



**CPS**

**A consultation on the CPS Policy for  
prosecuting cases of Domestic Violence  
A summary of responses**



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## Introduction

This is a summary of the responses to: 'A consultation on the CPS Policy for prosecuting cases of domestic violence'.

It sets out:

- the background to the consultation;
- a summary of the responses;
- a summary of the responses to the specific questions; and
- our conclusions.

Further copies of this document can be obtained by contacting:

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They may also be obtained by email from: [hqpolicy@cps.gsi.gov.uk](mailto:hqpolicy@cps.gsi.gov.uk)

Copies are also available on the CPS website: [www.cps.gov.uk](http://www.cps.gov.uk)

## Background

In August 2008, the Crown Prosecution Service (CPS) launched a public consultation on its refresh of its Public Policy Statement on prosecuting cases of domestic violence. The aim of the consultation was to seek a wide range of views to inform the policy and practice of the CPS in relation to prosecuting cases of domestic violence.

The CPS has responsibility for reviewing cases of domestic violence and applying the Code for Crown Prosecutors to decide whether there should be a prosecution. To assist prosecutors making that decision, we reviewed our policy and practice by consulting publicly and internally. The Public Policy Statement provides advice on what the CPS does, how domestic violence cases are prosecuted, and what victims can expect from the CPS. The policy statement is particularly aimed at those who support victims of domestic violence, whether professionally or personally, although it may also be of interest to victims, witnesses and the general public.

The CPS regards domestic violence as particularly serious. Its domestic nature is an aggravating factor because of the abuse of trust which is integral to domestic violence. Victims know and often live with or have lived with their abuser. Moreover, we are aware that there is often a continuing threat to the victim's safety and, in the worst cases, the victim's life and the lives of others (including children) may be at risk.

An amended version of the document which was the subject of consultation will become the refreshed third edition of the Public Policy Statement on prosecuting cases of domestic violence. The refreshed policy statement is published alongside this summary of responses.

As part of the public consultation, respondents were asked to answer 12 specific questions and to give any additional comments or views at the end of their response. The consultation period closed on 29 October 2008, although a small number of responses were received after this date. All replies received prior to 20 November 2008 have been included in the summary of responses. A list of respondents can be found at Annex A.

## Summary of responses

In total there were 50 responses received. These respondents were divided into the following three categories:

- responses from individuals;
- responses from organisations; and
- responses from criminal justice agencies.

Details of the three categories of respondents are illustrated in Table 1 below.

**Table 1: Table of respondent type**

**Summary of respondents**

Category of respondents	Number	Percentage of total
Individual respondents	6	12
Organisations	23	46
Criminal Justice Agencies	21	42
<b>Total</b>	<b>50</b>	<b>100%</b>

Not every respondent gave specific answers to each individual question in the consultation. Table 2 below shows the total number of responses to each question and the percentage that represents of the total number of respondents, irrespective of type.

**Table 2: Table of responses to individual questions as a percentage of the total number of respondents**

**Responses to individual questions as a percentage of all respondents**

Question	Number of responses received	Percentage of total number of respondents
1	27	54
2	15	30
3	15	30
4	27	54
5	27	54
6	29	58
7	31	62
8	30	60
9	25	50
10	21	42
11	29	58
12	11	22

Each individual response has been reviewed by CPS Policy Directorate. Not all respondents have followed the specific questions posed in the consultation document but the views of the respondents are reflected in the above tables and the detailed analysis of the responses that follows.

## Responses to specific questions

**QUESTION 1: Does the introduction explain the purpose of the document clearly and give a good indication of the importance the CPS places on tackling domestic violence? If not, please suggest how we could make this clearer.**

There were 27 responses. The majority of the responses were positive overall, with 23 agreeing that the policy met its aims. Two respondents had no comment to make and another two responded negatively.

One respondent felt that the CPS was incorrect in where its priority lay. This respondent felt that the first priority should be to stop domestic violence and the second should be to bring perpetrators to justice.

Two respondents felt that the CPS should be bolder in its commitment to putting the victim at the heart of the prosecution process.

Four respondents wanted more information and clear statements around honour crime and forced marriage. In particular, one felt that there was a lack of information around cultural barriers and financial abuse.

One respondent felt that the draft statement as a whole was not specific enough around its gendered position. However, two others felt that the draft statement was too gendered and believed that men and women were not being treated equally by the CPS. In particular, one of these respondents felt that the current approach presented an institutional barrier to men.

One respondent felt that the policy as a whole lacked impact and that the language was not user friendly. Another felt that more consideration should be given to repeat victimisation and another that the Welsh Assembly Government definition of domestic abuse (which the respondent felt was wider than the inter-governmental definition) should be given consideration.

**QUESTION 2: Is the role of the CPS and the explanation of the tests under the Code for Crown Prosecutors clear? If not, please suggest ways in which we could make these two sections clearer.**

There were 15 responses to this question. The majority of the responses were generally positive with 10 agreeing that the tests were clearly explained. Four made no comment on this section and there was one negative response.

Nine respondents felt that the evidential stage of the Full Code Test, and in particular, the Threshold Test, required further clarification.

One respondent thought that the Witness Care Unit should also be referred to at 3.1.

At 3.4 one respondent also felt that the policy statement should make it clear that whilst victim services, such as Independent Domestic Violence Advisers, are available in some locations this is not true of all areas. This respondent also felt that there should be simpler explanations for victims.

One respondent felt that section 3.5 was clumsily worded and needed rewording. Another felt that although the sections were generally good, specific examples of the application of the tests would have been helpful.

A number of respondents welcomed the glossary. One suggested that it could be situated at the front of the document rather than at the back.

One respondent was not happy with the inclusion of Female Genital Mutilation (FGM) in the draft statement stating that this crime should be omitted as it is not a domestic violence issue, as FGM is perpetrated against prepubescent children and should be defined as child abuse.

### **QUESTION 3: Do you agree with the way in which we have tackled myths and stereotypes?**

There were 15 responses to this question. Nine were positive, five negative and there was one with no comment. The majority of responses were positive and welcomed the way that the subject of myths and stereotypes was included through the draft statement. Two respondents commented that they could not locate this section.

Of the respondents who made specific suggestions, three felt that there should be more information, especially around psychological violence and why victims did not attend court. Another felt that there should also be mention of the fact that some victims do not attend because they are still emotionally involved with the defendant and they may feel loyalty towards them.

One respondent suggested that more stress should be placed upon the additional training that prosecutors have undergone, specifically in relation to domestic violence. They felt that this would improve the confidence of victims and witnesses in the policy.

There was a conflict of views around whether this subject should be in the statement at all. One respondent felt that it deserved a separate annex within the statement which could give examples of some of the types of myths perpetuated in this area. However, another respondent felt that a policy statement was not the correct place for this information and that this would be better served elsewhere in guidance.

One respondent felt that there was limited detail in respect to men, and also felt that it was important not only to stress the approach within the document but also to ensure that words were put into practice.

**QUESTION 4: Is any further explanation required of the things we consider in deciding to continue a prosecution against the victim's wishes; whether it is in the public interest to prosecute; or whether to accept pleas? If so which parts need to be explained further?**

There were 27 responses to this question. All the responses were largely positive, with comments that the section was detailed, comprehensive and clear. A number of respondents suggested further enhancements to this section.

Several respondents expressed the view that a number of issues needed clearer explanations including: Newton hearings; the acceptance of lesser pleas; summonses and warrants; special measures; and, that a victim's personal views might not always accord with the application by prosecutors of the public interest stage of the Full Code Test.

A respondent suggested that there should be emphasis on providing the victim and witnesses with a list of support services at all stages of the process together with information that could better inform the victim and witnesses about the court process. They felt that this would reduce the attrition rates in such cases.

A number of respondents commented on paragraph 6.4, including: "it is not clear what the CPS means by 'the current state of the victim's relationship with the defendant'; 'how is this relevant to the decision of whether to prosecute in the public interest?'; and, the point which referred to: 'the current state of the victim's relationship with the defendant' was open to misinterpretation, and should be expanded with examples, for example, that they are no longer partners but still have contact because there are children of the relationship.

**QUESTION 5: Does the section on support and safety of victims make clear how important these issues are to the CPS? Do they provide all of the relevant information in a way that is easy to understand? If not, how should it be changed?**

There were 27 responses to this question. The majority of the responses were positive, confirming that the section was clear and informative.

A number of respondents felt that further explanation and clarity should be provided around the following areas: timely application for special measures; pre-trial witness interviews; Victim Personal Statements; and the Victim's Code.

One respondent was concerned that 10.14 in the draft statement gave the wrong emphasis as the vast majority of domestic violence cases are heard in the magistrates' courts. This respondent felt that the section should make it clear when and where a victim's interview could be played at the magistrates' court and that it should be more strongly emphasised that the decision is made by the court. They were concerned that there is a danger that expectations are raised that special measures will be available, only to discover later that the court has refused the application. They felt that this has an adverse effect on the willingness of witnesses to testify.

Another respondent felt that it should be specified that although there was an emphasis on IDVAs it should be acknowledged that this service is still limited in number and by the requirement of cases to be 'high risk' in many areas. It was felt that it might be helpful to bring in a reference to other sources of help here according to local arrangements.

Two respondents, whilst acknowledging the training that had been undertaken in the CPS, were concerned about the amount of training that external lawyers representing the CPS and advocates from the Bar received, and felt that this should be mentioned within this area to ensure that the public did not believe that everyone dealing with their case had received enhanced CPS training.

One respondent felt that a further paragraph should be added at 10.40 in the statement. This would ensure that professionals and witnesses are aware that a member of the Witness Service may be permitted to accompany the witness into court for moral support when a witness is worried about going and giving evidence. In addition, if the victim or witness has had support from other support agencies (e.g. Women's Aid) a member of that support service is permitted to accompany the witness into court to offer moral support.

### **QUESTION 6: Do we give a clear indication of how we will deal with children as victims and witnesses? If not, please state ways in which we could do so.**

There were 29 responses to this question. The vast majority of responses were positive and said that the section was clear. However, other comments suggested that further explanation is needed in specific areas.

A number of respondents wanted to see the area on services for child witnesses expanded to ensure that the key points were available in this statement rather than cross-referencing the reader to another document. Additional information about how the CPS can make the experience of the child witness at court more positive was requested.

A respondent also felt that a specific comment in respect of a positive commitment to supporting cases involving 16-18 year olds in violent relationships was required. Again, signposting was raised by a number of respondents who felt that the CPS needs to ensure that child victims have support after the CJS process is completed, and take responsibility to ensure pathways to this support are signposted so that issues such as giving evidence against a parent are addressed. The policy should accept that the safety of the children is paramount, not just important, and flag up in particular the needs of children with disabilities. Specific examples of support would be helpful.

**QUESTION 7: Is the section on keeping victims informed clear? If not, how could we make it clearer?**

There were 31 responses to this question. Of which, 25 respondents agreed that this section was clear.

There were suggestions to include a flowchart illustrating the process and possible interfaces between the CPS/Police, an additional paragraph regarding Direct Communication with Victims and the Victim's Code, and how Witness Care Units are not always the point of contact (instead it is the investigator who is the single point of contact). Another view expressed was that it would be helpful if the section outlined occasions where the police are responsible for informing the victim and those where the CPS is responsible.

There were also comments on how victims were kept informed and whether this was carried out consistently. Two respondents asked for clarification on whether contact was made in writing or by telephone or both and whether the victim's wishes in this respect were routinely taken into consideration. Another respondent said that no timescales were provided on letting the victim know the outcome of the case. Others emphasised the need for procedures to be put in place to ensure that the intention to keep victims informed within one working day is put into practice. One respondent requested that any procedures to ensure contact was made should be explained within the policy.

Another respondent expressed concern that the timescale of one working day to inform a victim about a defendant being released on bail may be too long. It was stated that it would increase the victim's safety if they were informed before the defendant was actually released.

**QUESTION 8: Do the sections on bail and sentencing contain the right level of detail? If no, please explain your answer.**

There were 30 responses to this question with 21 respondents agreeing that this section contained the right level of detail.

Many respondents gave suggestions on what would be helpful to mention in this section including: information on the preparation of pre-sentence reports by the probation service to assist magistrates and judges in sentencing decisions; dangerous offenders and the application for indeterminate public protection sentences where appropriate; and reference to the fact that previous domestic violence offences are also treated as an aggravating feature when sentencing.

One respondent was concerned about the wording of paragraph 14.8, as they felt it suggested that a bail appeal will be available in all cases. Other respondents expressed the view that paragraph 14.11 needed to provide details of whether contact regarding bail is through telephone or in writing or both and whether there are procedures in place to ensure this happens.

One respondent stated that this section should include the following: that there is no right of appeal against unduly lenient sentences in the magistrates' courts; that magistrates' courts and the Crown Court will consider the correct sentencing guidelines; and that restraining orders are currently only available for offences under the Protection from Harassment Act 1997.

Two respondents recommended that information should be provided on how a person can contact the Attorney General in relation to the sentence. This should be done either by a website link or an address/information booklet (to ensure that the victim is aware of all options available). Information on how to ask the Attorney General to reconsider a sentence that the victim considers to be unduly lenient should also be made available in the policy statement.

One respondent recommended that information on what will happen when section 12 of Domestic Violence Crime and Victims Act 2004, (DVCV Act), comes into force and the impact it will have for victims of domestic violence was needed in the statement. Another said that paragraph 15.4 needed to make clear that this is only referring to section 12 of the DVCV Act 2004, and that the whole of the Act is yet to be implemented.

### **QUESTION 9: Do the sections on community engagement and complaints provide useful information for those supporting victims? If not, how could we make them more useful?**

There were 25 responses to this question of whom 17 respondents agreed that there was useful information in this section.

Five respondents expressed the view that more could be said about community engagement and felt that this section was limited. They would like to see more information about how the CPS engages with communities with, perhaps, an example to demonstrate clearly what it is. It was also recommended that more should be done to obtain feedback from service users or organisations. Another suggested using web links to local representative groups so as to give a perspective of what is happening locally.

One respondent thought that it would be useful to have a statement along the lines that, although the CPS takes into account different cultures, decisions to prosecute are based upon the Code for Crown Prosecutors.

Another respondent believed that the complaints section should explain what the minimum standard response to all complaints was and suggested the following sentence: "All complaints will be taken seriously and responded to within 10 working days". Another felt that the complaints procedures and contact details for relevant agencies needed to be made more widely available and accessible. A suggestion was that there should be a leaflet produced to send to interested agencies based on the main points of the policy statement and with contact details for community organisations.

Two respondents recommended that a leaflet on how to complain should be given to every victim on first contact. They believed that if a victim is unhappy about the service it is unlikely they

will go to the nearest CPS office to collect a leaflet, considering the emotional or mental distress they may be experiencing.

**QUESTION 10: Is the document inclusive of people from all communities? If not please explain how we could improve it.**

There were 21 responses to this question, of whom, 12 answered yes to this question. A further three respondents made no comment and two respondents answered no to the question. Three respondents felt more detail and explanation of community engagement would be of assistance. One respondent commented that the statement should be available in Welsh and all languages spoken in the United Kingdom.

A number of respondents felt that the statement should recognise that the needs of individuals may vary according to gender, sexuality, ethnicity, immigration status, age, gender identity, religion or belief, disability or other identity.

One respondent felt that there needed to be more emphasis on how the courts will help people with communication difficulties through the use of intermediaries. This person was also concerned about whether legal professionals had been trained enough in the wider ethnic beliefs and behaviours of various communities.

Similar concerns were raised by three respondents who were particularly concerned about the issues of honour based violence and forced marriage. These people felt that special mention should be made of asylum seekers and refugees facing domestic violence.

One respondent felt that there should be more mention of crimes against the disabled and those committed against men by women. This was echoed by three respondents in particular who felt that the document was not inclusive as men were mentioned in only one line of the whole consultation. One respondent felt that that the CPS could have improved the consultation by actively searching out organisations who could contribute to the review from the male perspective.

**QUESTION 11: Is there any part of the policy statement that you strongly disagree with? If so, please identify which paragraph and provide a brief explanation as to why you disagree.**

In total there were 29 responses to this question. Two respondents answered yes. Another 20 respondents answered no, with a further six answering no comment and one respondent saying not applicable. Some respondents felt some areas needed further clarification and were concerned about the extent of the implementation of the policy but that there was not anything with which they disagreed.

There were a number of comments about at whom the policy statement was directed. It was suggested that, if it was directed at victims, further care should be taken to avoid technical language or jargon.

Three respondents expressed concern that the direction that this policy was taking would inhibit the reporting of crimes perpetrated upon male victims - in particular, crimes inflicted on those in the gay or transgender communities where there may be further inhibitors to reporting.

### **QUESTION 12: Have you any comments about the document?**

In total there were 11 responses to this question. Five respondents answered no and a further six respondents made positive comments.

Three respondents said that the CPS was proactive in disseminating this policy to specialist DV services who work directly with victims and witnesses. However, they were concerned that some support services and individual workers may not be as well informed. They believe that the policy was a very useful tool and would enable support workers better to explain the CPS to victims and witnesses and improve engagement with the CPS.

One respondent commented that whilst the document itself was clear he was concerned that putting things into practice was not always as easy as it should be. He was also concerned that it could be confusing for victims and therefore ineffectual.

One commented that, whilst links to other documents were excellent, allowing interested parties' access to whatever further information they need, in some cases a brief summary of the information and guidance in these separate documents would have been useful.

Clarification about the help lines referred to was requested. Explanation was also sought around a number of helplines in particular those relating to elder abuse and male victims.

In terms of policy, suggestions were made by one individual that greater importance should be put upon the individual, and the fact that a victim did not want to proceed with a prosecution should be the deciding factor.

Another respondent suggested that the policy statement make formal links with ACPO's latest guidance on investigating domestic abuse. It was suggested that this could be web linked as it is not restricted or subject to any exemptions under the Freedom of Information Act.

Four respondents stressed the importance of the risk assessment in this field and said that it would be helpful to make a reference to using the risk assessment document when making decisions. Reference was made to the fact that many agencies now use this approach.

A number of respondents were concerned about the term "domestic violence". Although the definition explains that domestic violence can be physical, psychological, sexual, emotional and financial, it was felt that the term violence is often solely associated with physical abuse by many people including victims, agencies and the public. The term "domestic abuse" is broader.

Three respondents felt that the CPS must consider whether the victim is satisfied with the outcome of the court process. They felt that the CPS must remember that the way in which it measures a 'successful' outcome may differ from whether the victim assesses it to have been 'successful'. They felt that a concentration on the process as well as the outcome is needed to ensure that the victim is satisfied. They said that consultation with experts in the field of domestic violence service provision was essential, as these groups work with victims on a daily basis and understood what needed to change about the system in order for victims to feel that justice had been done and that they had been listened to appropriately.

Two respondents felt that the CPS failed adequately to recognise male victims, and in practice, does not treat male victims in the same way as female victims.

They felt that the CPS must have a separate and distinct domestic violence policy and should not include its domestic violence policy in its Violence Against Women Strategy. They felt that to continue in this vein would be gender discrimination.

One respondent was concerned about the readability of the document and felt that it would be helpful to have it in plain English or at least something more accessible to the average reader. It was suggested that that a glossary should be put at the beginning of the document rather than at the end where it is more customarily found.

## Conclusion

We are grateful to all those who responded to the consultation and the time that they have invested in doing so. We recognise that this will have been particularly difficult for those who have been directly affected by domestic violence or for those who work to support such victims. We have carefully considered all the responses we received, and have taken them into account when considering whether to revise the statement. The changes will now be reflected in the refreshed version of the Public Policy Statement.

The CPS is committed to ensuring that our prosecuting policy enables our prosecutors to reach the correct charging decisions not only in line with current law, but also, where it is just and lawful to do so, taking into account the particular need to consider the elements of risk to and safety of victims and witnesses. This will ensure the CPS has a policy in which victims, witnesses and the public at large can continue to have confidence.

## Consultation Criteria

The six consultation criteria are as follows:

1. Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy.
2. Be clear about what your proposals are, who may be affected, what questions are being asked and the time scale for responses.
3. Ensure that your consultation is clear, concise and widely accessible.
4. Give feedback regarding the responses received and how the consultation process influenced the policy.
5. Monitor your department's effectiveness at consultation, including through the use of a designated consultation co-coordinator.
6. Ensure your consultation follows better regulation best practice, including carrying out a Regulatory Impact Assessment if appropriate.

**These criteria must be reproduced within all consultation documents.**

## Annex A

### Response to consultation

#### Individual Respondents

Geoff Carr  
Raymond Barry  
Mrs R. Sanders  
Tracey Morgan  
Andrew Storch

#### Organisations

Brecknock Women's Aid  
Bangor & District Women's Aid  
Lliw Valley Women's Aid  
Neath Women's Aid  
Welsh Women's Aid  
Wrexham Women's Aid  
Caerphilly Domestic Abuse Forum  
CAADA  
Stonewall  
Ahimsa  
Women's Aid  
Powys Domestic Abuse Forum  
Victim Support  
Leeds Inter-Agency Project  
The ManKind Initiative  
Ceredigion Domestic Abuse Forum  
Wearside Women in Need  
Refuge  
Wales Women's National Coalition  
Parity  
Caerphilly County Council  
Newham Council  
Milton Keynes Primary Care Trust NHS

## **Criminal Justice Agencies**

National Police Improvement Agency  
CPS West Yorkshire  
National Offender Management Service  
Nottinghamshire Police  
CPS Sussex  
CPS Suffolk  
CPS Leicestershire  
CPS Merseyside  
CPS West Midlands  
North Wales Police  
Hampshire Constabulary  
Kent Police  
MPS Territorial Policing  
North Wales CPS DV Policy Consultation Group  
National Probation Service  
CPS Hampshire and IOW  
Her Majesty's Courts Service  
Ministry of Justice  
CPS Northumbria  
Northamptonshire Police  
Government Equalities Office



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