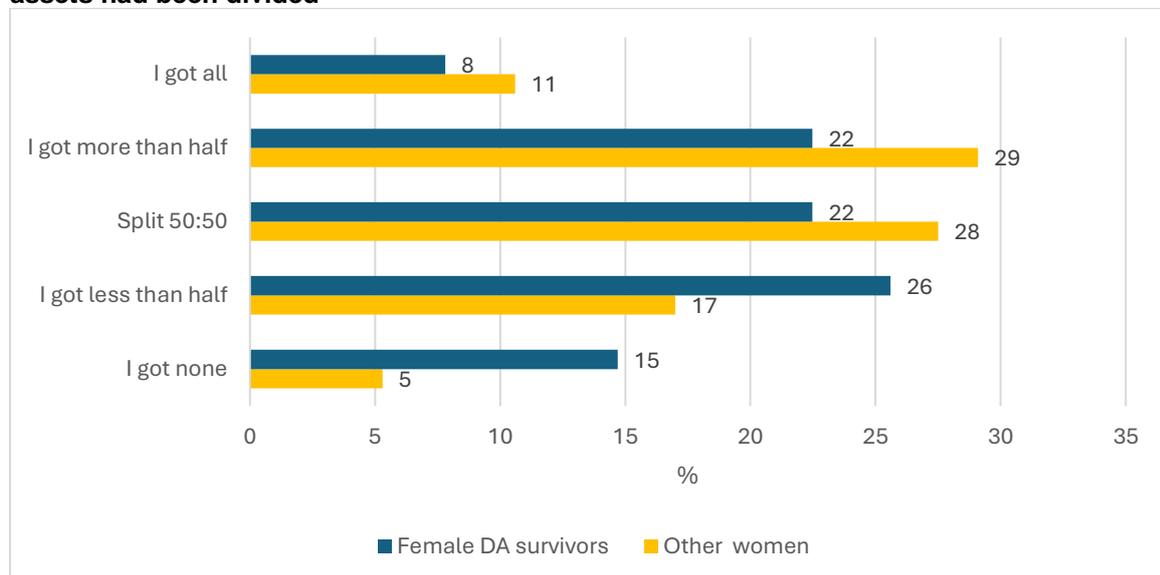


Base: male domestic abuse survivors (86) and other men (524) with a pension not yet being drawn

### Savings, other assets and debts

Earlier, we reported that there were no significant differences in the levels of savings and other assets<sup>125</sup> that female domestic abuse survivors and other women and their ex-spouses had at the time of divorce. However, when it came to dividing up these savings and assets, female survivors came out with less than other women. First, survivors were more likely than other women not to know whether any savings or assets had been divided at all (eight per cent compared to one per cent). Second, among those who said savings and assets had been divided,<sup>126</sup> survivors were less likely than other women to receive 50 per cent or more. While two thirds (67 per cent) of other women received at least 50 per cent, this was the case for only 53 per cent of survivors<sup>127</sup> (Figure 26).

**Figure 26: Percentage share of any savings or other assets – women where savings or other assets had been divided**



Base: female survivors (277) and other women (455) whose savings or other assets had been divided

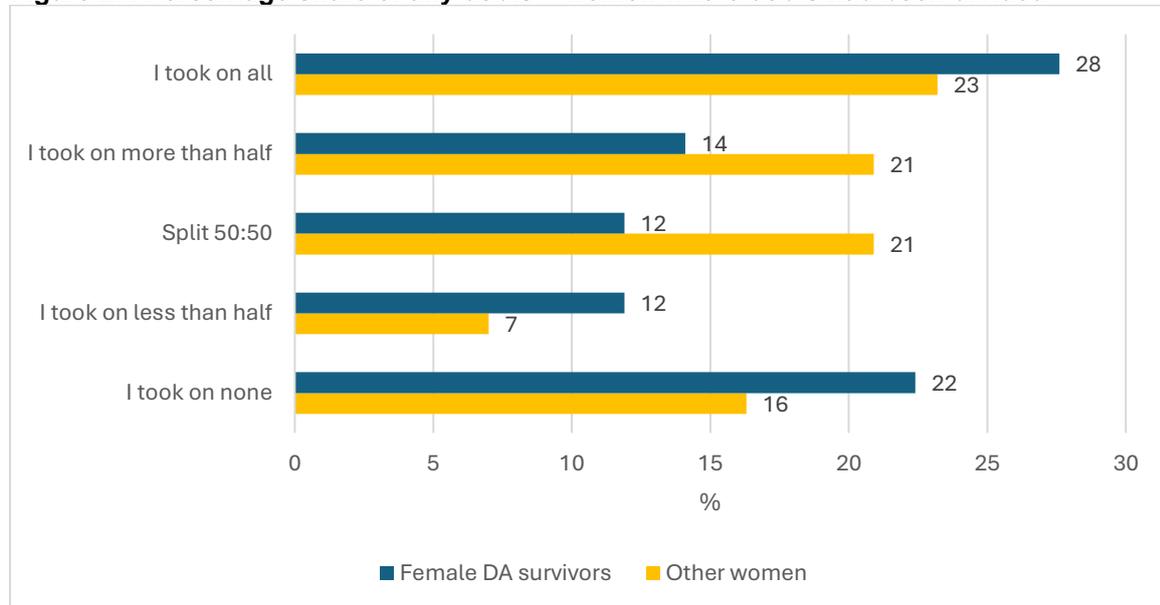
<sup>125</sup> Note, this refers to assets other than the matrimonial home or pensions.

<sup>126</sup> Two thirds (66 per cent of domestic abuse survivors and 68 per cent of other women) said that savings or assets had been divided (with a further 11 per cent of both groups reporting there was nothing to divide after paying off debts).

<sup>127</sup> P-value <0.001. Any differences in percentages in text and Figure due to rounding.

By contrast, among those who had divided any debts they or their ex-spouses had at the time of divorce,<sup>128</sup> female survivors were more likely than other women to have taken on only a minority share. A third (34 per cent) had taken on less than 50 per cent compared to a quarter (23 per cent) of other women, while other women were more likely to have split the debts equally with their ex-spouse (21 per cent compared to 12 per cent of female survivors)<sup>129</sup> (Figure 27).

**Figure 27: Percentage share of any debts – women where debts had been divided**



Base: female survivors (279) and other women (424) whose savings or other assets had been divided

However, despite survivors being more likely than other women to take on only a minority share of debt, there are a number of cases where female survivors did take on more of the debt. The qualitative data flagged up the issue of domestic abuse perpetrators accruing debt in their spouse's name (a known indicator of economic abuse)<sup>130</sup> with survivors then being left with this debt on divorce. There was a stark example of this amongst the interview participants, although the survivor did not recognise the actions as domestic abuse. The couple had no capital assets. After the husband left, she discovered that he had accrued tens of thousands of pounds of debt, some in joint names and some just in hers. Five years later, deductions were still being taken from her wages due to fraudulent benefits that he had claimed in her name. She had consolidated the debts into an Individual Voluntary Arrangement (IVA)<sup>131</sup> and he was supposed to pay half, through monthly payments, but she frequently had to chase these up.

'I ask him about it, and he's like, 'oh, I knew nothing about it', and obviously he did, 'cause he did it, and I knew nothing about what he was doing [...] I tried every which way to get the money back off him, to get him to get a loan, to get it off his

<sup>128</sup> As with the division of assets, two thirds (64 per cent of domestic abuse survivors and 68 per cent of other women) said that debts had been divided.

<sup>129</sup> P-value <0.012.

<sup>130</sup> See, for example, A Adams et al, 'Development of the Scale of Economic Abuse' (2008) 14(5) *Violence Against Women* 563.

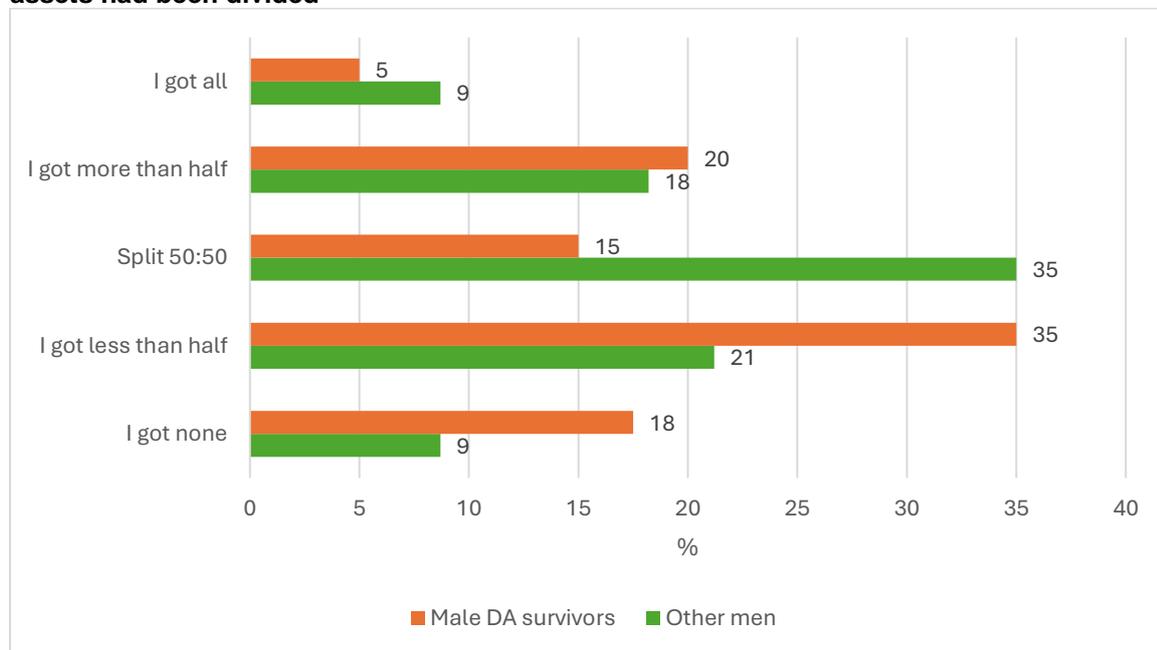
<sup>131</sup> An IVA is a formal and legally binding agreement for the debtor to pay back their debts, via an insolvency practitioner, over a period of time.

parents, and then he just sent a message saying [...] ‘I have no intention of giving you any money back, just to let you know’. Oh God! So now I just hope that there’s nothing else and nothing else comes out.’

In some cases, survivors suggested that it was ‘easier’ for them to pay off the debt rather than chasing their ex-spouse, although in light of our earlier findings which outlined the low income and asset levels for survivors, this may be financially difficult for many. One survivor reported that her new partner was able to help her to pay off the existing debts; but she was cognisant of the fact that others would not necessarily be in that fortunate position.

The same was true for men in relation to savings or other assets. Where any savings or assets had been divided, male survivors were less likely than other men (40 per cent compared to 62 per cent) to have received at least half of the value (Figure 28).<sup>132</sup> However, male survivors were no more or less likely than other men to take on more than half of the debts.

**Figure 28: Percentage share of any savings or other assets – men where savings or other assets had been divided**



Base: male survivors (80) and other men (559) whose savings or other assets had been divided

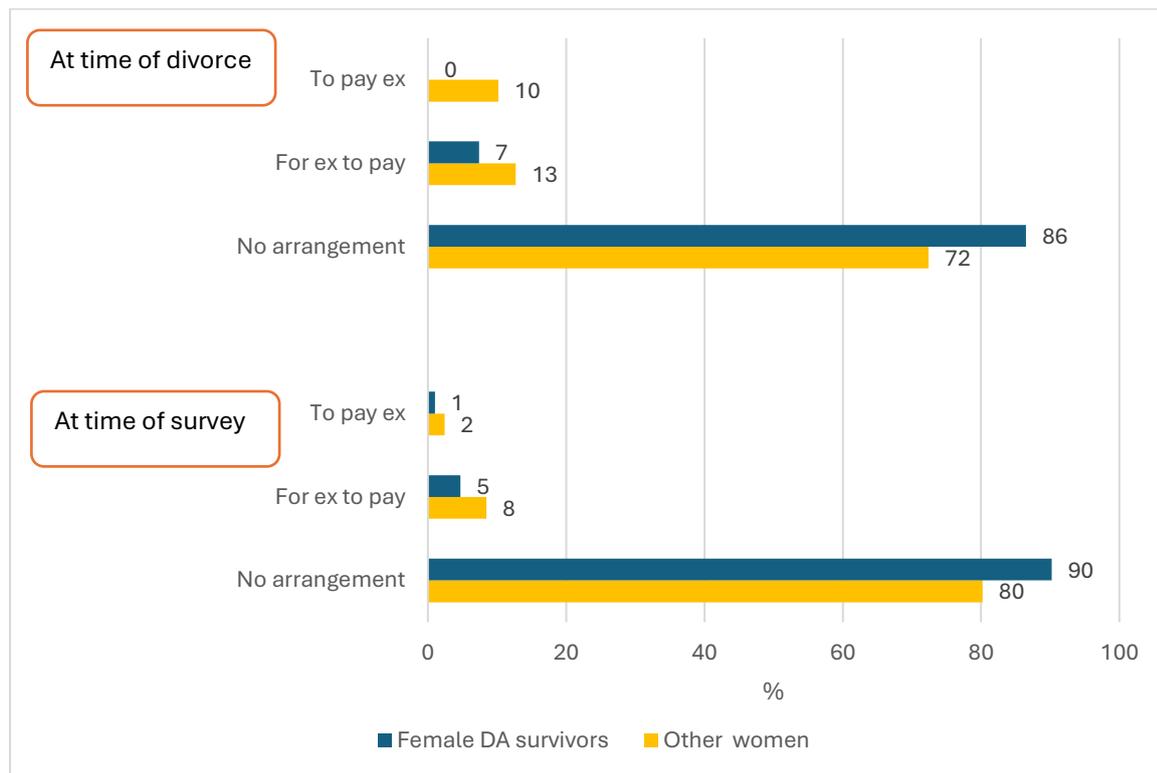
### Spousal maintenance

With a greater preference for a clean break, it is unsurprising that we find that fewer female survivors of domestic abuse than other women had arrangements for ongoing financial support in the shape of spousal maintenance. Seven per cent of female survivors had an arrangement at the time of divorce that their ex-spouse should be paying them spousal maintenance, and five per cent had one at the time of the survey. This compares to 13 per cent of other women at the time of divorce and eight per cent at the time of the survey (Figure 29).<sup>133</sup>

<sup>132</sup> As with women, where there were savings or assets to divide, a decision had been made in two thirds (65 per cent of domestic abuse survivors and 63 per cent of other men) of cases.

<sup>133</sup> P-value of 0.018 at divorce and 0.031 at the time of the survey.

**Figure 29: Whether a spousal maintenance arrangement – women**



Unweighted bases: Female survivors (528); other women (852)

However, the same was not the case for male survivors of domestic abuse, who were just as likely as other men to have an arrangement to pay or receive spousal maintenance.

Reasons for this lower prevalence of spousal maintenance arrangements amongst female survivors emerged from the qualitative data and included factors such as: not wanting to be beholden to their ex-spouse; the survivor wanting a line drawn underneath the marriage; neither party being aware of spousal maintenance as an option; the survivor wanting a peaceful life; and a perception that there was no point in asking for it. This last reason was emphasised by this interviewee, who identified financial abuse and emotional/psychological abuse as a reason for the marriage breakdown:

‘(T)here’s no point requesting it because I knew I was never going to get it and, again, it’ll go back down to the consistency. He won’t be consistent with it. And, again with the CSA [Child Support Agency], even if it was forced, because he’s in and out of jobs all the time it probably would have been the same thing. It’s almost like, you know, £20, it’s not worth it. Do you know what I mean? It just seems like a lot more headache and animosity for like the smallest amount of money. I might as well just not... Do you know what I mean?’

## 5. For those with children, what child arrangements were made?

### Key findings

**Whilst female domestic abuse survivors were more likely than other women to have their children living with them, male survivors had less contact with their children than other fathers. For both male and female survivors, child maintenance arrangements were more likely to be made via the CMS than through family-based arrangements.**

- Female survivors with dependent children were more likely to have their children living with them than other mothers (89 per cent compared to 74 per cent) at the time of divorce, and their children had less contact with their other parent (e.g. 21 per cent reported that their children never saw the other parent, compared to six per cent of other mothers).
- The reverse was true for fathers, with survivors more likely than other fathers to report that their children lived only or mainly with their ex-spouse (58 per cent compared to 47 per cent) and male survivors had less contact with their children than other fathers (e.g. in cases where the child lived with the other parent, 20 per cent of survivor fathers never saw their children compared to five per cent of other fathers).
- Female survivors with main or equal time care of their children were no more or less likely than other mothers to have an arrangement to receive child maintenance. However, where there had been domestic abuse, child maintenance arrangements were more likely to be made via the Child Maintenance Service (CMS) than directly between the parents. Among those with an arrangement only a third (36 per cent) of female survivors of domestic abuse had a family-based arrangement compared to seven in ten (70%) among other mothers. The same pattern was exhibited for male survivors.
- Mothers who were survivors reported lower rates of payment compliance, with 12 per cent of survivors reporting having never received their child maintenance payments compared to only three per cent of other women.

This section focuses on divorcees who had dependent children with their ex-spouse. Again, reporting separately on mothers and fathers, we highlight the different experiences of survivors of domestic abuse and other divorcees. In terms of living arrangements, survivor mothers were generally more likely than other mothers to have their children living with them and, on average, their children were having less contact with their other parent than other mothers. The reverse is true for fathers, and survivors reported having less contact with their children than other fathers. Child maintenance arrangements were more likely to be made via the Child Maintenance Service (CMS) rather than between the parents, with greater issues around compliance for mothers who were survivors of domestic abuse.

### Living arrangements and contact

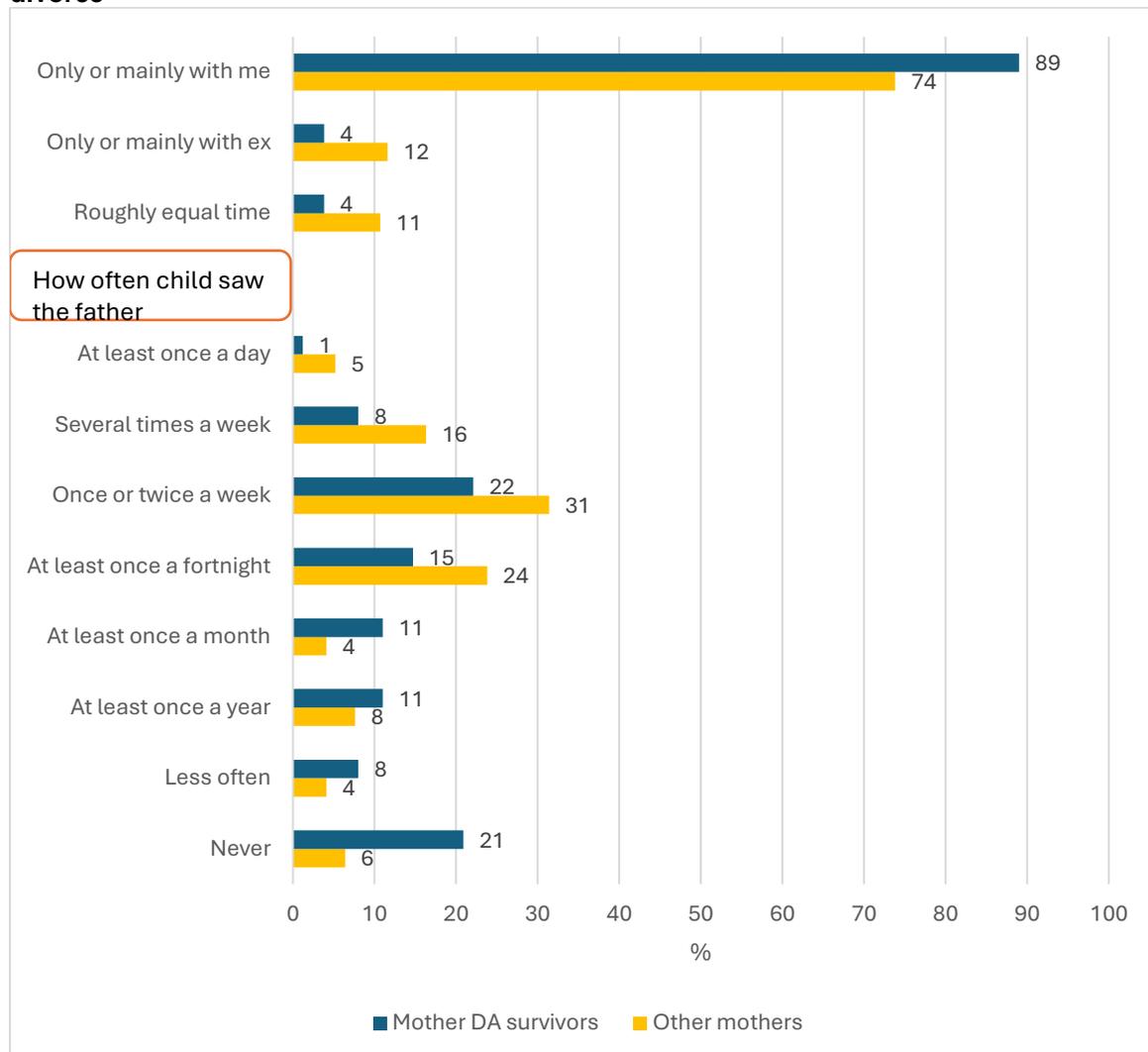
At the time of divorce, mothers who were survivors of domestic abuse were more likely than other mothers to report that their children lived only or mainly with them (89 per cent compared to 74 per cent).<sup>134</sup> Moreover, these mothers reported that their children had less contact with their other parent than other mothers: just three in ten (31 per cent) mothers who were survivors said that their child saw their other parent at least once a week, while

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<sup>134</sup> P-value <0.001.

over half (53 per cent) of other mothers said the same; and one in five (21 per cent) said that their child never saw their other parent, compared to only six per cent of other mothers.<sup>135</sup>

**Figure 30: Where children were living at the time of divorce – mothers of dependent children at divorce**



Base: top half of figure - female survivors (297) and other mothers (388) of children of dependent age at divorce; bottom half of figure - female survivors (257) and other mothers (286) whose children lived only or mainly with them at divorce

Among fathers, survivors were more likely than other fathers to report that their children lived only or mainly with their ex-spouse (58 per cent compared to 47 per cent).<sup>136</sup> And when the children lived with the ex-spouse, survivors were more likely than other fathers to report never seeing their children (20 per cent compared to five per cent) and less likely to report seeing them at least weekly (37 per cent compared to 68 per cent)<sup>137</sup> (Figure 31). In light of our earlier finding that male survivors were more likely to use lawyers in relation to child

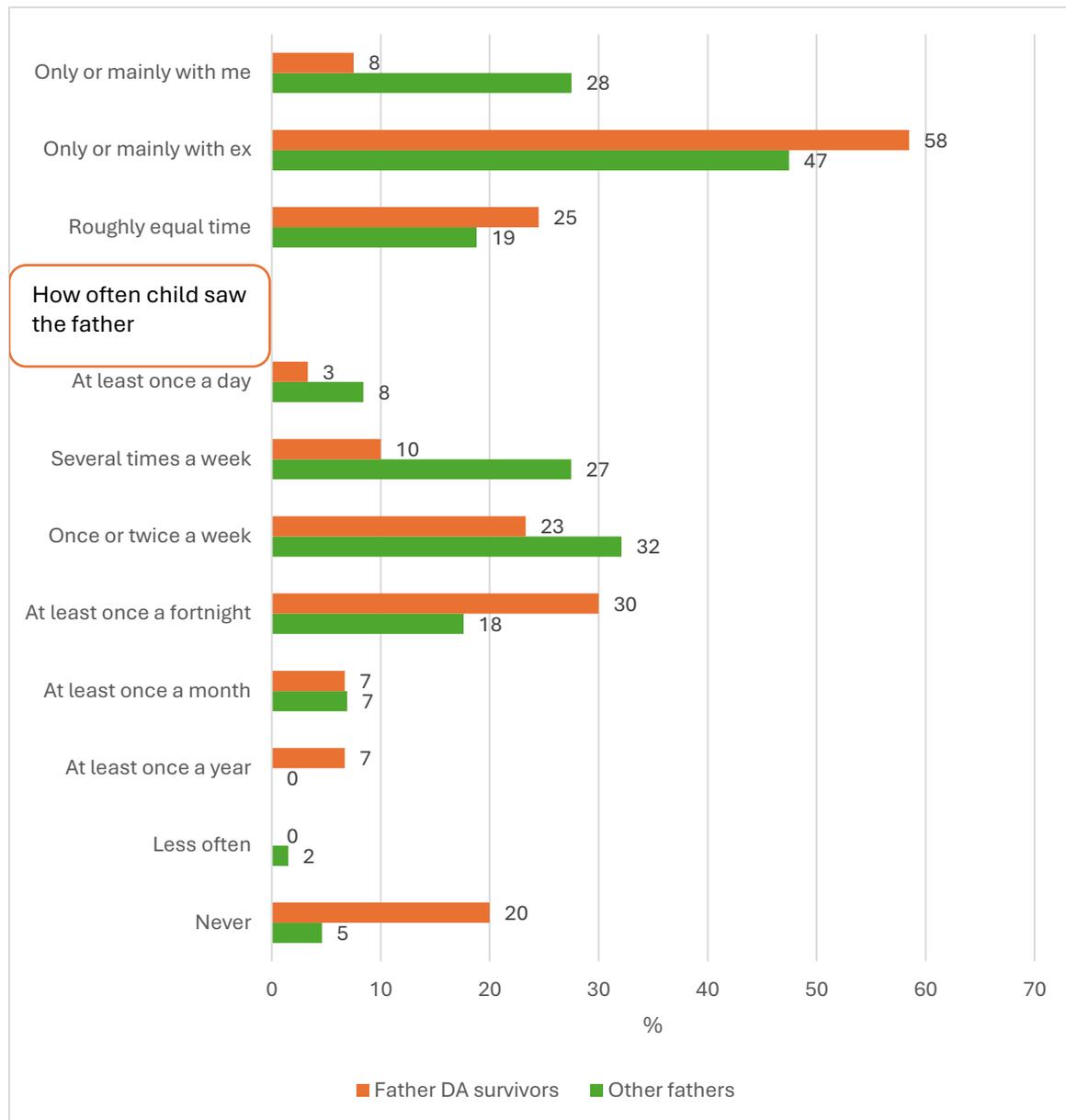
<sup>135</sup> P-value <0.001. The pattern of living arrangements and contact was similar at the time of the survey. Any differences between percentages in text and Figures due to rounding.

<sup>136</sup> P-value 0.025. In Chapter 9 of the *Fair Shares* report (n 1 above), we discuss the fact that fathers were more likely than mothers to report having an equal time care arrangement.

<sup>137</sup> P-value 0.004. Any differences in percentages in text and Figures due to rounding.

arrangements, it seems that ongoing child arrangements difficulties is a key post-separation issue for male survivors of domestic abuse.

**Figure 31: Where children were living at the time of divorce – fathers of dependent children at divorce**



Base: top half of figure - male survivors (87) and other fathers (417) of children of dependent age at divorce; bottom half of figure - male survivors (53) and other fathers (203) whose children lived only or mainly with their ex-spouse at divorce

### Child maintenance

Female survivors of domestic abuse with main or shared care of their child were no more or less likely than other mothers to report having a child maintenance arrangement at the time of the survey (62 per cent compared to 56 per cent of other mothers). However, when there was an arrangement in place, survivors were far more likely than other mothers to report having an arrangement made via the Child Maintenance Service (CMS). This was reflected

in the qualitative data, with several interviewees outlining how family-based arrangements for child maintenance were not effective, either because previous payments were haphazard or erratic, or because of reluctance on the part of the payor, with child maintenance only paid once the CMS was involved.

We report the different ways in which child maintenance was organised and paid in Figure 32. In domestic abuse cases, where there was an arrangement for the mother to receive maintenance, half (51 per cent) of arrangements were Direct Pay<sup>138</sup> and seven per cent were Collect and Pay,<sup>139</sup> compared to 18 per cent and three per cent for other mothers. This is a surprising finding given that we might have expected slightly more 'Collect and Pay' arrangements for this group considering the background context of abuse within the relationship.

However, not only has there been a recent public consultation which has included a proposal to remove Direct Pay,<sup>140</sup> but reforms contained within the Child Support Collection (Domestic Abuse) Act 2023 may in future lead to more 'Collect and Pay' arrangements being made. This Act amends existing legislation to allow a child maintenance case involving domestic abuse to be placed onto the 'Collect and Pay' scheme if one of the parents requests it therefore enabling the CMS to collect and transfer payments. This is in contrast to the previous position where the CMS would only make a Collect and Pay arrangement for two reasons: i) if the paying parent agreed, or ii) if the CMS considered that the paying parent was unlikely to pay.<sup>141</sup>

Meanwhile, only a third (36 per cent) of female survivors had a family-based arrangement for payment (i.e. one with no CMS involvement at all) compared to seven in ten (70 per cent) other mothers who had a child maintenance arrangement. Similar proportions of mothers had court-ordered child maintenance<sup>142</sup>: five per cent of domestic abuse survivors compared to four per cent of other women.<sup>143</sup>

Among those with a child maintenance arrangement, female survivors reported lower rates of compliance than other women. While three quarters (75 per cent) of other women reported always getting their child maintenance payments, this was true for only half (52 per cent) of survivors. Moreover, 12 per cent of domestic abuse survivors reported never getting their child maintenance payments compared to only three per cent of other women (Figure

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<sup>138</sup> Direct Pay is where the CMS has calculated the amount of child maintenance payable, but the parents agree on the frequency and transfer arrangements, then payments are arranged directly between the parents themselves.

<sup>139</sup> Collect and Pay is where the CMS collects payments for child maintenance from the paying parent and passes on these payments to the receiving parent. Fees are charged by the CMS for the use of this service. This can be contrasted with Direct Pay which is where the CMS calculates the amount of child maintenance payable, but the parents agree on the frequency and transfer arrangements, then payments are arranged directly between the parents themselves.

<sup>140</sup> Department for Work and Pensions, *Child Maintenance: Improving the collection and transfer of payments* [2024], <https://www.gov.uk/government/consultations/child-maintenance-improving-the-collection-and-transfer-of-payments/child-maintenance-improving-the-collection-and-transfer-of-payments>.

<sup>141</sup> Child Support Act 1991, s 4(2A).

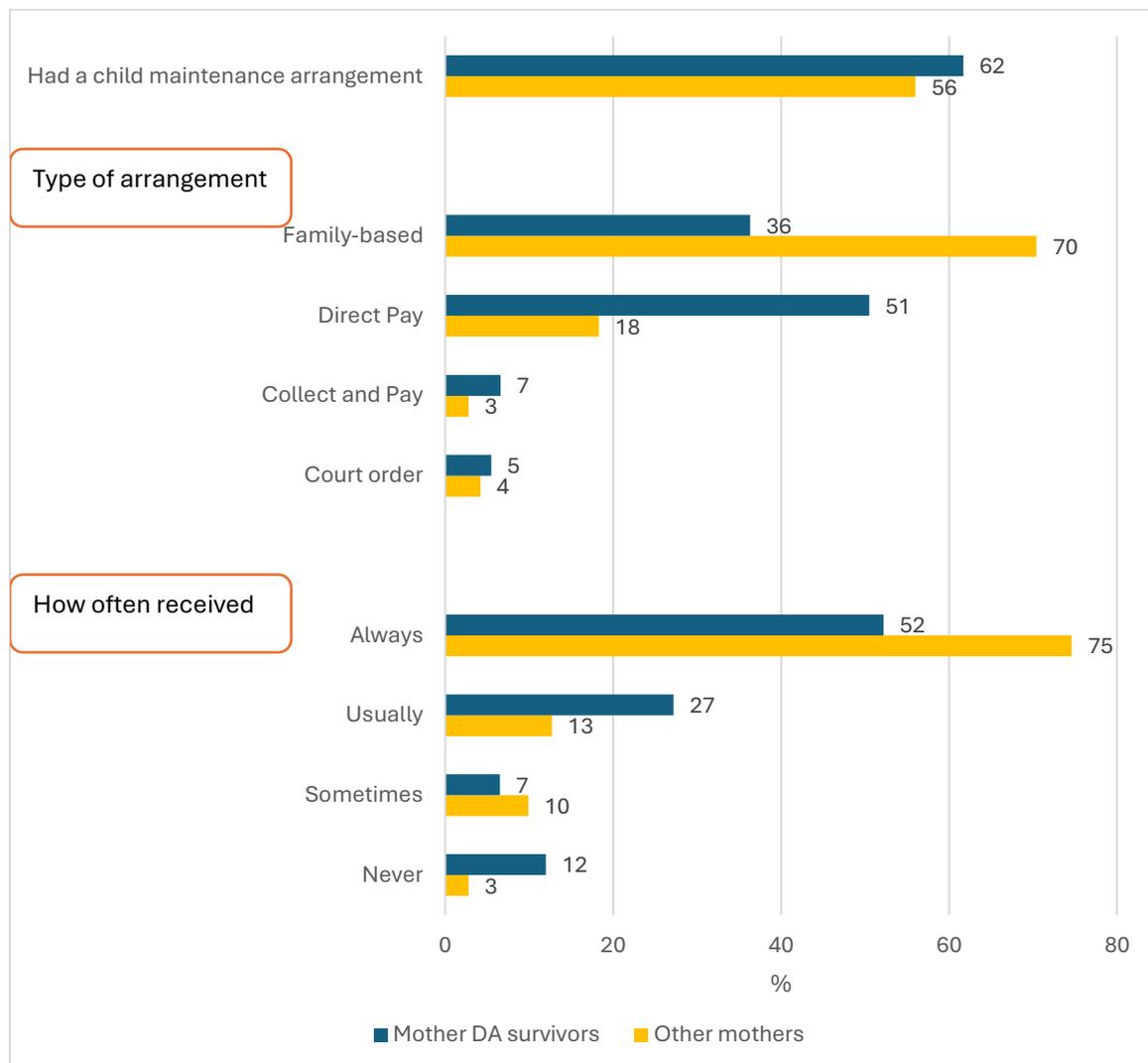
<sup>142</sup> Further detail about the form this court-ordered child maintenance took (i.e. whether via a consent order) is not available from the survey data.

<sup>143</sup> P-value <0.001.

32).<sup>144</sup> Refusal to pay child maintenance despite CMS involvement was exemplified in the interview of one wife: large arrears had developed and the husband used this as a bargaining tool in the financial remedy negotiations. The ex-husband insisted that she tell the CMS to cancel the arrears if she wanted him to cooperate with the divorce and eventually, despite having legal advice, she gave up:

'In the end he was in arrears for like £6,000-£7,000 which [I] never got and that's what he said, 'Wipe out my arrears.' I had to ring CSA and say, 'Can you wipe his arrears, it's okay,' because I wasn't going to get it anyway. He had no intention of giving it to me [...] he was saying to me, 'You better wipe my arrears...' and all this and obviously at that point he used that as leverage in terms of [me] getting the house so I was in a catch 22 situation and I just thought well, the arrears are no good to me anyway, the house is more important so I had to go with that.'

**Figure 32: Child maintenance arrangements – mothers of dependent children at divorce with main or equal time care**



Base: female survivors (233) and other mothers (254) who had the main care or equal time care of children of dependent age at divorce; female survivors (152) and other mothers (149) who had the main care or equal time care with an arrangement to receive maintenance

<sup>144</sup> P-value 0.013.

When we asked divorcees why they did not always receive the child maintenance, female survivors were more likely than other women to raise issues related to concerns about dealing with their ex-spouse. A quarter (24 per cent) said that it was because of domestic abuse in the relationship (no other women cited this)<sup>145</sup> and three in ten (31 per cent compared to six per cent of other women) said that they were worried about asking or dealing with their ex-spouse.<sup>146</sup> One female survivor whom we interviewed did try involving the CMS, but she explained how her ex-husband repeatedly ignored their requests for information. A rather odd work-around solution was eventually made in order for her to obtain some child maintenance via a third party – her new husband - with her ex-husband paying child support into her new husband's bank account:

'He just ignored the letters. So, no chance. [...] [H]e wouldn't say what he owed or... He wouldn't respond, wouldn't phone, wouldn't do anything. [...] [B]ut I actually get child support now because he's dealing with my husband, and he thinks I don't get it.'

These arrangements exhibit a form of post-separation abuse through controlling the payment and delivery of child maintenance, and this dynamic was also apparent from other interviewees. For example, one wife's ex-husband only gave money on his terms, and she felt this reflected his ongoing need to control the relationship:

'[I]f me and him are getting on or we're cool then things are a lot better – he's better with my son and everything like that. Which I feel like, again, it's down to a control thing. It's like you feel like you need to be part of us as a family but I'm not yours, do you know what I mean? We're not together anymore and that's fine and we can be cool but clearly he can't and that's where the issue is. So, when we're on good terms everything's all hunky dory. He'll phone all the time; he'll talk to my son all the time; he'll give money here and there; he wants to do stuff with him; he takes an active interest. When me and him are not talking, it's like he completely disappears.'

Turning to the fathers in our survey whose children lived with their ex-spouse or there was an equal time care arrangement, six in ten male survivors (59 per cent) and other men (63 per cent) reported an arrangement for them to pay child maintenance. The sample sizes are too small to say anything firm about the types of arrangement, but as we might expect, we saw the same pattern as for women, with survivors more likely to have an arrangement via the CMS and less likely to have a family-based arrangement.<sup>147</sup> Levels of compliance did not differ between the two groups.

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<sup>145</sup> P-value 0.027.

<sup>146</sup> P-value 0.001.

<sup>147</sup> P-value 0.007.

## 6. How are these divorcees doing financially up to five years after divorce?

### Key Findings

**Up to five years after their divorce, female domestic abuse survivors continued to be more likely than other women to be in financially precarious situations.**

- They continued to be less likely than other women to be in paid full-time work (44 per cent compared to 56 per cent), and they were more likely to be on Universal Credit (32 per cent compared to 17 per cent).
- While female survivors had, on average, lower household incomes than other women and were less likely to live in an owner-occupied home, these differences largely related to those who had not re-partnered – with female survivors less likely to have re-partnered than other women (29 per cent compared to 40 per cent).

**Among men, there were fewer differences in the living standards of domestic abuse survivors and other divorcees.**

**Domestic abuse survivors were more likely than other divorcees to perceive that their ex-spouse came out better financially from the divorce. However, female survivors were in fact more likely than other women to feel that they were financially better off than prior to their divorce, likely as a function of feeling more in control of their lives.**

- Both female and male survivors were more likely than other divorcees to feel that their ex-spouse came out better financially from the divorce than they had (e.g. among women, 45 per cent of survivors of abuse felt this compared to 31 per cent of other women) .
- Female survivors were nevertheless more likely than other women to feel that they were financially better off than they were prior to their divorce (44 per cent compared to 33 per cent of other women), likely reflecting issues of feeling more in control of their lives and their finances.

In this final section, we provide a picture of the financial circumstances of divorcees up to five years after their divorce and report on what divorcees told us about their views on which party came out better financially from the divorce. Female survivors continue to be more likely than other women to be in a situation of financial disadvantage. However, they were more likely than other women to feel financially better off than prior to their divorce.

### Divorcees' circumstances up to five years after their divorce

Up to five years after their divorce, female survivors continued to be more likely than other women to be in more precarious financial situations (Figure 33). They continued to be less likely to be in paid work, particularly full-time work (44 per cent compared to 56 per cent),<sup>148</sup> and they were more likely to be on Universal Credit (32 per cent compared to 17 per cent).<sup>149</sup>

With new partners known to improve the financial circumstances of divorced women,<sup>150</sup> it is notable that female survivors were less likely than other women to have re-partnered (29 per

<sup>148</sup> P-value 0.014.

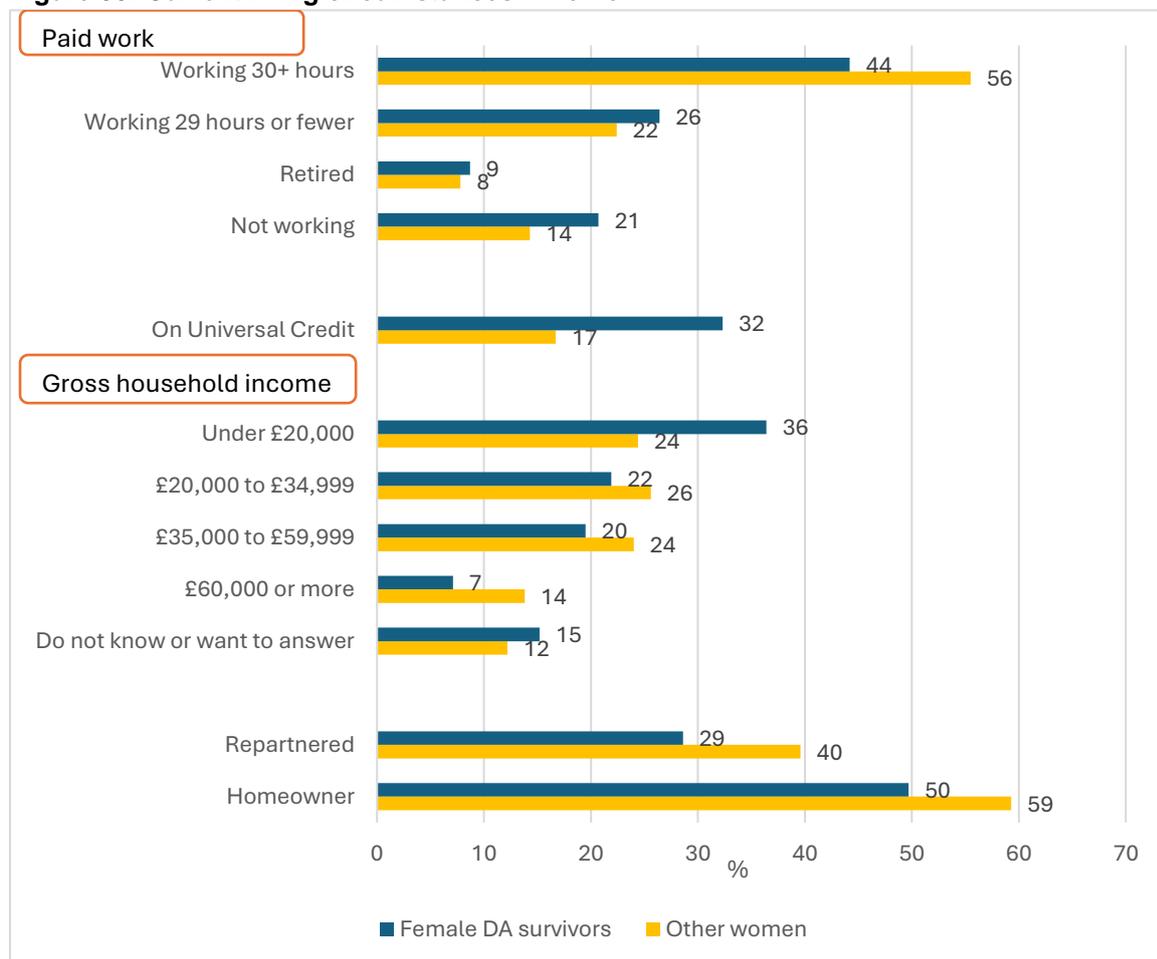
<sup>149</sup> P-value <0.001.

<sup>150</sup> H Fisher and H Low, 'Divorce early or divorce late? The long-term financial consequences' (2018) 32 AJFL 6, 8.

cent compared to 40 per cent).<sup>151</sup> This at least partly explains the differences in the household incomes and housing tenures of female survivors and other women in Figure 33)<sup>152</sup> Among women who had re-partnered, there were no significant differences in the household income levels of female survivors and other women. The differences in household income related to those who had not re-partnered, with female survivors having lower household incomes on average than other women (for example, 36 per cent had a gross income of under £20,000 compared to 24 per cent of other women).<sup>153</sup>

The story in relation to housing tenure is more complex. Overall, female survivors were less likely to be living in an owner-occupied home up to five years after their divorce (50 per cent compared to 59 per cent of other women). These differences related to those who had re-partnered, among whom four in ten (41 per cent) of survivors were in an owner-occupied home compared to two thirds (66 per cent) of other women.<sup>154</sup> There were no such differences among women who had not re-partnered (53 per cent compared to 55 per cent).

**Figure 33: Current living circumstances – women**



Unweighted bases: Female survivors (528); other women (852)

<sup>151</sup> P-value 0.002. We define re-partnered as having married or entered a civil partnership or living with a partner (and exclude those who are in a relationship but not living together).

<sup>152</sup> Female survivors had significantly lower household incomes (p-value <0.001) and were less likely to live in an owner-occupied home (p-value 0.001).

<sup>153</sup> P-value <0.001.

<sup>154</sup> P-value <0.001.

Among men, as with their situations prior to divorce, there were fewer differences in the living standards of survivors and other divorcees. The main indication that survivors were doing less well financially than other men was that they were more likely to be in receipt of Universal Credit (27 per cent compared to 13 per cent).<sup>155</sup> While there were other indications (e.g. being less likely to have re-partnered or be living in an owner-occupied home), these did not reach statistical significance.

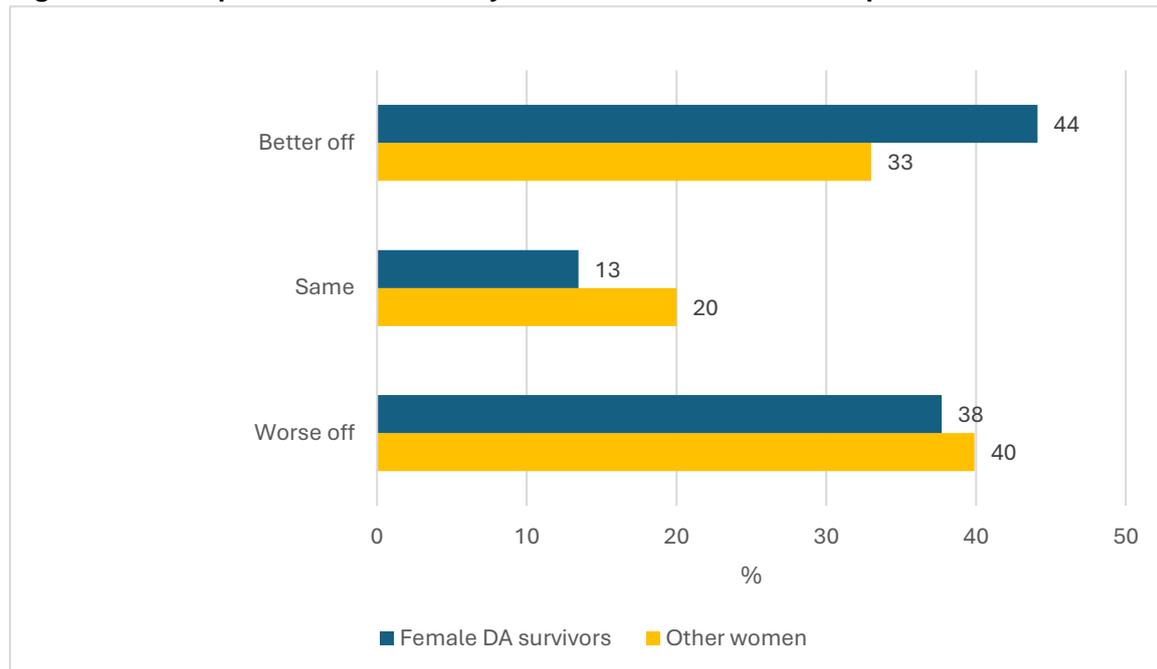
### Perceptions on their financial situations after divorce

Both female and male survivors of domestic abuse were more likely than other women and men to feel that their ex-spouse came out better financially from the divorce than they had. Among women, 45 per cent of survivors felt this, compared to 31 per cent of other women.<sup>156</sup> Among men, the comparable figures were 51 per cent and 39 per cent.<sup>157</sup>

Other divorcees were not more likely than survivors to feel that they had come out better financially than their ex-spouse. Rather, they were more likely to report that they came out roughly the same (18 per cent of female survivors compared to 33 per cent of other women; 21 per cent of male survivors compared to 33 per cent of other men).

However, despite this, it is interesting to note that female survivors were actually more likely than other women to feel that they were financially better off than prior to their divorce.<sup>158</sup> Just under half (44 per cent) of survivors felt that they were better off financially than before, compared to a third (33 per cent) of other women (Figure 34).

**Figure 34: Perceptions of whether they are better or worse off than prior to divorce – women**



Unweighted bases: Female survivors (528); other women (852)

<sup>155</sup> P-value 0.003.

<sup>156</sup> P-value <0.001.

<sup>157</sup> P-value 0.019.

<sup>158</sup> P-value 0.005.

This survey finding was reflected in the qualitative data, with interviewees suggesting several reasons why they now felt financially better off. Some female survivors attributed this to the fact that they often had less control over, or less knowledge about, the finances during their marriage whereas they had now regained control in their lives:

'I would say a little bit better off than what I was then because obviously I'm not having to ask him for anything and not having to think oh gosh, I've got to ask him for some money to go down the shop and get a bottle of milk.'

'I control my own money, so obviously I manage my own money and I've done quite a lot of different roles since so my income's about... God, it's probably a third again of what it was when I was married. So, I've got a higher income and I control it myself.'

Other interviewees explained they felt financially better off because they were not paying for their ex-spouse and they could focus on themselves and any children, or because relationship-accumulated debts had been cleared. Another interviewee suggested that they felt financially better off because they were 'free' following years of abuse, and this affected their mental health in a positive way:

'Come to that financial... I've just got peace of mind and I'm just waiting and getting on with my own life, you know, I haven't sat down since, and like broke away got back to work, getting involved with the community, I've done a lot of charity work ... [I]t's just given me you know that peace of mind and your mental state's better and also your health is better and everything else, you're not in that time zone where you were abused and you know, talked down on or being a narcissist or you know, you've just come out of it and you become a better person and you look at the process as an experience and you know you learn from that. You just move forward.'

The issue of re-partnering was also raised, one interviewee reflecting on feeling 'safer' and having greater financial stability and trust with her new husband:

'Safer. Safer is the word I used. Definitely. I know my husband wouldn't hide anything from me. He had a very bad divorce as well so we're quite honest with each other about things like that. Everything's shared, everything's stable. How they should be.'

## 7. Conclusions

### Greater financial vulnerability

Female survivors of domestic abuse were far from a homogenous group, being drawn from across the demographic, income and asset spectrum. However, on average they were entering divorce in a more precarious financial position than other women. They often had fewer assets to divide than other divorcees, with the matrimonial home less likely to be owner-occupied and they were less likely to have their own pension. They were also less likely than other divorcing women to have been working at the point at which they separated, and – if working – less likely to have been working full-time. Taken together, this means that they had potentially less capacity to support themselves financially after divorce, particularly given that domestic abuse was more common among women with dependent-age children, with the added financial burdens and constraints that childcare brings. Whilst we are not saying that domestic abuse was the cause of this financial vulnerability, the key finding is that female survivors are in a more precarious economic situation than other women. When combined with our previous findings from the Fair Shares report that female divorcees, particularly mothers, and those in older age are more financially vulnerable post divorce than men, it places female survivors in a particularly precarious financial position. By contrast, the situations of male survivors of domestic abuse were less different from those of other men, although they had higher levels of gross debt.

Financial risk within an abusive relationship was not confined to survivors who did not work. Among women who were working during the marriage, survivors of domestic abuse were earning less on average than other women, with twice as many survivors as other female divorcees earning under £1,000 per month after tax. This low level of income was potentially compounded by experience of financial abuse, including these women being deprived of control over their earnings. These findings demonstrate the particular financial risk that this group of divorcees face when getting divorced compared with other female divorcees.

Moreover, among both genders, survivors of domestic abuse were more likely to be entering into negotiations about the division of assets and finances with less knowledge about what was in the matrimonial pot which potentially placed them at a disadvantage.

### The importance of legal support and the legal system

The Fair Shares report demonstrated that resolving financial arrangements on divorce need not – and did not always – entail making use of the legal system, or even any legal advice or support. However, this supplementary report demonstrates the particular importance of legal support and the use of the formal legal process to divorcees who have experienced domestic abuse.

Survivors of domestic abuse were less likely to make financial arrangements than other divorcees. This is possibly due (in part) to the lower level of available assets, although there is also evidence of arrangements not being reached due to the survivor just wanting to get away from the situation, as well as the perpetrator being obstructive and not engaging in the process, or being combative, such as using threatening and/or controlling and coercive behaviour. Where arrangements were made, both male and female survivors were more

likely than other divorcees to use lawyers to sort out their finances. When female survivors used lawyers, they were more likely than other women to instruct them to deal with the whole process rather than to choose to get advice or help at certain points. Six in ten (61 per cent) of this group suggested that this was because they did not feel comfortable negotiating with their ex-spouse. In addition, male survivors were twice as likely as other men (20 per cent compared to 11 per cent) to engage lawyers in relation to making child arrangements.<sup>159</sup> Although our interview data shed no light on why this was so, post-separation contact is known to be a site for continued domestic abuse by a perpetrator.

The reason for domestic abuse survivors using lawyers more than other spouses might be to do with the power relationship between the parties, including the refusal of one spouse to engage. However, our qualitative data suggest there may be some practitioners who experience difficulties in identifying domestic abuse and its impacts when advising their clients. This has practical implications for family justice professionals, and it may be helpful for practitioner organisations to reflect on the appropriateness of existing training and practice around identifying forms of domestic abuse and what support or routes forward would be appropriate in those circumstances, particularly the use (or not) of non-court methods of dispute resolution.

The significant use of formal legal processes by domestic abuse survivors was also evident in two key findings. First, the majority of arrangements made by female survivors (61 per cent) were made into a court order, far more likely than for other female divorcees (42 per cent). Secondly, survivors were more likely to use contested court proceedings, with 17 per cent of female survivors reporting that their case had been determined by a judge and a further five per cent settled after financial proceedings had begun. This compares to only four per cent determined by a judge and three per cent settled after proceedings began for other female divorcees.

Conversely, very few female domestic abuse survivors had successfully used mediation to reach a financial arrangement. Whilst 16 per cent of female survivors and 13 per cent of other women had attempted mediation, only four per cent of arrangements made by female survivors had been made via mediation compared to one in five (19 per cent) arrangements made by other female divorcees. This despite the fact that survivors (male or female) were no more or less likely than other divorcees to try out-of-court routes to reaching a financial arrangement.

These findings clearly have implications for policy and practice, particularly regarding the prioritisation of and use of non-court dispute resolution where domestic abuse has been found or alleged. This is made all the more important given the new pre-action protocol in the Family Procedure Rules, which provides robust encouragement for early resolution of private family law disputes. Failure by either party, without good reason, to comply with key aspects of the new protocol by not engaging with Non Court Dispute Resolution (NCDR)

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<sup>159</sup> P-value 0.033. These figures include all men, including those without dependent children. If we restrict the analysis to fathers with dependent children the comparable percentages are 27 per cent and 14 per cent.

may result in a departure from the general starting position of no order as to costs.<sup>160</sup> Given our findings that (i) survivors of domestic abuse appear to be attempting to use mediation, not resisting it, but (ii) very few survivors are reaching agreement via this route, the judiciary needs to be particularly careful when deciding whether to sanction under the costs rules in such cases.

The data also demonstrate that both male and female survivors of domestic abuse were more likely than other divorcees to have incurred legal or mediation costs in sorting out their finances on divorce. Although domestic abuse survivors are – subject to means-testing – entitled to seek legal aid for private family law children and finance matters if they meet one of the prescribed evidence requirements,<sup>161</sup> survivors’ access to legal support and advice post LASPO appears to have involved higher costs than other divorcees. Whilst this may be reflective of the higher number of domestic abuse cases which end up in a contested hearing, it is nevertheless concerning given government commitments at the time of LASPO to enable survivors of domestic abuse to receive legal aid to support their private family law cases.<sup>162</sup> Our findings show that only 16 per cent of female survivors and 19 per cent of male survivors received legal aid, whilst 50 per cent of female survivors and 51 per cent of male survivors paid for legal or mediation costs themselves. Therefore, many survivors of domestic abuse are funding their own cases and doubt is cast as to whether all eligible recipients are receiving the legal aid to which they are entitled. The recently announced early legal advice pilot project designed to assist ‘participating families in resolving their disputes’ and to collect evidence on the role of legal advice in dispute resolution<sup>163</sup> is a very encouraging development. The findings of this study would suggest that legal advice and assistance has a vital role to play in supporting and protecting survivors in these cases, where it is accessed.

Finally, a focus on the formal justice system and its associated issues should not distract from the needs of the majority of domestic abuse survivors whose arrangements are not currently litigated.<sup>164</sup> It is important to consider how the presence of domestic abuse should affect how these cases are handled, and by whom, and particularly vital for solicitors and mediators to be properly aware of the possibility of domestic abuse in a case and its financial consequences which may not use the formal court processes. In light of this, we endorse the recommendation by Resolution for a ‘cultural shift from every professional – from mediators,

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<sup>160</sup> The Family Procedure (Amendment No 2) Rules 2023 (SI 2023/1324). For background discussion, see N. Allen, R. Taylor and A. Day, ‘Financial Dispute Revolution? The Family Procedure (Amendment No 2) Rules 2023’ [2024] *Financial Remedies Journal* 24.

<sup>161</sup> See the Civil Legal Aid (Procedure) Regulations 2012, Regulation 33 which sets out the evidence requirements in relation to domestic abuse

<sup>162</sup> Ministry of Justice, *Proposals for the Reform of Legal Aid in England and Wales*, Cm 7967 (2010), 4.64-4.68 and Ministry of Justice, *Reform of Legal Aid in England and Wales: the Government Response*, Cm 8072 (2011), paras 21-25.

<sup>163</sup> Ministry of Justice, *Supporting earlier resolution of private family law arrangements: Government response on resolving disputes earlier through family mediation* (2024). Available at <https://assets.publishing.service.gov.uk/media/65c3518e3f6aea000dc15549/early-resolution-consultation-response.pdf> p 15-16.

<sup>164</sup> Among female survivors of domestic abuse, only 38 per cent reported reaching a financial arrangement, of which 23 per cent were litigated. Among male survivors of domestic abuse, 54 per cent reported reaching a financial arrangement, of which nine per cent were litigated.

early neutral evaluators, arbitrators, barristers, solicitors and the judiciary – to improve practice in this complex area.<sup>165</sup>

### A mixed picture, dominance of the clean break and difficulties with child maintenance

The overall picture of asset splits for survivors of domestic abuse is rather messy, with no clear pattern emerging. However, whilst the overall picture relating to asset splits is mixed, a clear finding to emerge from the data is the *mode* of settlement preferred by many domestic abuse survivors: a focus on a clean financial break and to minimise ongoing contact with their ex-spouse. When we drill down to look at how individual assets were split, some more focused themes start to emerge.

First, both female and male survivors of domestic abuse were often motivated by having a clean financial break from their ex-spouse and by having no ongoing contact with them. This desire for a clean break was reflected in relation to outcomes in respect of the former matrimonial home. For female homeowners, a decision to sell the home was more common where there had been domestic abuse than in other marriages. The clean break motivation was also reflected in the use of transfers of the former matrimonial home. Also, although female survivors came out worse than other women in relation to pensions, this is mainly attributable to their worse starting position when it comes to their own pension wealth which in turn likely reflects their age, having dependent children and low income level. However, an interesting finding is the higher proportion of pension sharing for male survivors of domestic abuse where their ex-spouse received a share of their pension. One explanation for this finding could be attributed to the fact that male survivors are twice as likely to get legal advice compared with other male divorcees. This potential explanation is consistent with our findings in chapter 11 of the Fair Shares report in relation to male divorcees having an increased likelihood of a pension share if legal advice had been received.

As for debts, female survivors were less likely than other women to take on most of the gross debt accumulated in the marriage, but a key issue for domestic abuse survivors, particularly apparent in the qualitative data, was the issue of domestic abuse perpetrators accruing debt in their spouse's name. As we noted in the Fair Shares report, this could have long-lasting consequences for the survivor in getting onto the path to independent living following divorce. Furthermore, survivors could experience a sense of weakness or resignation when it came to trying to settle arrangements on divorce and feeling that they had no option than to take on responsibility for debts that their ex had incurred.<sup>166</sup>

Finally, the flipside of the clean break emphasis and concerns (evident in the child maintenance arena) about compliance is that fewer female survivors than other women had arrangements for spousal maintenance. While there is, in theory, no “clean break” available in relation to child maintenance, the collection and enforcement of child maintenance was particularly difficult for survivors of domestic abuse, even though, for both male and female survivors, child maintenance arrangements were more likely to be made via the CMS, with only a third (36 per cent) of arrangements for female survivors of domestic abuse a family-

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<sup>165</sup> Resolution, *Domestic abuse in financial remedy proceedings*, [2024], p 25.

<sup>166</sup> See E Hitchings et al, *Fair Shares? Sorting out money and property on divorce* [University of Bristol, 2023], p 354.

based arrangement compared to seven in ten (70 per cent) arrangements for other mothers. Reported rates of compliance were lower, with 12 per cent of female domestic abuse survivors with an arrangement reporting having never received their child maintenance payments compared to only three per cent of other women. Given compliance issues faced by some female survivors, it is surprising that there was only a slightly higher level of 'Collect and Pay' use amongst domestic abuse survivors with an arrangement to receive maintenance, compared with other mothers.

It is important that the findings concerning the prioritisation of a clean break amongst survivors, lower levels of ongoing spousal support and higher levels of engagement with the CMS, are considered in light of the background of domestic abuse and not misconstrued as survivors' not needing the money that they may have otherwise have received in on-going support. Our findings show that survivors prioritised a clean break for a range of reasons, not least that they wanted to avoid the possibility of continuing abuse through ongoing financial support as well an awareness that receiving ongoing financial support from the perpetrator would be an uphill struggle to obtain and enforce. Going forward, there is a need to consider ways that the law, and the remedies provided, can be updated so that survivors are not forced into accepting potentially less favourable (and potentially unfair) outcomes to protect themselves from abuse.

### Poor financial circumstances after divorce

Female domestic abuse survivors often continued to be in more precarious financial positions following divorce than other women. Our findings demonstrate that female survivors exiting marriage often face a range of financial disadvantages. Up to five years after their divorce, female survivors were less likely to be in paid work (particularly full-time work), and more likely to be on Universal Credit and to have a lower household income if they had not re-partnered. There were fewer differences in the living standards of male survivors and other divorced men. We know from the Fair Shares report that mothers and older female divorcees without children were generally worse off than men following divorce. This means that female survivors are *particularly* vulnerable in socio-economic terms, given their childcare responsibilities, greater likelihood of part-time work and lower value pension pots. Nevertheless, despite this objective reality, female survivors were more likely than other women to feel that they were financially better off than prior to their divorce. This subjective appraisal of their post-divorce financial position instead likely reflected their feeling more in control of their lives and their finances following their exit from an abusive relationship.

## Achieving 'fair shares' for domestic abuse survivors – policy thoughts and recommendations

### *Ensuring survivors have access to legal advice and information*

Our findings demonstrate how domestic abuse survivors are at an overall financial disadvantage during the marriage and can be subject to a range of power and control issues in any financial negotiations. In light of this, we consider that the low levels of legal aid awarded to domestic abuse survivors and the costs incurred by them speak to the need to raise the capital and income thresholds for survivors of domestic abuse and endorse the recommendations in Resolution's Report into domestic abuse in financial remedy

proceedings in this regard.<sup>167</sup> The need for authoritative, accessible and affordable information and legal advice in a variety of formats was recommended in the Fair Shares report to help address the knowledge deficit about law and legal procedure in the divorcing population. Furthermore, given that our findings show that very few survivors had successfully used mediation to reach a financial arrangement, we support Resolution's 'Vision for Family Justice' which calls for the replacement of statutory Mediation and Assessment Meetings (MIAMs) with an 'Advice and Information Meeting' (AIM). This meeting would be delivered by a broader range of family justice professionals than mediators alone<sup>168</sup> and would go further than the positive amendments to rule 3.9(2) of the Family Procedure Rules which requires MIAM providers to 'indicate to those attending the MIAM which form, or forms of non-court dispute resolution may be most suitable'.

Both male and female domestic abuse survivors were more likely than other divorcees to have incurred legal or mediation costs in sorting out their finances on divorce. This partly reflects the fact that they were more likely than other divorcees to use lawyers in relation to their financial arrangements. However, it also seems to be the case that a particularly low proportion are receiving legal aid, despite the fact that this should continue to be accessible to some domestic abuse survivors post-LASPO. In fact, only 16 per cent of female survivors of domestic abuse and 19 per cent of male survivors of domestic abuse received legal aid for their legal costs. We consider that *publicly-funded*, tailored legal advice at an early stage in the process – alongside focused information on an appropriate range of family justice options for *all* divorcees – would provide everyone going through a divorce with the requisite information at the right time and in particular, would help to ensure that *all* domestic abuse survivors would be able to receive some support and guidance.

### *Caution regarding pressure to use non-court dispute resolution where there has been domestic abuse*

Whilst the changes to the Family Procedure Rules to ensure that courts encourage parties to undertake NCDR is a positive development for most couples, the findings outlined here provide a note of caution in relation to domestic abuse survivors.<sup>169</sup> The threat of incurring a costs order due to reluctance to engage with NCDR could be a particular issue for domestic abuse survivors despite consideration having been given to reflecting this issue within the current framework in the form of the recognition of a MIAM exemption which will exempt parties from the requirement to undertake NCDR.<sup>170</sup> Any reluctance to use NCDR may stem from fear, personal safety concerns, and potential imbalance of power issues that could affect any future financial negotiation. The findings show not only that domestic abuse

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<sup>167</sup> Resolution, *Domestic abuse in financial remedy proceedings*, [2024], p 28, [https://resolution.org.uk/wp-content/uploads/2024/10/Resolution\\_DAFRP\\_Report\\_ONLINE.pdf](https://resolution.org.uk/wp-content/uploads/2024/10/Resolution_DAFRP_Report_ONLINE.pdf)

<sup>168</sup> Resolution, *Vision for Family Justice*, [2023], <https://resolution.org.uk/wp-content/uploads/2023/11/Resolution-Vision-for-Family-Justice-full-221123.pdf>

<sup>169</sup> Also, see *NA v LA* [2024] EWFC 113. In this case, Nicholas Allen KC sitting as a deputy High Court Judge stayed financial remedy proceedings for three months so that the parties could engage in NCDR. The wife was concerned that she could not undertake NCDR without court-ordered financial disclosure. The judge dismissed this on the basis disclosure is provided during the NCDR process itself. However, it is concerning that the judge appears to overlook several background domestic abuse indicators that appear to be present: the wife's concern about the husband's reluctance to disclose, as well as occupation and non-molestation orders and their replacement by undertakings.

<sup>170</sup> See rule 3.3(2)(b) and 3.8(1)(a) FPR and paras 6(a), 8, 9, 16, 22 and 25 of the Pre-Action Protocol annexed to FPR Practice Direction 9A.

survivors are using the court in higher numbers to resolve their financial and property matters, possibly because they need robust judicial oversight and intervention, but also that very few survivors are coming to an agreement using mediation. It is questionable whether the strong push to divert cases away from the court inherent in the costs changes to the Family Procedure Rules<sup>171</sup> is appropriate in all cases. Given the low success rate for domestic abuse survivors using mediation, any additional compulsory period spent on this form of non-court dispute resolution may simply exacerbate existing vulnerabilities and power dynamics in these cases, and result in more costs being incurred as a result of the delay in the case reaching a judge. It is particularly important here to note that domestic abuse survivors in this study were more likely to report that their ex-spouse had the most say when coming to the financial arrangement. Indeed, if unequal power dynamics – effectively a continuing form of controlling behaviour post-divorce – and non-disclosure are hampering any true negotiation, reducing opportunities for survivors to have their ‘say’ in any outcome reached, survivors may succumb to pressure to agree out of court and end up with a potentially poor settlement. Alternatively, costs may actually be increased, rather than reduced as couples may end up back in court following an unsuccessful sojourn/detour into NCDR when a formal hearing might have resolved the dispute more swiftly and potentially with a better outcome for the survivor. Further amendments to the Family Procedure Rules could be considered to ensure that court explicitly considers whether domestic abuse explains a party’s reluctance to engage with NCDR. In this regard, we support Resolution’s recommendations that confirmation is needed within the rules to clarify that domestic abuse is a valid exemption from the Pre-Action Protocol, and that survivors will not be faced with the prospect of a costs order being made against them if they fail to engage in NCDR because of domestic abuse.<sup>172</sup>

### *Domestic abuse as an express consideration to be taken into account in arriving at an arrangement*

Our final policy consideration concerns the substantive law. Currently, domestic abuse can only be taken into account directly by a court in determining financial remedies under the ‘conduct’ factor in section 25(2)(g) of the Matrimonial Causes Act 1973, although the impacts of domestic abuse and a domestic abuse survivor’s needs should be factored in as part of the section 25 exercise – in consideration of ‘all’ the circumstances, as well as their limited earning capacity or lack of pension provision for example. However, only conduct which it would be ‘inequitable to disregard’ will be considered by the court, and case law has set a very high bar for what conduct is egregious enough to count.<sup>173</sup> This has meant that domestic abuse is not, and has not, routinely been considered in financial remedy cases by the court. This high threshold was recently confirmed in the case of *N v J*<sup>174</sup> by Peel J, where he confirmed that not only does conduct have to reach this high threshold and ‘be of a high degree of exceptionality to be capable of consideration under the Act’,<sup>175</sup> but there has to be

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<sup>171</sup> FPR 28.3(7)(aa)

<sup>172</sup> Resolution, *Domestic abuse in financial remedy proceedings*, [2024], p 26.

[https://resolution.org.uk/wp-content/uploads/2024/10/Resolution\\_DAFRP\\_Report\\_ONLINE.pdf](https://resolution.org.uk/wp-content/uploads/2024/10/Resolution_DAFRP_Report_ONLINE.pdf)

<sup>173</sup> See *OG v AG* [2020] EWFC 52, *Tsvetkov v Khayrova* [2023] EWFC 130, and *N v J* [2024] EWFC 184

<sup>174</sup> [2024] EWFC 184

<sup>175</sup> *Ibid*, para 28.

a causal link between the conduct and the claim – there has to be a ‘financial consequence to its impact’.<sup>176</sup> As Peel J succinctly notes:

‘The increasing awareness of the incidence of domestic abuse, and its harmful and pernicious effects, does not lower the conduct hurdle to be surmounted in financial remedy proceedings’.<sup>177</sup>

The consequence of having such a high threshold can lead to harsh outcomes in individual cases, as demonstrated by the reported decision of *A v R*<sup>178</sup> where the District Judge found that the wife’s allegations of conduct were to be excluded from consideration. This case has been criticised for the ‘clear evidence’ of coercive control being present<sup>179</sup> as well as a ‘distinctive financial impact’<sup>180</sup> with neither being sufficient to reach the high threshold required. In relation to the argument that the current section 25(2) factors provide ample latitude for domestic abuse impacts to be considered by the court, whilst this may in theory be correct, a large survey of family law solicitors undertaken by the Resolution Working Group into domestic abuse on financial remedies, found that 80 per cent of solicitors considered that the current law does not do enough for victims of domestic abuse, with the long-term impact of domestic abuse not sufficiently taken into account in proceedings.<sup>181</sup> This was supplemented with qualitative data from professionals indicating that the long-term effects of domestic abuse were not being reflected in financial awards, particularly, the survivor’s (in)ability to achieve financial independence following divorce.<sup>182</sup>

One of the principal arguments raised against incorporating any greater recognition of domestic abuse in the statutory framework are the implications for the court – in particular, court resources, costs and time. As Peel J outlines in *N v J*:

‘If domestic abuse is routinely litigated as a conduct factor, there would undoubtedly be a proliferation of such cases, and a direct impact on court resources. Domestic abuse allegations are almost always disputed, and frequently met with cross allegations. Cases would need more hearings and longer time estimates. The need for Qualified Legal Representatives where the parties are litigants in person would expand dramatically. Applications for additional evidence ... would ensue. Costs would increase markedly.’<sup>183</sup>

There is no doubt that these are significant arguments against the incorporation of domestic abuse into a revised law, highlighting a range of potential problems for the judiciary and the court system in relation to those cases that end up going through the court. As the data in this report suggest, financial arrangements involving domestic abuse survivors were far more likely to have involved court proceedings compared with other divorcees.

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<sup>176</sup> Ibid, para 30.

<sup>177</sup> Ibid, para 29.

<sup>178</sup> [2024] EWFC 218(B)

<sup>179</sup> H Wright, ‘X’ post, 23/09/2024.

<sup>180</sup> D Hodson, ‘X’ post, 23/09/2024.

<sup>181</sup> Resolution, *Domestic abuse in financial remedy proceedings*, [2024], p 12.

<sup>182</sup> Ibid, p 13.

<sup>183</sup> [2024] EWFC 184, para 38.

Nonetheless, it is because of this finding about the prevalence of domestic abuse cases within the formal court process that we raise the potential need for a clarification of the current legal position for those who work within the family justice system. We therefore endorse Resolution's recommendation for an explanatory Practice Direction setting out the approach in financial remedy proceedings.<sup>184</sup> This could include guidance clarifying that needs generated by domestic abuse are able to be reflected in an award under the current substantive legal framework. As Crisp et al have previously outlined:

'If a victim has been deprived of money or financial independence during the marriage, if they have been prevented from working or studying thereby preventing them from becoming financially independent, if their financial resources have been depleted, or if they have no or limited pension accrual due to economic abuse, then this speaks to their current circumstances and future financial needs.'<sup>185</sup>

We consider that a Practice Direction could be a helpful step for family justice professionals whilst further thought is given to any amendments to the substantive law.

As the Resolution Report notes, any potential substantive change may not need to be made through the current 'conduct' factor in s25(2)(g). Instead, one option may be to 'start afresh with a new sub-section'<sup>186</sup> or provide statutory clarification that needs generated by domestic abuse can be reflected in a financial award, which may be particularly helpful for the majority of couples who do not use the courts and for whom clearer messages about the significance of domestic abuse as a relevant factor in arriving at a financial arrangement could be useful. Whilst it is not the purpose of this report to make any proposals as to the potential way forward, our data does provide a key question for consideration in the context of this debate. In light of the findings outlined here, a question can be raised as to the extent to which the strict position in relation to the lack of express consideration of domestic abuse remains appropriate, given that the overall picture demonstrated in this report is one of relative financial disadvantage for female survivors of domestic abuse during marriage and in the years following divorce compared with other female divorcees. Not only do female domestic abuse survivors exit marriage with a range of financial vulnerabilities, but these financial disadvantages continue into the longer-term. Although, the role of family law is not to remedy poor socio-economic circumstances, it is difficult to ignore the poorer financial positioning of domestic abuse survivors emerging from a marriage. Therefore, in considering any potential amendment to the law, it is worth revisiting Baroness Hale's articulation of the objective of the current law: 'The ultimate objective is to give each party an equal start on the road to independent living.'<sup>187</sup> In light of Resolution's survey of family law practitioners which suggests that the current law does not do enough for survivors of domestic abuse, alongside our findings which show that female domestic abuse survivors continue to be in more straitened financial circumstances up to five years after divorce compared with other female divorcees, there appears to be growing concern as to whether the current substantive law is meeting Baroness Hale's objective. However, any consideration of whether to amend the

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<sup>184</sup> Resolution, *Domestic abuse in financial remedy proceedings*, [2024], p 31.

<sup>185</sup> J Crisp, R Hunter and E Hitchings, 'Domestic Abuse in Financial Remedy Cases' [2022] *Financial Remedies Journal*, 123, p 125.

<sup>186</sup> Resolution, *Domestic abuse in financial remedy proceedings*, [2024], p 23.

<sup>187</sup> *Miller v Miller; McFarlane v McFarlane* [2006] UKHL 24, para 144.

substantive law will also require consideration of the potential implications of any statutory change – both for court users, its staff and workload, and those divorcees who remain outside of the court system. Ultimately, it is for the Law Commission in their Scoping Review of the law of financial remedies<sup>188</sup> to explore this issue and strike the appropriate balance between the needs of survivors and the resources available to the courts.

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<sup>188</sup> See <https://lawcom.gov.uk/project/financial-remedies-on-divorce/>

[bristol.ac.uk/law/fair-shares-project](http://bristol.ac.uk/law/fair-shares-project)

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