

Statutory Definition for Honour Based Abuse

Legal Briefing

What is a Statutory Definition?

1. A statutory definition may be:
 - a) a clarifying definition, which clarifies the meaning of a common word or phrase by stating that it does or does not include specified matters;
 - b) a labelling definition, which uses a term as a label denoting a concept, perhaps complex, that can then be referred to merely by use of the label;
 - c) a referential definition, which attracts a meaning already established in law, whether by statute or otherwise;
 - d) an exclusionary definition, which excludes a meaning that otherwise would or might be taken to be included in the term;
 - e) an enlarging definition, which adds a meaning that otherwise would or might not be taken to be included in the term; or
 - f) a comprehensive definition, which provides a full, that is exhaustive, statement of the meaning of the term.
2. This briefing will focus on the need for both an enlarging definition and a comprehensive definition of honour based abuse in order that this nuanced and complex form of abuse can be properly confronted in our communities. Complexity should not be an argument for leaving confusing and conflicting definitions across statute, institutions and organisations with safeguarding duties.
3. When considering honour-based abuse, as is highlighted below in this briefing, there is significant inconsistency across different organisations as to the use of the term as well as the definition.
 - a. Some organisations refer to honour based abuse;
 - b. Others refer to honour based abuse and violence;
 - c. Others refer to 'so-called' honour based abuse;
 - d. Some definitions refer to a 'crime' or 'incident' others to a 'pattern of abuse;'

- e. Some definitions refer to a 'code of behaviour' or 'accepted behaviour' others use 'honour-code' but without this being defined;
 - f. Very few definitions refer to the perception of honour/dishonour being the motivation for the perpetrator to abuse and harm.
4. There is likewise inconsistency of statutory interpretation. By way of example:
- a. Within family law proceedings, under the Family Procedure Rules 2010 Practice Direction 12J honour-based abuse does not feature; there is only reference to honour based violence which is not defined. Honour based violence is firmly put under the umbrella of 'domestic abuse.'
 - b. There is no reference to honour based abuse in either the Family Law Act 1996 nor the Anti-social Behaviour, Crime and Policing Act 2014.
 - c. There is no criminal offence of honour based abuse.
 - d. When seeking protective injunctions on behalf of an alleged victim the court needs to be satisfied that the individual needs protection in circumstances where the statute does not make any reference to honour based abuse.
 - e. Some Safeguarding Children Partnerships adopt a definition that honour based abuse *may* be a form of domestic abuse but also sexual abuse or child abuse.

Case Study Examples of Inconsistent Definitions

Family Procedure Rules 2010, Practice Direction 12J: Child Arrangements and Contact Orders: Domestic Abuse and Harm

*'2B. For the avoidance of doubt, it should be noted that "domestic abuse" includes, but is not limited to, forced marriage, **honour-based violence**, dowry-related abuse and transnational marriage abandonment.'*

- 5. There is no definition of honour-based violence other than being under the umbrella of 'domestic abuse' and no separate reference to honour-based abuse. By contrast abandonment is provided with a detailed definition and forced marriage is defined

under s63A Family Law Act 1996 and s121 Anti-social Behaviour, Crime and Policing Act 2014.

Crown Prosecution Service

6. The Crown Prosecution Service has two definitions of honour based abuse:

An incident or crime involving violence, threats of violence, intimidation coercion or abuse (including psychological, physical, sexual, financial or emotional abuse) which has or may have been committed to protect or defend the honour of an individual, family and/ or community for alleged or perceived breaches of the family and/or community's code of behaviour.

AND

A pattern of abuse involving violence, threats of violence, intimidation coercion or abuse (including psychological, physical, sexual, financial or emotional abuse) which has or may have been committed to the honour of an individual, family and/ or community for alleged or perceived breaches of the family and/or community's accepted behaviours.

Metropolitan Police

7. The Metropolitan Police definition contrasts entirely with the CPS definitions by repeating the term 'honour' with no attempt to define what this is. There is no expansion on what abuse is and the use of protect and defend is misleading.

Honour-based abuse is a crime or incident committed to protect or defend the 'honour' of a family or community. If your family or community think you've shamed or embarrassed them by behaving in a certain way, they may punish you for breaking their 'honour' code.

Derby and Derbyshire Safeguarding Children Partnership

8. Where child safeguarding underpins the definition there is a clear concerted attempt to look at the dynamics of honour based abuse and the motivations for the abuse but only describes the abuse as an attempt to 'control behaviour' without explanation as to *how* the perpetrator may seek to control behaviour.

Honour based abuse (HBA) can be described as a collection of practices which are used to control behaviour within families or other social groups in order to protect perceived cultural and religious beliefs and/or honour. Such abuse occurs when perpetrators perceive that a relative has shamed the family and/or community by breaking their honour code.

It is a violation of human rights and may be a form of domestic and/or sexual abuse. There is no, and cannot be, honour or justification for abusing the human rights of others. For young victims it is a form of child abuse.

The term 'honour based abuse and violence' relates to the offender/s interpretation of the motivation for their actions.

Karma Nirvana

9. Within the sector definitions are more likely to be survivor-led, with attempts to detail the forms the abuse can take, the motivation for the abuse but crucially the cultural barriers to reporting by victims that are absent from the previous definitions.

Any incident or pattern of controlling; coercive; manipulative; intimidating; or threatening behaviour, violence, or abuse perpetrated by one or more family, extended family, and/or community members and/or current/former intimate partners in response to perceived or alleged transgressions of accepted behaviours. While most often perpetrated against women and girls, anyone can experience honour based abuse regardless of age, ethnicity, sexuality, religion, or gender, including men and boys.

It can encompass but is not limited to:

Psychological, emotional, physical, sexual, spiritual and faith-related, economic, financial, and hate-aggravated abuse; forced marriage; female genital mutilation; abduction; isolation; threats; murder; and other acts of domestic abuse.

People living in the context of an honour dynamic face additional barriers to their ability to speak out against and report abuse for fear of repercussions including further and more severe abuse; shame; stigma; and being shunned/ostracised.

IKWRO

So-called “honour” based abuse covers a range of forms of patriarchal violence, perpetrated mainly against women and girls. It is motivated by enforcing “honour” codes, to punish and prevent behaviour perceived to be shameful, to send a message to the community and silence any potential challengers.

Suggested Wording for Statutory Definition of Honour-Based Abuse

10. The clear inadequacies and inconsistencies across policing, the family and criminal justice systems and child safeguarding definitions of honour based abuse demonstrate the need for a statutory definition. The need to, for example, enlarge the definition of honour based abuse and violence within family proceedings and to offer a comprehensive definition within child safeguarding, policing and criminal proceedings is plain.

An incident or pattern of violence, threats of violence, intimidation, coercion, control or abuse (including but not limited to psychological, physical, sexual, economic, spiritual, faith-related or emotional abuse) motivated by the perpetrator’s perception that an individual has shamed, or may shame, the perpetrator, the family, or community or has otherwise broken, or may break, the perceived norms of the community’s accepted behaviours, including by speaking out about the abuse and where the perception of shame may also prevent a victim from accessing support or help.

11. What this statutory definition includes is:

- a. A comprehensive definition of the types of abuse that may be experienced by a victim of honour based abuse;
- b. A clear definition of motivation that lies outside of the ordinary definition of 'domestic abuse' which is a limiting definition when applied to honour based abuse;
- c. A clear definition that it is not only the perception that norms have been broken but also the perception that they *may* be broken and the forms of control and abuse that flow from this;
- d. Including within the definition that speaking out falls under the perception of breaking accepted norms.

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