

# Domestic Violence

## Frequently Asked Questions



**CPS**

This leaflet explains how prosecution decisions are reached



# Domestic Violence

- **What is Domestic Violence?**

The Government's definition of domestic violence is:

**“any incident of threatening behaviour, violence or abuse [psychological, physical, sexual, financial or emotional] between adults who are or have been intimate partners or family members, regardless of gender or sexuality.”**

The Crown Prosecution Service (CPS) is concerned with criminal offences that occur in a domestic context whatever the age of the victims and abusers.

- **Who is my lawyer?**

Victims and witnesses do not have separate lawyers to represent them. However, there is a Code of Practice for Victims of Crime which ensures that victims are kept fully informed and involved in their cases by the police and by the CPS. Further information is available at:

[http://www.cps.gov.uk/victims\\_witnesses/victims\\_crime.html#01](http://www.cps.gov.uk/victims_witnesses/victims_crime.html#01)

Furthermore, the CPS has made commitments to victims of crime in *The Prosecutors' Pledge*, which include taking account of the views of victims when making decisions on a case, ensuring that as much support as possible is given to victims when they are at court, and promising to keep victims informed of key developments in the cases in which they are involved.

*The Prosecutors' Pledge* can also be found at the above web address.

- **Is there any support available for me?**

There are a number of specialist support agencies which can provide assistance to victims in many areas of England and Wales. This may include: outreach workers, refuge provision, Women's Aid, Victim Support Volunteers and Independent Domestic Violence Advocates (IDVAs). The IDVAs work with victims who are at high risk from the initial point of crisis, throughout the court process and beyond.

Witness Care Units will also provide you with up-to-date information about how the case

is progressing and ensure that your specific needs are considered throughout.

### **24hr Domestic Violence Helpline**

Tel: 0808 2000 247

### **MALE (Men's Advice Line)**

Tel: 0808 8010 327

### **Broken Rainbow (LGBT Helpline)**

Tel: 0845 2604 460

- **What will the defendant be charged with?**

There is no specific offence of 'domestic violence'. The prosecutor will select the charge that best reflects the circumstances of the case. This could include charges such as: assault, harassment, criminal damage or threatening behaviour. *The Code for Crown Prosecutors* sets out a test which must be met in order for a prosecution to take place.

There are two stages to the test: the evidential stage and the public interest stage. The evidential stage requires that we must be satisfied that there is enough evidence to provide a realistic prospect of conviction

against each defendant on each charge. If there is insufficient evidence it cannot continue no matter how serious a case it may be. If the case does pass the evidential test we must then decide if it is in the public interest to prosecute.

- **What things does the CPS consider when deciding if it is in the public interest to prosecute?**

A balance has to be struck between the views and interests of the victim and the risks to that victim and to other individuals. The safety of the victim and any children will be a key factor for us to consider. If there are children in the household where there is abuse we will want to know about the effect it has had on them. Some examples of what helps us decide whether it is in the public interest to prosecute are: the seriousness of the offence, the victim's injuries, whether children are involved, whether a weapon was used, and whether there has been violence before.

- **What happens if the case goes to court?**

The defendant will be given a date to attend court. The defendant may be released to attend court or be remanded in custody. The court will then decide if the defendant can be given bail (with or without conditions) or should remain in custody. After appearing in court, the defendant will be asked if he admits the offence (pleads guilty) or denies the offence (pleads not guilty). Depending on the nature of the charge and the seriousness of the case, it will be heard at either a magistrates' court or the Crown Court.

If the defendant has pleaded guilty, the case may be put off to another date for reports to be prepared by the Probation Service or it may be dealt with there and then. If the defendant has pleaded not guilty, a trial date will be set. At the trial, evidence will be heard by the court. Witnesses will need to come to court to give their evidence in person, although in some cases evidence can be read out. The defendant will be found guilty if the magistrates or jury are sure that the defendant committed the offence.

- **Will the defendant be granted bail?**

Once a defendant is charged with an offence (where there has been an arrest), the police will decide whether or not to release the person on bail or to keep him in custody for the court to decide. We may ask that the defendant remains in custody to protect you or other witnesses or to stop further offences from being committed. We will work closely with the police, where possible, and obtain your views about bail conditions (for example, the defendant may have a condition not to approach you, your home address or your children) and any proposed variations. Ultimately, the court will decide whether or not the defendant is given bail. If the defendant breaches their bail conditions, the police can arrest them and the court can remand them in custody.

- **What if I don't want to attend court or want to make another statement?**

If you decide you do not want to attend court or make another statement, it does *not* mean that the case will automatically be stopped. Instead the prosecution will have to

find out why you have asked for the case to be stopped, so that decisions can then be made about what action to take. The prosecutor will want to know the reasons why you no longer wish to give evidence and may apply to the court for time to investigate.

- **Can the case continue without me?**

If we still have sufficient evidence to proceed, we may decide to continue without relying on your evidence. Generally, the more serious the offence (for example, if serious violence or children are involved) the more likely we are to prosecute, even if you say that you do not wish us to do so. In some cases, we will also be able to apply to the court for special measures for you to give the best evidence you can.

- **Is there any help available for me to give my evidence?**

Giving evidence can be a difficult experience for victims of domestic violence. In some cases, the court may agree to allow a witness to give evidence with the help of

special measures. Prosecutors have to apply to the court for special measures and the court then decides whether they will be granted. Special measures are designed to help witnesses who are under 17 years old, vulnerable adults, witnesses fearing reprisal and witnesses who are distressed or frightened about giving evidence.

Examples of special measures include: screens, use of a separate room (sometimes in a different building) with a live television link through to the court room, use of communication aids, giving evidence through an intermediary (who can help the witness communicate with the court), and clearing the public gallery.

- **How do I let the court know how this has affected me?**

You will be asked by the police if you would like to make a victim personal statement. A victim personal statement is different from a statement made to the police describing the incident. The purpose of this statement is to ensure that the court understands the victim's views before it decides on the defendant's sentence.

Through this statement, a victim of crime can explain the effect that the crime has had on them. This can include physical, emotional or financial aspects. The statement is optional. It can be made at any time and it is possible to make more than one statement. Copies of the statement will be provided to the defence and the court.

- **Who can I speak to if I am not happy with the way in which my case has been treated?**

Anyone who has a complaint about the way they have been treated by the CPS, or feel that the criminal justice system has let them down and does not know who may be responsible, can write to the Chief Crown Prosecutor for the CPS Area where they live. The CPS has a complaints policy, and a leaflet describing the procedure to follow can be obtained from local CPS offices. Contact details for each of the CPS Areas can be found at:

<http://www.cps.gov.uk/local/index.html>



**Further copies of this leaflet may be obtained from:**

CPS Communications Branch  
50 Ludgate Hill  
London EC4M 7EX

Tel 020 7796 8442  
Email [publicity.branch@cps.gsi.gov.uk](mailto:publicity.branch@cps.gsi.gov.uk)

Printed by Blackburns of Bolton  
March 2009