

# Domestic Abuse

This guidance is published as interim guidance for prosecutors to apply in all Domestic Abuse (DA) cases with effect from 31 March 2022, whilst a public consultation takes place. The final updated legal guidance will be published after full review and consideration of the consultation responses.

This guidance has been updated to reflect changes brought in by the Domestic Abuse Act 2021, (DA Act). Prosecutors should note that further sections of the DA Act will come into force in 2022 and 2023. The guidance will be updated when these sections have been commenced.

## Introduction

This legal guidance sets out how prosecutors should apply the [Code for Crown Prosecutors](#) (the Code) when considering any offences which fall within the definition of DA as outlined in the section of this guidance titled 'Domestic Abuse Definition' and regardless of the age of those involved. All DA cases should be identified on the CPS Case Management System (CMS) by applying the 'Domestic Violence' flag. Prosecutors dealing with DA cases should have completed the DA training and ensure they understand the impacts and dynamics of how abuse may be perpetrated.

DA cases are amongst the highest priority work dealt with in the criminal justice system. The safety of victims and children is imperative when prosecuting cases of DA.

There is no specific offence of 'domestic abuse'; however, the term can be applied to a number of offences committed in a domestic environment. The domestic nature of the offending is an aggravating factor because of the abuse of trust involved. Victims will know and often live with, or have lived with, the perpetrator and there may be a continuing threat to the victim's safety. In the some cases there is a threat to their life or the lives of others around them.

DA can inflict lasting trauma on victims and their extended families, especially children and young people who may not see the abuse, but may be aware of it, or hear it occurring. Individuals suffering DA will not be always be aware that what they are experiencing is abusive behaviour.

In many cases DA becomes more frequent and more serious the longer it continues and in some circumstances can result in death. DA cases require sensitive and careful handling taking account of the nature of the offending behaviour; the relationship between the victim and perpetrator; the victim's family circumstances; cultural or religious beliefs and other factors such as sexual orientation and/or gender identity, mental capacity or physical disability, or poor health. DA occurs

amongst people of all ethnicities, genders, sexualities, ages, disabilities, immigration status, religions or beliefs, and socio-economic backgrounds.

Support and safety needs for victims should be identified from the outset and continually considered throughout the life of a case. Improving a victim's safety is key. It may help to raise their confidence in the criminal justice system and facilitate their participation in the investigation and prosecution process.

Prosecutors should work closely with the police to ensure that accurate and up to date information is provided to the victim throughout the case, particularly about special measures and other support that may be available. Regular liaison with Independent Domestic Violence Advisers [IDVAs] (where in place), Young People's Violence Advisers (YPVAs), or other support services (including from specialist organisations), Witness Care Units (WCUs), and voluntary sector support organisations, is recommended to ensure the victim's safety and support needs are properly understood and addressed. Local systems and protocols, specifically addressing communications processes or pathways between the CPS, WCU, and support organisations should be kept up to date. All pathways should be set up to provide a two-fold function, with the ability to address safety, progress of a case and its outcomes in a speedy and efficient manner, as well as providing victims with accurate information on the criminal justice process and the roles of the relevant agencies.

## Terminology

Language and terminology are important in the criminal justice system and it is acknowledged that a range of terms are used by different organisations.

In all CPS legal guidance, the term 'victim' encompasses other terms such as 'complainant(s)', and 'survivor(s)' and is used to denote:

- a person who has made an allegation,
- a person who has suffered harm, including physical, mental or emotional harm or economic loss which was directly caused by a criminal offence; or
- a close relative (or a nominated family spokesperson) of a person whose death was directly caused by a criminal offence.

All CPS legal guidance uses the term "suspect" to describe a person who is under consideration as the subject of formal criminal proceedings; "defendant" to describe a person who has been charged or summonsed; "offender" to describe a person who has admitted guilt as to the commission of an

offence, or who has been found guilty in a court of law and “perpetrator” where the drafted sentence could refer to all stages of criminal proceedings.

The use of any wording does not confer any finding or judgement on the allegations that have been made. All allegations will be prosecuted impartially in accordance with the Code for Crown Prosecutors.

## Violence Against Women and Girls strategy (VAWG)

The [VAWG Strategy](#) provides an overarching framework for crimes identified as being primarily, but not exclusively, committed by men, against women and girls within the context of power and control. Though the majority of reported victims covered by VAWG offences are women, the CPS recognises that some perpetrators will be women, some victims will be men and some victims will be non-binary or identify in a different way.

All references in this guidance are gender neutral and are applied to all perpetrators and victims of crime irrespective of gender, or sexual orientation, in accordance with the Code.

DA prosecutions should be addressed within the overall framework of violence against women and girls and human rights.

## Domestic Abuse definition

The DA Act aims to raise awareness about the devastating impact of DA on victims and their families and to further improve the effectiveness of the justice system in providing protection for victims of DA and bringing perpetrators to justice.

It introduced a cross-government statutory definition to ensure that DA is properly understood, viewed as unacceptable and actively challenged across statutory agencies and in public attitudes.

The DA Act does not create a specific criminal offence of DA. DA can fall under a range of offences which are considered in the section of this guidance titled ‘offences available to prosecutors’. The DA Act sets out who can be a victim of DA behaviours and establishes how victims need to be connected to the perpetrator. It also makes clear that children (irrespective of whether they are injured or see the offending) are deemed to be victims of DA if they live in an abusive household.

## The relationship between the victim and perpetrator under the statutory definition

The definition of DA is in two parts, which can be found at [section 1 DA Act](#). The first part deals with the relationship between the victim and the perpetrator.: the victim and perpetrator must both be over the age of 16 and they must be “personally connected”.

Prosecutors should continue to flag and apply this guidance to all cases that meet the definition of DA regardless of the age of the victim and perpetrator.

## In what circumstances can people be personally connected in the DA Act?

[Section 2 of the DA Act](#) sets out how people can be personally connected, and it ensures that different types of relationships are captured, including ex-partners and family members.

### Section 2: Definition of “personally connected”

(1) Two people are “personally connected” if any of the following applies—

- (a) they are, or have been, married to each other;
- (b) they are, or have been, civil partners of each other;
- (c) they have agreed to marry one another (whether or not the agreement has been terminated);
- (d) they have entered into a civil partnership agreement (whether or not the agreement has been terminated);
- (e) they are, or have been, in an intimate personal relationship with each other;
- (f) they each have, or there has been a time when they each have had, a parental relationship in relation to the same child (see subsection (2));
- (g) they are relatives.

(2) For the purposes of subsection (1)(f) a person has a parental relationship in relation to a child if

- (a) the person is a parent of the child, or
- (b) the person has parental responsibility for the child.

The DA Act uses the same definition of ‘relative’ as [Section 63 of the Family Law Act 1996](#). This is wider than the previous cross government definition and means:

(a) the father, mother, stepfather, stepmother, son, daughter, stepson, stepdaughter, grandmother, grandfather, grandson, or granddaughter of that person or of that person's spouse, former spouse, civil partner, or former civil partner, or

(b) the brother, sister, uncle, aunt, niece, nephew or first cousin (whether of the full blood or of the half blood or by marriage or civil partnership) of that person or of that person's spouse, former spouse, civil partner, or former civil partner.

There is no requirement in the DA Act for the victim and perpetrator to be co-habiting.

### What is abusive behaviour in the DA Act?

[Section 1\(3\) DA Act](#) sets out what constitutes abusive behaviour, listing broad categories to capture the different types of abuse. These include

- '(a) physical or sexual abuse;
- (b) violent or threatening behaviour;
- (c) controlling or coercive behaviour;
- (d) economic abuse (see subsection (4));
- (e) psychological, emotional or other abuse; '

The DA Act also clarifies that it does not matter whether the behaviour consists of a single incident or a course of conduct.

In terms of economic abuse, it also clarifies that this can include:

'any behaviour that has a substantial adverse effect on B's ability to—

- (a) acquire, use, or maintain money or other property, or
- (b) obtain goods or services.'

### Children as victims of DA

The DA Act recognises the devastating impact that DA can have on children exposed to abuse in their own home. [Section 3 DA Act](#) came into force on 31 January 2022 and specifically provides that a child, (0-18 years old), who sees, hears or experiences the effects of DA and is related to the victim or the perpetrator is also to be regarded as a victim of DA. This will help to ensure that locally commissioned services consider and address the needs of children affected by DA. This does not

create any new offence in relation to DA, but prosecutors should be reminded that children that fall within the above definition should be flagged as victims and are entitled to rights under the [Victims Code](#).

In what circumstances is a child related to the victim or the perpetrator in the DA act?

[Section 3\(3\) DA Act](#) sets out when a child is related to a person:

- (a) The victim or perpetrator is a parent of, or has parental responsibility for, the child, or
- (b) The child and the victim/perpetrator are relatives

## Applying the Code

Prosecutors must apply the Code. CPS policy and legal guidance does not take precedence over the code but is intended to support prosecutors in their decision-making and in the proper application of the Code. Prosecutors should note the [Director's Guidance on Charging sixth edition annex 1](#), sets out the division of charging responsibility between the police and CPS in domestic abuse cases. It makes clear that the police cannot charge any domestic abuse offence without referral and advice of the CPS.

The test for DA prosecutions is the same as for any other offence ('the Full Code Test'):

- the prosecutor must be satisfied that there is sufficient evidence to provide a realistic prospect of conviction, and
- the prosecutor is satisfied that a prosecution is required in the public interest.

In accordance with paragraph 3.3 of the Code, prosecutors must have regard to the impact of any failure on the part of the police to pursue an advised reasonable line of enquiry or to comply with a request for information, when deciding whether the application of the Full Code Test should be deferred or whether the test can be met at all.

## Evidential stage

The key principles can be summarised as follows:

- The evidential stage of the Code test requires prosecutors to conduct an "objective assessment of the evidence, including the impact of any defence and any other information that the suspect has put forward or on which they might rely. It means that an objective, impartial and reasonable jury or bench of magistrates or judge hearing a case alone,

properly directed and acting in accordance with the law, is more likely than not to convict the suspect of the charge alleged."

- These cases require a careful and balanced assessment of all relevant evidence, including those related to the suspect, to ensure that the right cases are prosecuted and there is a fair trial. This might involve scrutiny of accounts given of the event, forensic examination and careful consideration of relevant digital material and CCTV coverage. It also includes consideration of the reliability and credibility of witnesses and advising on actions that can be taken to address weaknesses in the case.
- Prosecutors must not allow myths, stereotypes, or assumptions to influence their evaluation of evidence.
- The Code requires prosecutors to consider what the defence may be and whether there is any material which may undermine the prosecution case. Prosecutors must assess each undermining feature objectively and then assess the cumulative effect in the overall context of the strengths of the case. Ultimately, a prosecutor must decide if the combined effect of such factors after an objective analysis is such that the evidential stage is not met. Prosecutors must not introduce a requirement for corroboration in the review process - one person's word can be enough (and often is) but the quality of the evidence must be assessed in the manner described above.
- Prosecutors must consider whether there is any material that may affect the assessment of the sufficiency of evidence, including examined and unexamined material in the possession of the police, and advise on any further reasonable lines of enquiry.
- Once it becomes clear that a case is not going to meet the Full Code Test, it is important to take a decision as soon as possible so that those impacted can be informed promptly.

### Is it in the public interest to prosecute?

Paragraph 4.9 of the [Code for Crown Prosecutors](#) sets out the factors a prosecutor must address in their review when considering whether it is in the public interest to proceed with a prosecution.

It does not automatically follow that if there is sufficient evidence, there will always be a prosecution. A prosecution will usually take place unless there are public interest factors tending against prosecution that outweigh those tending in favour. Given the seriousness of DA offending, a prosecution will normally be required when the evidential requirements under the Code are met and the victim is willing to give evidence. There are, however, many factors, which may influence consideration of the public interest in prosecution, especially in relation to offending by [youths](#).

Where the evidential stage has been met, but in circumstances where a victim is not willing to support a prosecution, prosecutors will need to carefully consider the interests and safety of the victim, other family members and any children or other dependents when assessing whether a prosecution is in the public interest.

Prosecutors should be made aware of any children living in an abusive household. The impact on children is relevant to the assessment of the public interest test, given that it can increase the seriousness of the offence and the final charging decision. It is also possible that other agencies or organisations (such as support and voluntary organisations, Children's Services and schools) may have been made aware of the abuse, or other proceedings such as family proceedings may be taking place as a result. Where possible, prosecutors should ask the police to seek such information to help inform the final charging decision to be made.

### Avoid charging delays/cooling off periods

All charging decisions should be made expeditiously and with the consideration for the safety of the victim and any dependants. Delaying charging decisions to allow for a 'cooling off' period for either the victim or the suspect should not be applied in any circumstance.

### Out of court disposals and diversionary tools

#### Restorative justice

Restorative justice is the process of bringing together those harmed by crime or conflict with those responsible for the harm to find a positive way forward.

Restorative Justice is rarely appropriate in DA cases and is not recommended in cases involving intimate partner abuse. Any officer considering the use of restorative justice in a DA case must take advice from their supervisors and other agency experts. Each individual police force will have their own established policy for the use of restorative justice in DA cases.

More information can be found in the [Restorative Justice legal guidance](#), <https://restorativejustice.org.uk/> and the [College of Policing guidance](#).



## Simple cautions

The police should consider cautions carefully in DA cases. This is because such cases involve a breach of trust and may involve a pattern of behaviour. The police can only consider offering a simple caution for a DA case if it involves a summary or either way offence.

Prosecutors should note guidance on [Simple Cautions for Adult Offenders](#) recommends 'positive action' is taken to ensure the safety and protection of a victim and children while allowing the offender to be held to account.

A simple caution can only be considered when the evidential stage of the Full Code Test is satisfied. The public interest test requires consideration of whether prosecution is a proportionate response and whether there is an alternative. In DA cases it will rarely be appropriate to deal with a DA case by way of a simple caution. However, where a positive action policy has been adhered to, the victim does not support a prosecution, and the available evidence (including any additional evidence adduced) would only disclose a very minor offence, the police will consider a simple caution.

## Conditional cautions

Part 3 of the Criminal Justice Act 2003 makes provisions for offenders to be diverted from the courts by issuing them with a conditional caution. As stated in the [DPP's Guidance on Adult Conditional Cautions](#), offences involving DA, in particular those involving intimate partner abuse and coercive and controlling behaviour, will rarely be suitable for a Conditional Caution. For further information prosecutors should refer to the Conditional Cautioning Adults – [DPP Guidance on Conditional Cautioning Youths](#) – DPP Guidance.

## Youth cautions and youth conditional cautions

The police can offer a Youth Caution (YC) for a DA case without consulting the CPS (unless the offence is one that would be indictable only if committed by an adult} for an offence of DA that scores 3 or less on the [gravity matrix](#).

When a prosecutor is considering a Youth Conditional Caution (YCC), they must consult with the Youth Offending Service and consider the case in accordance with the [Code](#) with reference to the legal guidance on [Youth Offenders](#) and the [DPP Guidance on Conditional Cautioning Youths](#).

## Offences available to prosecutors

Prosecutors should consider each case based on the facts presented to them and determine the appropriate offence(s) to charge on a case by case basis. Prosecutors should ensure they consider the wider context of any incidents reported by victims and ensure that any other relevant potential charge(s) are considered. Prosecutors may need to seek further information or evidence in order to ensure the most appropriate charges are brought. Most incidents reported to the police are not isolated and it is well documented that DA usually escalates over time.

Prosecutors are reminded that there are no specific offences of DA, and any number of offences could fall within the definition. Prosecutors should consider this as overarching guidance regarding DA but must refer to individual legal guidance regarding specific offence(s) being considered.

Prosecutors should also be aware that on 29 April 2021 [section 71 DA Act](#) came into force which restates the general proposition that a person may not consent to the infliction of serious harm and, by extension, is unable to consent to their own death. Further guidance can be found in the RASSO guidance at the section titled '[consent to serious harm for sexual gratification.](#)'

DA offences will be prosecuted under the specific offences committed but it is important that consideration is given to all the circumstances when assessing which offences are the most appropriate. Prosecutors should refer to paragraph 6 of the [Code](#) for further guidance on selection of charges. Below is a list of links to relevant legal guidance for potential offences that prosecutors should consider. Please note this is not an exhaustive list and other offence(s) may be appropriate in the circumstances of the case:

- [Controlling and Coercive behaviour](#) legal guidance. Prosecutors should note that [section 68 DA Act](#) will expand the definition of “personally connected” so that there is no longer a requirement for the victim and perpetrator to live together. It will include post-separation and familial abuse where the parties do not live together. Prosecutors should note that this section is not currently in force and the guidance will be updated when this section of the DA Act has been implemented.
- [Disclosing Private Sexual Photographs and Films without Consent](#) legal guidance. Prosecutors should note that on 29 June 2021 [section 69 DA Act](#) extended this offence to include threats to disclose such material.
- [Offences Against the Person - Charging Standard](#) legal guidance
- [Rape and Sexual Offences](#) legal guidance

- [Stalking and Harassment](#) legal guidance
- [Social Media Communication](#) legal guidance
- [So-Called Honour-Based Abuse and Forced Marriage](#) legal guidance
- [Child Abuse \(non-sexual\)](#) legal guidance
- [Offensive Weapons, Knives, Bladed and Pointed Articles](#) legal guidance

## Extra-territorial jurisdiction

On 29 June 2021, [sections 72, 74\(1\) & \(2\)](#), and Parts 1 & 2 of [Schedule 3](#) of the DA Act were implemented. These provide extraterritorial jurisdiction of the criminal courts in England, Wales, and Scotland. Where appropriate, UK nationals and those habitually resident in England, Wales, or Scotland who commit certain violent and sexual offences outside the UK they may be brought to trial here. The offences to which this applies are:

- Murder
- Manslaughter
- An offence under section 18, 20 or 47 of the Offences Against the Person Act 1861
- An offence under section 23 or 24 of the Offences Against the Person Act 1861
- An offence under section 1 of the Infant Life (Preservation) Act 1929
- An offence under section 4 and 4A of the Protection from Harassment Act 1997
- Certain offences under the Sexual Offences Act 2003 (for further guidance prosecutors should refer to the [RASSO](#) legal guidance)
- An offence under section 76 Serious Crime Act 2015

Prosecutors should refer to the [Jurisdiction](#) guidance for further guidance in relation to extra-territorial jurisdiction and how to prosecute these cases.

## Case building and approach to prosecuting DA cases

It is important that evidence is gathered to build a robust prosecution case which takes an offender-centric approach and is not focused solely on the evidence of the victim. The stronger the overall case, the less likely it is that it will be contested or, if it is, that the prosecution will need to call upon the victim to give evidence. The starting point should be to build cases in which the prosecution does not need to rely on the victim. However, prosecutors should ensure that the views of the victim are balanced with this approach, and they are not overlooked during proceedings.

## Early Advice (EA)

Investigators should consider seeking Early Advice in serious, sensitive, or complex DA cases. Cases involving a death, rape, or other serious sexual offence should always be considered for early referral, particularly once a suspect has been identified and it appears that continuing the investigation will provide evidence upon which a charging decision may be made. Further guidance on Early Advice can be found in the [Director's Guidance on Charging version 6](#).

## Offender centric approach

An effective strategy for investigating and prosecuting DA offences requires focus on the actions of, and tactics used, by suspects. Prosecutors must encourage investigators to take an offender-centric approach to case building which involves looking closely at the actions of the suspect before, during and after the alleged offence. DA incidents often take place in private and the victim may be the only witness. Prosecutors should advise investigators to pursue reasonable lines of enquiry which may include an analysis of the suspect's digital communications, analysis of their behaviour from CCTV or statements from third parties who may have knowledge of the parties or had disclosures made to them. This approach to case building is aimed at building the strongest case possible whilst ensuring that the investigation is fair.

Prosecutors should consult the [vulnerable victims toolkit](#) which highlights common types of offender tactics and behaviours.

## Factors to consider when making charging decisions

Charging decisions in DA cases must be made by the CPS and not the police. The police may make the decision to offer a simple caution for a DA case if it involves a summary or either way offence, but they must refer any indictable only offence to the CPS for further advice.

Prosecutors should work closely with the police from the outset to ensure effective gathering and collation of evidence to build strong prosecution cases:

- all cases should be built by ensuring the investigator follows all reasonable lines of enquiry including those which do not rely upon evidence solely from the victim

- police and prosecutors should use the Joint Evidence Checklist as a matter of routine to ensure that all evidential opportunities have been taken
- effective information sharing with other agencies and support organisations may assist prosecutors and police in case building
- police and prosecutors need to work closely to ensure that a victim's safety needs are addressed through receipt of informed risk assessments and risk identification
- bail and remand should be considered in respect of the specific facts of the case
- in all cases prosecutors should consider not only the offence presented to them by police but the background and any other potential offences, particularly where there are a number of allegations which, together, might amount to a more serious offence.

Joint working by police and prosecutors is required to build a case and prosecutors should always advise the police where it is considered that there are outstanding reasonable lines of enquiry. Clear action plans setting out the additional lines of enquiry, with timescales, should be provided to the police.

The [Attorney General's Disclosure Guidelines](#) and the [CPIA Code of Practice](#) make it clear that a fair investigation involves following all reasonable lines of enquiry, whether they point towards or away from the suspect. What is 'reasonable' will depend on the context of the case. A fair investigation does not mean an endless investigation: investigators and disclosure officers must give thought to defining, and thereby limiting the scope of their investigations to what is reasonable, seeking the guidance of the prosecutor where appropriate. Prosecutors should consider what the identified or likely issues in the case are and should develop a case strategy based on those issues. This will inform the reasonable lines of enquiry to be pursued.

Further guidance can be found in the [Attorney General's Disclosure Guidelines](#) and the [Director of Public Prosecution's Guide to Reasonable Lines of Enquiry and Communications Evidence](#).

## Self-defence and counter allegations

Prosecutors may often be presented with conflicting accounts of the incident, with each party claiming to be the victim. The suspect may make a counter-allegation of abuse, or argue that they have acted in self-defence, making it difficult to identify and distinguish between the primary victim and primary suspect.

In cases where a counter allegation has been made, police officers should conduct an immediate further investigation at the scene (or as soon as is practicable) to attempt to establish the primary suspect and to assess whether the primary victim may have been justified in using a reasonable level of force to defend themselves or another person, such as a child. Police and prosecutors should be alert that some counter allegations may be made to further the abuse perpetrated on the primary victim. A thorough investigation should be conducted into the background of the relationship between the victim and alleged suspect to ensure that the full context of the incident is understood. Prosecutors should consider each case on the circumstances and facts known and ensure all relevant background is considered before determining whether a prosecution is appropriate by applying the Code.

The police should record the following information:

- the nature of the relationship between the victim and suspect;
- whether either party, or both, are involved in other proceedings, such as civil proceedings/orders, or family proceedings;
- the comparative severity of any injuries inflicted by the parties;
- whether either party has made threats of future harm to others (including children, other family members, or others living in the same household);
- any prior history of abuse by either party;
- any previous counter allegations by either party and the results of those allegations; and,
- whether either party acted defensively to protect themselves or a third party from injury.

First response officers will be able to record the behaviour of the parties or note any other information which may assist in building the case. It is also possible that officers attending the scene may be wearing body-worn cameras which might capture vital evidence. Where possible, and when relevant, prosecutors should request to view this footage prior to their charging decision.

The victim in the reported incident may also have acted in retaliation, which may add to the complexity of the report. If there is uncertainty prosecutors should request further information from the police to help clarify the situation as soon as possible. This will help prosecutors assess circumstances where, for example, a primary victim of abuse has retaliated against a suspect who has been abusing them for many years, as well as other scenarios, such as victims of alleged reciprocal abuse.

Police and prosecutors should understand the vulnerability of victims and the impact that control, coercion, and psychological abuse may have on the individual. There may be some circumstances in which the suspect will accuse the victim of having mental health difficulties and use this to suggest that the allegation reported did not occur. In this situation, prosecutors should carefully review all known information about the suspect and victim. Each case should be considered on its own facts. Victims should not be subjected to any myths, stereotypes or assumptions.

When reviewing DA cases prosecutors should consider any previous convictions or cautions that the suspect has on their police national computer (PNC) record. Prosecutors should pay particular attention to any previous convictions which are DA offences involving the same victim or another victim. Where these exist, the prosecutor must seek further information from the police about the facts and circumstances of each offence. The prosecutor should then analyse each previous offence and record in their charging decision any impact this has on their decision to charge. If charged, the rationale for applying to adduce bad character and its admissibility should be recorded.

As well as previous convictions/cautions prosecutors should consider any background information and previous misconduct, such as police call outs, allegations not previously proceeded or acquittals and review any relevant material to determine if this should be subject to a bad character application. Prosecutors should consider if this information falls within any of the gateways under [s101 CJA 2003](#), such as important explanatory evidence or to correct a false impression given.

Prosecutors should consider whether an offence(s) that has not been prosecuted previously has sufficient nexus to be joined with the latest indictment or charge(s), having in mind any statutory time limits on prosecutions. Where a summary only offence has been committed, any charge(s) or information must be laid within 6 months of the date of the alleged incident. This time limit may prevent some previous cases being joined with those involving later offences or victim(s). Prosecutors should also consider if previous incidents assist in demonstrating a pattern of behaviour that supports additional charges such as controlling and coercive behaviour. Prosecutors should also consider whether a judge is likely to rule that fairness requires separate trials (severance).

Prosecutors should note that counter allegations may be used as the basis of bad character applications against the victim (section 100 of the CJA 2003 allows for the bad character of any witness to be admitted, subject to certain conditions). A thorough investigation of such claims should take place to ensure that factually incorrect or misleading information is not put before the court.

Prosecutors should refer to the legal guidance on [bad character](#) for further guidance regarding admissibility and how to make an application/respond to an application.

### Previous domestic abuse incidents and serial offenders

Proactive enquiries into the perpetrator's previous criminal behaviour, or intelligence reports relating to DA incidents (even if they concern a different victim) should be obtained.

Additionally, prosecutors may find it useful to enquire of the police whether any information has been made available about the perpetrator's behaviour through the police-led [Domestic Violence Disclosure Scheme](#) that includes two routes for disclosing information:

- "Right to Ask" is triggered by a member of the public applying to the police for a disclosure; and
- "Right to Know" is triggered by the police making a proactive decision to disclose information to protect a potential victim.

### Joint Evidence Checklist

The Joint Evidence Checklist (see Annex A) must be supplied by the police to the CPS in every DA case submitted for a charging decision. It is designed to provide a series of prompts to police and prosecutors to assist in building DA cases based on evidence other than that of the victim, to ensure a full history of offending behaviour has been captured and to ensure consideration is given to support mechanisms to maximise the safety of victims. This is not an exhaustive list, and any other relevant evidence or information should be considered by the police and prosecutors. Prosecutors should prompt the police where it is considered that further supporting evidence may be useful to build the file.

### Risk assessments and risk indication checklists

Risk assessments are usually conducted by the police upon notification of an incident. Risk assessments will vary between forces but the most common used are DASH (Domestic Abuse Stalking and Harassment) risk assessments. There are a number of other risk identification checklists and tools available for adults, and Young People's risk assessment tools which help identify the risk to a victim.



Multi-Agency Risk Assessment Conferences (MARAC) may also take place. These are meetings for victims of DA who have been identified by local partner agencies as high risk. The MARAC is an opportunity for partners to share information which might identify further risk to the victim and develop a multi-agency action plan to address those risks.

Prosecutors should request from the police a copy of the risk assessment for each case as a matter of routine.

The safety of the victim, children and other dependents or family members should be considered throughout a prosecution case and updated risk assessments requested where appropriate.

## Bail and remand

Prosecutors should read this section in conjunction with legal guidance on [Bail](#).

The safety of the victim and any children or other dependents should be considered carefully when decided to make an application for remand in custody or bail. Prosecutors should ensure that the police (and through the police, IDVAs, YPVAs and other specialist support organisations) have gathered relevant information, including the victim's views. This will help to inform conditions to be applied for when making bail applications, or when supporting applications to have a defendant remanded in custody. This will include the following:

- the victim's whereabouts or living arrangements - whether the victim is in a refuge or other safe location, the details must not be disclosed as part of the bail arrangements;
- fears the victim may have regarding the defendant's behaviour;
- in familial abuse cases - the victim may fear the defendant's contact with other family members and the subsequent repercussions. Prosecutors may need to consider this, particularly in cases of so called honour-based abuse;
- the victim's fear of further offences or repeat offending by the defendant;
- information regarding any children or any other dependents (e.g. care arrangements for children, other family members, and/or any risk of abuse);
- areas/locations the victim frequently visits or attends (the school attended by children, any social clubs that the child attends and social clubs the victim may attend);
- the impact on the victim if the victim and defendant are at school/college/university together, or work in the same organisation;

- methods of contact between the victim and defendant (including, but not limited to mobiles, emails or social media and networking sites, as well as face to face);
- whether any civil orders are in force and details of those orders;
- whether any civil or family proceedings are ongoing and the stage they have reached;
- the proximity of any of the defendant's relatives, to the victim and the likelihood the offender may want to visit them;
- whether the defendant may already be on bail for another offence;
- the defendant's history of complying with bail in the current case proceedings; and,
- the defendant's history of complying with bail in other proceedings, especially where the offence in question, was one of domestic abuse.

Prosecutors will need to think carefully about applications for bail where the victim and defendant will be unable to avoid each other or it would be very difficult for them to do so such as in smaller communities. Whilst it is for the court to make the decision, prosecutors will have a duty to consider how the victim can be kept safe in the specific circumstances that apply to them in relation to the defendant.

Discussions with the Youth Offending Team (YOT) may also be necessary to ensure that properly informed decisions are made regarding defendants under 18 years. Prosecutors should refer to the legal guidance on [Youth Offenders](#) for bail issues relating to youth defendant's as well as legal guidance on Youth Offender: Remands.

Prosecutors should ensure that any bail conditions requested prioritise the safety of the victim and any children or dependents. The victim should retain as much freedom of movement as possible by curbing the ability of the defendant to approach or intimidate them, such as at home, on the way to work, school or college, regular social venues, extended family homes, when taking children to school, or when socialising with friends. Due care will be required in relation to the different dynamics of the abuse, such as whether the abuse is familial, or between former or current intimate partners, and the nature of safety needs required by the victim.

It is the defendant who is subject to bail conditions, not the victim. The court should make clear to defendants that any breaches will be taken very seriously. Arrangements regarding child contact will be managed by the family court and generally will not be a matter considered within a bail hearing.

Any changes to the bail conditions or custody status of a defendant must be communicated to victims immediately, either by the police or by the CPS in accordance with local

arrangements. Victims and witnesses may also be updated by the WCU, or through the IDVA, YPVA or other relevant support organisation involved in supporting them.

If a defendant breaches their bail conditions, the police will arrest them and the court may remand them in custody, or may readmit the defendant with the same, or amended bail conditions. It is important the breach is carefully considered, as new offences may also have been committed in addition to the conditions being breached; prosecutors must review all new offences to assess whether a prosecution should follow.

Where a condition has been imposed for there to be no contact with the victim, it does not matter whether the victim has agreed contact, or if the victim-initiated contact with the defendant. It is the defendant who is subject to the bail conditions and is responsible for compliance until those conditions have been lifted.

In some cases, the victim may have purposely contacted the defendant to reconcile the relationship, manage child contact, or manage other care arrangements with other dependents or family members. In such cases, prosecutors will need to consider how a breach should be effectively dealt with. It is important that wherever possible such matters are brought to the attention of the prosecutor at the outset to ensure that appropriate conditions are applied for, which are specific and suitable for the individuals concerned and designed to keep the victim and any children safe.

When an application to vary bail is made, prosecutors should insist the defence gives proper notice so that enquiries can be made of the victim to seek their views and check whether any court orders already exist or are pending.

Where the proposed variation concerns contact with a child, prosecutors should note that such contact might provide the defendant with opportunities to intimidate the child and/or victim which, in the worst cases, could lead to murder or suicide. Where the victim is pregnant, prosecutors should be aware that applications by the defendant to be present at medical appointments (e.g. foetal scans) may also provide opportunities for intimidation and violence. Both issues will need to be properly highlighted to ensure that any variations avoid providing the defendant with an opportunity to exploit their relationship with the victim.

Similarly, where cases involve non-intimate partner abuse, it is possible that defendants will exploit situations, or seize on opportunities, enabling them to perpetrate further abuse, such as through the involvement of other family members, or community contacts. Specific and thorough consideration

should be given in cases involving coercive or controlling behaviour. Prosecutors should be alert to this and ensure that they prioritise the victim's safety.

## Evidence led prosecutions

The prosecution strategy should, from the outset, consider the possibility of proceeding without the victim's support and this should be clearly recorded within the prosecutor's review. Prosecutors should rarely need to apply to the court for further time to investigate this possibility. Prosecutors should always consider whether there is any risk to the safety of the victim in the case proceeding without their support; a victim should not be placed at increased risk through this course of action. Prosecutors should consider the following in the order outlined:

1. Using evidence other than that of the victim - the prosecutor should consider the potential evidence available that could be adduced. The following should be considered but is not an exhaustive list:
  - First contact with the police such as 999 calls or the attending officers' statements, which may cover the demeanour of the victim and the perpetrator and show the state of the scene
  - Body worn footage – this could cover the demeanour of the victim or perpetrator (if they remain present at the time the footage was obtained), a first account, capture any injuries and may have significant comments
  - Injuries which could include photos or the comments of what the attending officers have seen and any medical evidence available
  - Independent witness statements
  - CCTV – may capture the incident or demeanour of the parties
  - Suspect's interview – including any inconsistencies with significant statements
  - House to house enquiries
  - Telephone – messaging and social media
  - Expert evidence
2. Res gestae – A statement is admissible as evidence of any matter stated if:
  - the statement was made by a person so emotionally overpowered by an event that the possibility of concoction or distortion can be disregarded, or
  - the statement accompanied an act which can be properly evaluated as evidence only if considered in conjunction with the statement, or

- the statement relates to a physical sensation or a mental state (such as intention or emotion).

See below for further details on how to adduce evidence under the res gestae principle.

3. Making an application under section 116(2)(e) of the Criminal Justice Act 2003 (CJA 2003) - consideration should be given to applying to admit a victim's statement as hearsay under [section 116\(2\)\(e\) of the CJA 2003](#), if there is evidence that the victim is in fear. The court will assess various factors under s116(4) CJA 2003 such as:

- the statement's contents
- any risk that its admission or exclusion will result in unfairness to any party to the proceedings and in particular to how difficult it will be to challenge a statement if the relevant person does not give oral evidence
- any special measures for the giving of evidence by the fearful witness; and
- any other relevant circumstances.

The prosecutor will need to show there is a causal link between the fear and the failure or refusal to give evidence. How this is proved will depend on the history and circumstances of the particular case ( [R v Riat \[2013\] 1 ALL ER 349](#)). Further guidance can be found in the [hearsay](#) legal guidance;

4. Making an application under section 114(1)(d) of the CJA 2003 - where there is other evidence, consideration should be given to applying to adduce hearsay if it would be in the interests of justice to do so (prosecutors should refer to the legal guidance on [hearsay](#).) For example, any third-party witness statements from neighbours or support representatives assisting the victim.

Prosecutors must re-review every case where a victim subsequently withdraws or refuses to participate in a prosecution. Prosecutors should determine if a case could be prosecuted without the victim being required to attend court to give evidence. If the evidential stage of the full code test is met, they should then apply the principles for public interest considerations in the [Code](#).

### Adducing evidence under the res gestae Principle

Before considering adducing evidence by way of res gestae prosecutors should ensure that proper inquiries have been made to determine why a victim has not/will not appear at court, in accordance with the principles set out in *Wills v CPS* [2016] EWHC 3779 (Admin).

Where the prosecutor concludes that the material is res gestae, they should indicate to the court that the prosecution position is that the evidence is admissible, and they intend to adduce it under the res gestae principle. The prosecutor should remind the court (if necessary) that the requirement for a written application under [Crim PR 20.2](#) does not apply and oral notice can be given of the intention to adduce the evidence as res gestae. (Crim PR 20.5(1)(b)).

Prosecutors should summarise the important details of the evidence, identifying the relevant content for example within the body worn footage or the 999 call.

The court should be referred to [s118\(4\) CJA 2003](#) which preserves the rules of law relating to res gestae:

Any rule of law under which in criminal proceedings a statement is admissible as evidence of any matter stated if-

- (a) The statement was made by a person so emotionally overpowered by an event that the possibility of concoction or distortion can be disregarded,
- (b) The statement accompanied an act which can be properly evaluated as evidence only if considered in conjunction with the statement, or
- (c) The statement relates to a physical sensation or a mental state (such as intention or emotion)

Prosecutors should explain which subsection above they are relying upon and how the facts of the case mean it applies. The Court should also be referred to relevant case law, such as:

*R v Andrews* [1987] 84 Cr App R 382 in which the House of Lords said that the trial judge must ask whether the possibility of concoction or distortion can be disregarded. In answering that question the judge must have regard to:

- how startling or dramatic the event was
- how spontaneous the statement was
- whether the triggering event was still operative when the statement was made

- Any special features relevant to the possibility of distortion or concoction (e.g. evidence of a motive to fabricate false evidence); and
- Any special features relevant to the possibility of error (e.g. an identification made by a witness with particularly poor eyesight).

In [Barnaby v DPP \[2015\] EWHC 232 \(Admin\)](#) the victim's account was provided to the police on a 999 call. The victim then spoke to the police 6 minutes later after the incident and refused to make a statement. The evidence consisted of a transcript of the 999 calls and the account given by the victim when she saw the police officers at the premises shortly after the alleged strangulation. It was held the court was entitled to dismiss the possibility of concoction or distortion of the victim's evidence: the 999 telephone calls were made almost immediately after the alleged assault which "would have dominated the thoughts of the victim and her utterances would have been instinctive and spontaneous" and the police arrived within six minutes of the last phone call and observed the victim in an agitated state with visible signs of strangulation on her neck.

Notwithstanding the victim's availability to give evidence, the decision not to call her was a sensible recognition of the potentially dangerous position in which she had been placed.

While there had been a breach of the Crown's obligations to serve the evidence in a timely manner, the court concluded that it was entitled to decide that the provenance of the emergency 999 calls had been established beyond doubt.

If the evidence was properly admissible under the *res gestae* principle, the Crown was not obliged instead to rely on section 114(1)(d) in order to trigger consideration of some or all of the factors set out in section 114(2)(a)-(i) CJA 2003.

In [DC and R \(Ibrahim\) v CPS \[2016\] EWHC 1750 \(Admin\)](#) which involved a 999 call where there was a delay of 1.5 hours between the incident and the 999-call made. It was confirmed that the lapse of time between the incident and reporting was a factor to be considered but not the sole factor.

In [Morgan v DPP \[2016\] EWHC 3414 \(Admin\)](#) the CPS had applied for a witness summons for the victim but despite this the victim did not attend court. It was held that the victim's 999 call about 1 hour later and the body worn footage was correctly admitted under *res gestae*.

Prosecutors can also remind the court that there are counter balancing measures in [s124 CJA 2003](#). These permit the defence to adduce evidence relevant to the absent witness's credibility of a matter which would have been put in cross-examination or to prove an inconsistent statement.

For further guidance regarding introducing res gestae prosecutors should refer to the [hearsay](#) legal guidance.

### Victim withdrawals and withdrawal statements

In some circumstances a victim may withdraw their support for a prosecution. This may occur at any stage of the proceedings both pre and post charge.

The police should provide a statement for the prosecutor following contact with the victim, to explain the reasons that a retraction of the allegation/withdrawal of support has been made. Without this there cannot be an informed decision about the next steps to be taken.

Where a victim's account of the allegation in their withdrawal statement is not the same, or is inconsistent with their earlier statement, there is a possibility that the victim may have been pressurised into changing their account. In these circumstances, the police should be asked to investigate changes and consider investigating the situation.

Prosecutors should consider particularly:

- the nature of the original allegation (if not fully covered in a previous statement);
- the victim's reasons for withdrawing support or retracting the allegation and whether any support can be provided to them to allay their concerns;
- details of those with whom the victim has discussed the case - particularly anyone who has advised them (for example: a community member or mediator) and obtain their details; and,
- whether any civil or family proceedings have been, or are likely to be, commenced which may have impacted on the victim's decision.

Withdrawal statements should be accompanied by a background report containing:

- the officer's views on the case, including the veracity of the statement, any suspicions of witness intimidation or pressure (if not already included in the withdrawal statement), and a general assessment of the reasons given by the victim;



- the officer's views on how the case should be dealt with, including proceeding against the victim's wishes;
- how the victim might react to being compelled to give evidence;
- details of any identified risks to the safety of the victim, children, or any other person;
- details of the support available to the victim prior to the allegation being retracted or support withdrawn and whether this was a reason for the change in position (for example, access to an IDVA, YPVA, or other support organisation, or whether the offer of a special measures application was made);
- whether any support organisation assisting the victim has expressed a view; and,
- the likely impact on the victim and any children/dependents of proceeding or not proceeding with the case.

The police officer's report may reveal the need to consider whether further charges, for example, witness intimidation, harassment or stalking should be brought, or whether there has been a breach of the defendant's bail conditions.

The prosecutor should carefully consider if it would be appropriate to summons a victim, which is considered in more detail below.

If the reason for the victim withdrawing is based on fear or intimidation, the investigator should provide this evidence to the prosecutor. This will allow appropriate decisions to be made about any applications under s116(2)(e) CJA 2003. Prosecutors should refer to the [hearsay](#) legal guidance for further guidance.

After considering a victim's reasons for retracting their allegation or withdrawal of support, if it is deemed inappropriate to make any applications, including a witness summons, the prosecutor has a duty to review the case and determine if there remains sufficient evidence to prosecute the case. If there is no longer sufficient evidence to provide a realistic prospect of conviction, then the prosecutor must offer no evidence or discontinue the case and the rationale should be clearly recorded in the prosecutor's review.

### Witness summoning a victim

The prosecutor should carefully consider if it would be appropriate to summons a victim. The table at annex B sets out the factors that will tend to either support or not support the decision to issue a witness summons - prosecutors may find this helpful in assisting them with their decision. The risk

assessment and risk indication checklists should be reviewed at this stage. A combination of factors needs to be considered, with all options balanced; a seemingly minor incident may be serious in the context of escalating abuse.

If the reason for the victim withdrawing is based on fear or intimidation, the investigator should provide this evidence to the prosecutor. This will allow appropriate decisions to be made about any applications under s116(2)(e) CJA 2003. Prosecutors should refer to the hearsay legal guidance for further guidance.

After considering a victim's reasons for retracting their allegation or withdrawal of support, if it is deemed inappropriate to make any applications, including a witness summons, the prosecutor has a duty to review the case and determine if there remains sufficient evidence to prosecute the case. If there is no longer sufficient evidence to provide a realistic prospect of conviction, then the prosecutor must offer no evidence or discontinue the case and the rationale should be clearly recorded in the prosecutor's review.

### Witness summons children & young people

Under the provisions of [section 97 of the Magistrates' Court Act 1980](#), applications to witness summons a child are permissible; however, special regard must be given to their welfare and safeguarding in the criminal justice system, giving effect to Article 3 of the UN Convention on the Rights of the Child. All courts must have regard to the welfare of children who appear as victims, witnesses, and defendants ([section 44 of the Children and Young Persons Act 1933](#)). Prosecutors may also find it useful to refer to R v Highbury Magistrates' Court ex. parte Deering [161 JP 138] DC where it was found that the magistrates' court had no jurisdiction to decline to issue a witness summons for a young child.

In the DA context, the issue of witness summoning a child or young person should be considered only in very limited and exceptional cases, and prosecutors should discuss whether this is an appropriate course of action with their Deputy Chief Crown Prosecutor before making an application. Prosecutors should be aware of the distress that may be caused to a child or young person, especially where they are being compelled to give evidence in support of one parent, against the other.

Where an application is made, prosecutors should refer to the legal guidance on [Special Measures](#) and [Safeguarding Children: Children as Victims and Witnesses](#) for further guidance.

The table at annex B sets out the factors that will tend to either support or not support the decision to issue a witness summons - prosecutors may find this helpful in assisting them with their decision. The risk assessment and risk indication checklists should be reviewed at this stage. A combination of factors needs to be considered, with all options balanced; a seemingly minor incident may be serious in the context of escalating abuse.

### Third party witness summons

In certain cases, it may be appropriate to apply for a witness summons for third parties who may have information integral to the prosecution case.

Third party evidence may provide vital background information about the abuse that has taken place, and may even in some circumstances, lessen the risk towards the victim from the suspect.

Prosecutors should be aware that there may also be risks to a third parties being witness summonsed. The suspect may consider stalking or harassing or intimidating a third party because of their involvement and therefore that risk must be considered when deliberating whether to apply for a witness summons.

To apply for a witness summons, prosecutors should follow the guidance set out in the [disclosure manual](#), at the section titled 'obtaining access to third party material.'

### Witness warrants

If a victim or witness refuses to attend court following the issue of a witness summons, prosecutors should consider whether a warrant application to the court is appropriate under [section 97\(3\) of the Magistrates' Court Act 1980](#).

The safety of the victim and any children or dependants should be considered throughout. The intention of obtaining the warrant should be to assist attendance at court. Applications for warrants should be made on a case by case basis after considering issues such as the nature of an incident (whether the attack was serious or prolonged); whether a weapon has been used; if the victim is at 'high risk' of further abuse or injury/suffering; or there is a pattern of escalating abuse.

In exceptional circumstances, a warrant can be applied for under [section 97\(2\) of the Magistrates' Court Act 1980](#) without having to apply for a witness summons. This approach may be considered in situations where it is likely that the witness summons would not procure the attendance of the victim or witness in question.

Seeking a witness warrant could deter the victim from seeking help in the future, thereby jeopardising their future safety and that of any children or other dependants. Arresting a victim may also have the effect of 'stigmatising' them and may have a detrimental effect on the quality of evidence given. Prosecutors should therefore use this approach as a last resort and only where necessary.

### Obtaining/Disclosing family court proceedings documentation

Prosecutors may need to obtain information or documents that pertain to family proceedings. This information may be crucial to the decision to charge; the nature of the charge; bail conditions; applications in respect to witnesses; and the admissibility or otherwise of bad character and hearsay evidence. The CPS may be made aware of the existence of relevant material by:

- the police who have obtained the material from the local authority or elsewhere in line with their child protection duties. The police cannot share this material with the CPS without the permission of the Family Court, but can make prosecutors aware that material exists; or,
- the local authority who may contact the prosecutor to make them aware of relevant material.

Prosecutors should ensure that the police have obtained the permission of the Family Court to use such material in prosecution proceedings. Not having permission may result in contempt of court in the Family Court. CrimPD V paragraph 17A.8 states 'No evidence or document in the family proceedings or information about the proceedings should be disclosed into criminal proceedings without the leave of the Family Court.'

The Family Procedure Rules 2010 allow for a summary of judgement in Family Court proceedings to be disclosed to the police and CPS without the permission of the court. (Practice Direction 12G, paragraph 2.1 [Family Procedure Rules](#)).

Prosecutors should follow the national protocol set up to manage linked direction hearings where the directions in concurrent criminal and Family Court proceedings can be made jointly by the same judge, ( [2013 Protocol and Good Practice Models](#) - Disclosure of information in cases of alleged child

abuse and linked criminal and care directions hearings) but should also be aware that there may be local protocols. Directions may include disclosure of material between the two jurisdictions, timings of the respective proceedings and the co-ordination of the use of expert witnesses.

To obtain the documents, prosecutors should initially ascertain if all parties to the family court proceedings are willing to consent. If so, a consent order can be sought by writing to the court. Alternatively, in accordance with the 2013 Protocol and Good Practice Model (Disclosure of information in cases of alleged child abuse and linked criminal and care directions hearings), the prosecutor can ask the Local Authority to request that disclosure is considered at the next family hearing. The Local Authority will put the other parties on notice and will provide the court with details of the police to whom disclosure is to be made and the purpose for which it is to be made.

If these methods are not successful, then the prosecutor will need to make an application to the Family Court using Form C2. Forms can be obtained from <https://www.gov.uk/government/publications/form-c2-application-for-permission-to-start-proceedings-for-an-order-or-directions-in-existing-proceedings-to-be-joined-as-or-cease-to-be-a-part>).

Prosecutors should only make this application and use the C2 form at the post-charge stage of proceedings. If the case is being reviewed pre-charge and documentation is required for review, the police should make the application to the family court. If a prosecutor is considering making this application a Senior District Crown Prosecutor or above must be consulted and approve the application in advance of its submission to the Family Court

The prosecutor will need to complete Form C2 and serve this on all parties to the Family Court proceedings; details for all respondents will need to be obtained from the Local Authority.

Form C2 must contain details of the named person or officer to whom release is sought and specify the purpose and use to which the material is intended to be put.

Prosecutors should seek leave, where appropriate, to disclose the material to the CPS/share with the police, to disclose the material to the criminal defence solicitors and, subject to [section 98\(2\) of the Children Act 1989](#), to use the material in evidence at the criminal proceedings.

An application will be determined at a hearing at the Family Court. Police and CPS will not need to attend the hearing unless directed to do so by the Family Court. However, the prosecutor will need to prepare a position statement in advance of the hearing setting out clearly what is required and why.

In advance of receiving leave from the Family Court no material should be disclosed to the defence or third parties.

Proceedings may take place in the family court prior to criminal proceedings being instigated. If this is the case the CPS will not be a party to the proceedings but may be asked by the Local Authority to assist by providing material in the possession of the CPS. The CPS should give every assistance to the Local Authority, however, prosecutors should be aware that where disclosure is made to a local authority it is obliged to make onward disclosure to the other parties to the care proceedings. It is possible that other family members and actual or potential defendants in criminal proceedings will receive this information. In view of the sensitivities involved in requests for disclosure in care proceedings, a Senior District Crown Prosecutor or above should be consulted and approve the disclosure in advance. For further information prosecutors should refer to our Legal Guidance on [disclosure of material to third parties](#).

## Supporting victims

Giving evidence may be very difficult for the victim, or may cause additional challenges for them, for example, fear of reprisals; safety of their children; increased family pressures or serious financial repercussions; fear of being 'outed'; fear of a lack of support by the criminal justice system, or specialist support organisations or emotional attachment or loyalty towards the offender, leading to uncertainty about the course of action they should take.

Victims of DA are entitled to special measures to support and assist them in giving evidence at Court. Prosecutors should consider whether any particular special measures will improve the quality of the evidence given, taking into account the victim's wishes and the ability of all parties to effectively test the evidence in court.

Available special measures should be explained to victims by the police and their preferences sought at an early stage in proceedings to ensure that appropriate support is planned for and available to the victim.

Prosecutors should refer to the [special measure's](#) legal guidance and guidance issued by the Ministry of Justice in [Achieving Best Evidence in Criminal Proceedings](#).

[Section 62 DA Act](#) will ensure that all DA victims are automatically eligible for special measures whenever it is alleged that behaviour falls within the DA definition. This is not yet in force and the legal guidance will be updated when this has come into force.

Victims of DA are entitled to receive an enhanced service under the [Code of Practice for Victims of Crime](#). Prosecutors should refer to the Victims and Witnesses: CPS Public Policy Statement on the Delivery of Service to Victims – [The Prosecutor's Pledge](#).

Victims may be supported by an Independent Domestic Violence Adviser (IDVA), who provide professional support, advice and help for victims of DA– whether the allegation is reported to the police or not. Some IDVA services provide tailored support for children as well as minoritised communities. Prosecutors should work alongside IDVA's to support victims going through the prosecution process.

### Victim personal statement

The police officer should provide the prosecutor with copies of any Victim Personal Statements (VPS) made by the victim. Victims are entitled to say whether they would like to read their VPS aloud in court or whether they would like it read for them or played, (if recorded). The VPS and information about the victim's preference should be relayed to the court at the first hearing by the CPS advocate. The VPS should be treated as a live document and updated throughout the journey of a case as the full psychological, emotional, and physical impacts on the victim develop and become more apparent.

A VPS gives the victim a voice in the criminal justice process, providing them with an opportunity to explain in their own words how a crime has affected them. For DA cases, a VPS may also usefully include a victim's concerns about safety, intimidation, the defendant's bail status and future concerns for any ancillary orders.

The VPS can be an important way to empower the victim, and project the impact of abuse and the effects on the victim and family, or other vulnerable individuals within the household to the court.

Prosecutors should refer to the legal guidance on [victim personal statements](#) for further guidance.

### Acceptability of pleas

Prosecutors should refer to the [Attorney General's Guidelines on the Acceptance of Pleas and the Prosecutor's Role in the Sentencing Exercise and paragraph 9 of the Code](#) when determining acceptability of pleas.

In some cases, the defendant may offer a guilty plea to a different charge or plead guilty to some of the charges made against them, but not all.

When considering whether to accept a plea in these instances, prosecutors should discuss the situation with the victim or the victim's family where possible. The victim's or family's views (either directly, or through any support organisation working on their behalf) should be taken into account to ensure prosecutors are informed of all information before making their decision.

For cases of familial abuse, prosecutors and the police will need to take great care when seeking views of the family. In some cases, it may be entirely inappropriate to speak to some members of the family, or even affiliates of the family, given the context of the offending. Each case should be assessed on its own facts and specific circumstances.

Prosecutors should consider the following factors when deciding whether to accept a plea to a lesser offence or a plea to one or some of a number of offences in a DA case:

- whether the defendant offers a plea that is in accordance with the evidence available to the prosecution.
- whether the defendant has any previous incidents recorded against them.
- whether it would be advantageous to the victim and any children or dependents not to have to give evidence.
- the victim's views on the pleas offered (some victims would prefer to give evidence rather than accept a plea to a lesser offence);
- whether the plea fetters the discretion of the court in relation to sentencing.
- whether the difference between the prosecution and defence version of events is such that it would significantly affect the sentence that would be imposed (if it does, there should be a Newton Hearing to determine the facts).
- the fact that defendants will often seek to minimise the offence or mitigate their offence; and,
- whether the acceptance of plea could impact upon the ancillary orders available to the court at sentence.

Where there has been an agreed basis between prosecutors and the defence to a plea, this should be put into writing and signed by both parties.

## Trial



## Briefing and instructing agents and counsel

Agents and counsel must familiarise themselves with this legal guidance and understand their overall responsibility to ensure that victims and witnesses are appropriately informed during their time at court.

Prosecutors briefs to agents and counsel must clearly set out the strategy for the case, and if the case is to be prosecuted as an evidence led prosecution from the outset clear instructions should be provided in regard to the evidence to be relied upon at trial.

Individuals acting on behalf of the CPS should have the victim's specific needs and concerns in relation to the case brought to their attention, as well as highlighting the support services that may be assisting the victim, such as the use of an IDVA, YPVA, interpreter or intermediary.

Agents and counsel must be made aware that decisions on acceptability of pleas, issues affecting victim and witness attendance at court (including compelling their attendance) must be referred to CPS prosecutors for authorisation before a final decision is made.

## Speaking to witnesses at Court

All advocates are expected to be aware of and comply with the CPS guidance on [speaking to witnesses at Court](#).

## Prohibition of cross examination of victims

In addition to special measures, [section 36 Youth Justice and Criminal Evidence Act 1999](#) (YJCEA) permits the court to make an order prohibiting the defendant from personally cross-examining a victim/witness where section 34 and 35 YJCEA do not apply. Where a defendant attends court for a trial unrepresented this application should be made to protect victims.

## Applications to adjourn

Having initially indicated a willingness to attend court, some victims may not attend on the day of the trial. The full reasons for non-attendance should be explored, where practicable. These reasons may be the same or similar to the reasons why victims withdraw support or retract allegations.

Victims should not be automatically dismissed as reluctant or hostile. Victims may not understand what will happen to them when the day of attending court arrives and may therefore choose to not attend due to issues such as uncertainty over the support they may have access to if they have a specific disability. Whilst every effort should be made to identify such needs at the earliest opportunity, it is possible that such matters may only come to light on the day of the trial.

Prosecutors should establish in the first instance why a victim has not attended, and consider whether the case can proceed without them, using either other evidence, or through making an application under [section 116 of the CJA 2003](#) to have the victim's statement admitted. See the above section on evidence led prosecutions for how to make an application.

Prosecutors may also want to consider whether it is appropriate to adjourn the case to allow for any special measures applications to be made to account for any late preferences made known by the victim. Alternatively, a prosecutor might wish to consider whether it may be possible and appropriate to seek a witness summons for the victim and make an application to adjourn the trial for this to be served. Prosecutors should refer to the section of this guidance titled 'case building and approach to prosecuting DA cases' for further information on seeking a witness summons.

If the victim or witness is unavailable to attend court or has not attended, and the prosecutor considers it is likely they will be available soon, where there is a genuine reason for their non-attendance supported by evidence, an application to adjourn the trial should be made following the principles under paragraph 24C.9 of the [Criminal Practice Directions](#). The test applied includes doing justice between the parties.

Where relevant, Prosecutors should refer to [section 10 Magistrates' Court Act 1980](#) which confers a discretionary power to adjourn Magistrates' Court cases. See also [Crim PR 24.2\(3\)](#).

### Reluctant and hostile victims and witnesses

There will be instances where despite a victim being willing to attend court, they may be unwilling to give evidence. In such instances, the victim may be treated as a reluctant witness. In the first instance, prosecutors should seek to establish the reasons why the witness does not wish to give

evidence and discuss whether an application for special measures being granted would change that position. It is possible that a victim is willing to give evidence, but once called may say they cannot recall the circumstances of the incident. In such cases, prosecutors may wish to refresh the victim's memory through verifying their statement under [section 139 of the CJA 2003](#). Prosecutors will need to call the victim to give evidence, ask them to confirm their name and the fact that they previously made a statement. The victim should be asked to refresh their memory from the statement; this can be done at any stage during their evidence. The victim will need to give evidence that the document records their recollection of the events at the time they made it and that their recollection at the time was significantly better than now.

Some victims may have been put under duress (by the defendant, by the defendant's family or their own family, or through community members) to say that they do not recall the facts of the incident, or they may fear the repercussions if they reveal their account at court, in which case prosecutors may want to consider whether an application should be made for their statement to be admitted under [section 116 CJA 2003](#).

There will be some cases where a victim will claim they cannot recall the incident to be deliberately uncooperative, rather than fearful of the defendant. The victim may give evidence that directly contradicts what they have said previously in a manner that suggests the new account is fabricated. In these situations, prosecutors may want to consider applying for other previous statements made by the victim to be admitted as evidence under sections 119 and 120 of the CJA 2003.

Under [section 120 CJA 2003](#) the previous statement of a witness/victim may be admitted as evidence of any matters where the statement was made when the matters were fresh in their memory but cannot be remembered now and cannot be reasonably expected to, of which oral evidence by the witness would be admissible.

To make an application to adduce a statement under section 120 CJA 2003, prosecutors must indicate to the court that an application will be made under section 120(4) and (7) CJA 2003 for the admission of the statement (or part of it) with reference to the section 120(7) CJA 2003 pre-conditions. These are:

- The witness claims to be the person against whom an offence has been committed,
- The offence is one to which the proceedings relate,

- The statement consists of a complaint made by the witness (whether to a person in authority or not) about conduct which would, if proved, constitute the offence or part of the offence,
- The complaint was not made because of a threat or promise, and
- Before the statement is adduced the witness gives oral evidence in connection with its subject matter.

The prosecutor should invite the court to receive the statement (or part of it) as admissible evidence to the extent that oral evidence would be admissible. The victim must confirm that the statement is theirs and that it is true.

Prosecutors should consider the case of [R v Chinn \[2012\] EWCA Crim 501](#). In this case the offender appealed their conviction for assault. The argument was that the CPS should not have been allowed to introduce parts of the witness statement where the witness could not remember the underlying events directly. The appeal failed. The Court held that the statement had identified or described a person, object or place that related to an alleged offence or other relevant event, namely, the statement described the appellant and identified them as being the person in club at the relevant time who threw a glass. However, parts of the witness statement that gave narrative beyond identifying the appellant and the object were not admissible. Prosecutors therefore need to ensure applications are made only in relation relevant parts of the statement not all of it, under section 120(4) and (5) CJA 2003.

Where the victim remains resolute in not supporting the prosecution despite attending court, prosecutors should consider requesting leave from the court to treat the witness as 'hostile'. The rules under s119 CJA 2003 apply and a prosecutor can make an application to treat a witness as hostile at the instant a witness is showing unmistakeable signs of hostility and when they have given directly opposing evidence in court compared to that given in their police statement. (R v Pestano [1981] Crim LR 397), which may for example, be demonstrated through the making of a deliberately inconsistent statement or refusing to answer questions asked. However, this cannot be used where a victim is merely unfavourable or has not come up to proof.

If leave is granted by the Court, the prosecutor will be entitled to put a previous inconsistent statement to the victim by using leading questions and cross-examination of the victim to establish the truth. Prosecutors should continue to ensure they treat the victim with sensitivity having in mind the circumstances and context of DA. If, on being cross-examined the victim does not admit to the truth of a previous inconsistent statement, it can be admitted under section 119 CJA 2003 as

evidence of matters stated of which oral evidence by the victim would be admissible. It is possible, that through this approach, the victim's account extracted under cross-examination could provide strong evidence in relation to the allegation, and subsequently secure a conviction.

Prosecutors can also use section 119 CJA 2003 where the victim has shown signs that they are likely to be hostile, for example, they have already provided a retraction/withdrawal statement prior to the trial date. In *R v Bashir* [2011] EWCA Crim 2763 the victim withdrew the allegations. The compelling details contained in the victim's original statement were allegations worthy of belief as they were supported by the evidence of the PCs who saw the injury and damage in the home.

Prosecutors should consider carefully if this is the appropriate application to make and should ensure in advance of starting the trial that they have all up to date risk assessments and background information regarding the witness. If not, prosecutors may at the appropriate stage in the trial seek to ask the court for a short break in proceedings to obtain the information from the police or other support agencies, to ensure an informed decision is made before seeking to make the application at Court.

Prosecutors should refer to the [hearsay](#) guidance for more detail.

## Sentencing & Ancillary Orders

This section should be read in conjunction with the [Sentencing Overview](#) legal guidance which provides further detail on prosecutors' obligations regarding unduly lenient sentences and applications for ancillary orders. Prosecutors should be aware of and consider the full range of ancillary orders available (and their limitations) prior to making any application. Further guidance can be found at the [Sentencing - Ancillary Orders](#) legal guidance page.

The [Attorney General's Guidelines on the Acceptance of pleas](#) the Prosecutor's Role in the Sentencing Exercise sets out clearly the prosecutor's responsibility to assist the court to reach its decision as to the appropriate sentence. The prosecutor should draw the court's attention to:

- any VPS or other information available to the prosecution advocate as to the impact of the offending on the victim
- where appropriate, any evidence of the impact of the offending on the community
- any statutory provisions relevant to the offender and the offences under consideration
- any relevant sentencing guidelines and guideline cases,
- the sentencing council's [overarching guidelines for DA, and](#)

- the aggravating and mitigating factors of the offence under consideration.

Prosecutors' duty to actively assist the court should include reference to the abuse of trust in a domestic setting as an aggravating factor, as well as the vulnerability of victims. Specific reference should be made to the nature of offending involved, and a particular emphasis on the nature of the relationship between the victim and offender to assist the court in reaching an informed decision about the most appropriate sentence. As noted above prosecutors should refer to relevant sentencing guidelines for the specific offence(s) and the overarching DA guidelines, all of which can be found at the [sentencing council website](#). Prosecutors should also consult the relevant legal guidance for the specific offences prosecuted.

The Sentencing Act 2020 consolidated sentencing law and applies to all defendants convicted on or after 1 December 2020, irrespective of the date on which the offence was committed. The previous laws remain in force for sentences imposed where the conviction was before this date, even where a sentencing order is breached after that date.

### Restraining orders (RO)

This section should be read in conjunction with the legal guidance on [restraining orders](#).

All prosecutors should have in mind at the time of charge and when reviewing a case, whether a RO is appropriate in the event of a conviction or an acquittal. The orders are intended to be preventative and protective. There must be a need for the order to protect a person.

From 1 December 2020 the court can order a RO upon conviction under [section 360 Sentencing Act 2020](#) (previously section 5 Protection from Harassment Act 1997). From 1 December 2020 the court can make a RO on acquittal under [section 5A of the Protection from Harassment Act 1997](#) (previously under section 5 Protection from Harassment Act 1997). The rationale for making, or not, a RO application should be recorded in the review on CMS.

### Criminal Behaviour Orders (CBO)

This section should be read in conjunction with the legal guidance on [criminal behaviour orders](#).

The provisions relating to CBO's are at [section 330-342 Sentencing Act 2020](#), (previously part 2 of the Anti-social Behaviour, Crime, and Policing Act 2014).

Prosecutors should have in mind at the time of charge and when reviewing the case whether it would be appropriate to apply for a CBO. These are available where an offender is convicted for any criminal offence in a criminal court. These can be made available to prevent further incidents of DA however, these orders are primarily intended to protect the wider community. It is likely that other orders are more appropriate when there is a named victim and the offence is one which falls within the DA definition.

## Compensation

Compensation orders are governed by [section 133-146 SA 2020](#) (previously section 130-133 PCC(S)A 2000). The court has the power to order compensation to be paid by a convicted offender and is under a statutory duty to consider making a compensation order whenever it has the power to do so.

Applications for compensation should also be made where appropriate, bearing in mind that in some circumstances, it may not be appropriate for a compensation order to be made. Orders are often met from family money, and may be used as an opportunity to abuse, or control a victim further.

Victims may therefore want to forgo compensation to avoid this situation. It is important that prosecutors discuss this with the victim or relevant support organisation to seek their view for an informed approach.

When making applications for compensation prosecutors should refer to the [sentencing - ancillary orders](#) legal guidance for further detail.

## Civil Orders

Numerous civil orders are available to victims in the family and civil courts. Prosecutors should seek information about any civil orders that have previously been obtained as they should help to build the case. If a prosecution cannot proceed prosecutors should remind the police, if appropriate, about the availability of civil orders. Civil orders include

## Domestic Violence Protection Notices and Domestic Violence Protection Orders

[Section 24-33 Crime and Security Act 2010](#) introduced Domestic Violence Protection Notices (DVPNs) and Domestic Violence Protection Orders (DVPOs) from 8 March 2014.

A DVPN provides the police with the power to provide immediate protection to victims against DA perpetrators (aged 18 or over) where they have reasonable grounds for believing that the perpetrator has been violent towards or has threatened violence towards, a victim and it would be necessary to protect the victim. The police may use this where they consider there are no enforceable restrictions that can be placed on the perpetrator e.g. where the police take no further action or where the offender has received a simple caution or has been bailed without conditions. Where prosecutors received a DA case and a decision is made to take no further action, prosecutors should nonetheless advise police that they can consider applying for these orders to protect victims. DVPNs only have effect for 48 hours after which an application must be made by the police to a magistrates' court to apply for a DVPO.

DVPOs provide the police and magistrates with the power to:

- enforce non-molestation of the victim.
- stop a perpetrator from contacting the victim.
- prevent a perpetrator from evicting/excluding the victim from a premises (their household).
- remove a perpetrator from a premises (their household); and/or,
- prevent a perpetrator from returning to a premises (their household) for a period of up to 28 days.

The court must be satisfied on the balance of probabilities that the order that the perpetrator has been violent or threatened violence and that the order is necessary to protect the victim. All these actions can be taken with or without a victim's consent.

DVPOs may be in force for no fewer than 14 days beginning on the day on which it is made, and no more than 28 days beginning with the day on which it was made.

Prosecutors should note that a breach of a DVPN or DVPO is a civil contempt of court and is punishable by a fine, or up to 2 months' imprisonment. Where prosecutors are requested to deal with the breach of a DVPN or DVPO, this request must be declined as the CPS has no legal locus to handle such matters.

## Injunctions



[Section 3 of the Protection from Harassment Act 1997](#) enables harassment to be defined as a tort for which a victim can bring civil legal proceedings. Proceedings under section 3 may be founded based on one act and anticipated further breaches of section 1, in contrast to criminal proceedings under sections 2 or 4 that require at least two actual incidents to constitute a course of conduct.

## Non-molestation orders

Non-molestation orders are civil orders which cannot be applied for by the CPS. Orders are made on application by the victim or a representative to the Family Court under section 42(2) or section 45(1) (for ex parte applications) of the [Family Law Act 1996](#).

Section 12 of the Domestic Violence Crime and Victims Act 2004 made the breach of a non-molestation order a criminal offence, prosecutable by the CPS.

## Stalking Protection Orders

The [Stalking and Protection Act 2019](#) introduced Stalking Protection Orders (SPO), which are civil orders. A SPO is made on application to the magistrate's court by the police. Applications for interim or full orders can be made. Within an application for a SPO or an interim order, police can request both prohibitions and/or requirements to protect the victim from the risk of stalking. Breach of either the interim order or the full order is a criminal offence.

Prosecutors can find further guidance on SPOs in [Stalking Protection Orders](#) legal guidance.

## Force Marriage Protection Orders

The [Forced Marriage \(Civil Protection\) Act 2007](#) allows civil courts to make Forced Marriage Protection Orders (FMPO) to protect people from forced marriages or to pre-empt forced marriages from occurring. The courts have a wide discretion in the type of injunctions they can make allowing them to respond effectively to the individual circumstances of the case.

Breach of a FMPO is a criminal offence.

Prosecutors can find further guidance in the So-Called Honour-Based Abuse and Forced Marriage legal guidance.

## Breach of Orders

It is important that breaches of orders are carefully considered, as new offences may also have been committed in addition to the breach of the order. Prosecutors must review all new offences to assess whether a prosecution should follow for any new offence as well as the breach of the order.

Victims may have protective orders in place, such as a non-molestation order or a RO. If this order is breached this is a criminal offence which prosecutors should review as a specific offence and apply the Code, to determine if the offence(s) should be charged. Breaches should be taken as seriously as any other DA offence. Prosecutors are reminded that the breach of a DVPN or DVPO is not within the CPS remit to prosecute.

Prosecutors should note that breaches of such orders have specific sentencing guidelines which must be considered when reviewing a case and presenting the case to the Court. For further information regarding breaches of a RO, prosecutors should refer to the [restraining orders](#) legal guidance.

## Defence(s) to breach of criminal or civil order

The only statutory defence to the breach of an order is that the defendant had a reasonable excuse. The standard of proof, which is for the defendant to put forward, is on the balance of probabilities.

## Myths and stereotypes

DA myths and stereotypes can be described as commonly and potentially held beliefs and attitudes about DA and those who experience abuse, that are based on assumptions and may be factually inaccurate. Prosecutors should ensure no discrimination or unconscious bias in decision making.

Issues affecting particular groups of people should be identified and addressed where they arise, and a clear case strategy should be developed to ensure robust case-building and effective advocacy. Some behaviour(s) may seem counter-intuitive and require an explanation as part of the case strategy.

Annex C incorporates general information regarding tackling myths and stereotypes, although it should be noted that this is not an exhaustive list.

## Impacts of DA

Prosecutors need to understand the vulnerability of DA victims, particularly the control and intimidation that victims may have experienced. It is rarely a one-off incident, and the cumulative and interlinked physical, psychological, sexual, emotional, or financial abuse can have a particularly damaging effect on the victims and those around them. DA is likely to become increasingly frequent, and more serious the longer it continues.

Cases in which the victim has withdrawn from the prosecution do not indicate a lack of seriousness and no inference should be made regarding the lack of involvement of the victim in a case. Some victims risk losing a lot through supporting a prosecution, which may lead them to later disengage from a case of their own volition. Prosecutors need to be sensitive to this issue and must not engage in any conduct which supports the position that the victim is complicit in perpetrating the abuse they are suffering. Victims will be making a difficult choice in reporting the abuse to the police in the first place; it is therefore important that they are handled with appropriate care and support through the lifecycle of any criminal proceedings.

Identification of the triggers for abuse will assist in understanding the context of the offending. These issues should be considered as risk factors, rather than as causal links to the offending behaviour. This may assist when considering factors to be considered for bail applications and/or terms for restraining orders (RO) at later stages of the prosecution process. Some examples of risk factors may include (this is not an exhaustive list):

- the disclosure of an individual's sexual orientation.
- changes in a relationship, such as a reconciliation, break-up, or separation.
- new surroundings, such as a move to a new area, school/college, or job.
- the introduction of new people in a social context, such as new friends or partners which may have changed an individual's perceived routine behaviour.
- pregnancy or loss of pregnancy.
- retirement from employment, or loss of employment – and subsequent impact on finances.
- illness or mental/physical incapacitation.
- initiation or termination of criminal proceedings.
- custody proceedings in the family courts.
- immigration issues; or,
- limited access to assets, finances, or opportunities

Some of these factors could also lead to a cessation or reduction in abuse. This document does not focus on triggers that have caused abuse but draws upon how those circumstances contribute to a pattern of abuse or violent behaviour against a victim.

There will be many instances where a victim will not be able to escape the abuse, or perpetrator they live with. They may be dependent on them for finances, care, provision of medication, or immigration security. Prosecutors should ensure that they have full background information from the police to understand these issues and be able to assist with any criminal justice remedy to support the safety requirements needed by victims.

Victims will often not realise that they are in an abusive relationship, as some abuse behaviours may not in fact be violent or immediately obvious; prosecutors therefore should handle cases sensitively and without any preconceptions. Victims may adjust their behaviour to try and prevent any further abuse or violence, especially where children or other dependants are present in the household, or to simply have an 'easier time'. Such behaviour may as a result be 'normalised', with the victim showing no obvious or stereotypical behaviours. This should not divert away from recognising the potential harm experienced by the victim or witnesses. Prosecutors should ensure that victims are not stereotyped, and should refer to the myths and stereotype guidance at annex C.

Prosecutors should also consider the impact of DA and specific methods of control or coercion on relevant particular groups of people. For further information regarding DA impacts prosecutors should refer to annex D.

## Domestic Homicide Reviews

Prosecutors should refer to the [inquiries and reviews - guidance on CPS engagement](#) legal guidance for more information regarding DHRs.

Any CPS Areas that are notified of DHRs or are requested to provide information to assist in one should provide notification to the DLS team at [DLS.team@cps.gov.uk](mailto:DLS.team@cps.gov.uk) as soon as a request is made.

**Annex A****OFFICIAL SENSITIVE – WHEN COMPLETE****Joint NPCC and CPS Evidence Gathering Checklist – For Use by Police Forces and CPS in Cases of Domestic Abuse (DA)****Date:****Officer in case:****Staff number:****Case reference:**

The Police to provide completed check list to CPS in every case where charging advice or a charging decision is sought. The form is an important part of the evidential file - it should be fully and accurately completed.

Ensure that: timely decisions are made; a charging checklist is completed for each complainant where more than one is involved; the overall allegation is considered through the assessment of all available evidence including the role and behaviour of the suspect.

The checklist **does not** replace the MG3 - but should complement it. The CPS should comprehensively endorse the MG3 including addressing any evidential weaknesses.

The safety of the complainant and any children or other dependants should be the primary consideration. If IDVA or equivalent specialist service support is available make a referral at the earliest possible opportunity.

The Police must refer to the College of Policing Authorised Professional Practice ([link](#)). Further information about charging domestic abuse cases is available here ([link](#)).

Have you collected <b>all available evidence</b> , including material other than the complainant's statement and given consideration to the <b>wider pattern of behaviour and its cumulative impact?</b>			
	YES	NO	COMMENT*
999 Call, Body Worn Video with current DASH.	<input type="radio"/>	<input checked="" type="radio"/>	
999 Call supplied to CPS Direct	<input type="radio"/>	<input checked="" type="radio"/>	
Victim statement - refer to previous DA if relevant.	<input type="radio"/>	<input checked="" type="radio"/>	
Photographs; of <b>scene</b> (broken door locks, evidence of tidying up) <b>and any injuries</b> (taken over time as injuries develop). Recover any possible <b>weapons</b> (sticks, footwear if victim has been stamped on). Consider <b>CSI advice</b> .	<input type="radio"/>	<input checked="" type="radio"/>	
Admissions.	<input type="radio"/>	<input checked="" type="radio"/>	
Medical evidence/DNA (if available at the time); signed consent form; medical exhibits i.e. hair.	<input type="radio"/>	<input checked="" type="radio"/>	

Other statements – children, attending Officer (to include nature and seriousness of visible injuries, signs of struggle, attempts of choking/drowning, or isolation, disposition of victim/offender, IDs of other persons present), neighbours following house to house enquiries, support services. Consider threats made to other witnesses.	<input type="radio"/>	<input checked="" type="radio"/>	
Passive data/Comms data/Financial data e.g. data mining foot prints, social media/other electronic evidence, messages, diaries, spyware technology, apps, bank-records CCTV. Check all devices for incoming and outgoing data, WIFI and cell site data, (NB: communications data can be collected retrospectively from the service provide).	<input type="radio"/>	<input checked="" type="radio"/>	
Is there any evidence of coercive and controlling behaviour? See College of Policing Authorised Professional Practice for further information ( <a href="#">link</a> ).	<input type="radio"/>	<input checked="" type="radio"/>	
Relevant information to include from <b>Police Records</b> .			
	YES	NO	COMMENT*
Risk of reoffending. Any previous DASH or equivalent risk identification checklist with outcome (i.e. MARAC case, high risk, standard risk).	<input type="radio"/>	<input checked="" type="radio"/>	
Any civil orders/proceedings and whether there has been previous breaches (DVPOs / DVPNs).	<input type="radio"/>	<input checked="" type="radio"/>	
Any previous allegations (with URNs and including other victims) and how these allegations were concluded (if case did not proceed why not?) DVDs.	<input type="radio"/>	<input checked="" type="radio"/>	
Police to inform CPS of any breach or further offences, submit files to CPS and supply interview record in a timely way.	<input type="radio"/>	<input checked="" type="radio"/>	
Were any firearms used? Does the suspect have any firearms licences or are there any intelligence reports linking suspect and household members to weapons?	<input type="radio"/>	<input checked="" type="radio"/>	
Whether the Bail Amendment Act should be invoked in a custody case.	<input type="radio"/>	<input checked="" type="radio"/>	
Information regarding the <b>victim and/or incident</b> .			
	YES	NO	COMMENT*
Victim Personal Statement; can be updated throughout case proceedings.	<input type="radio"/>	<input checked="" type="radio"/>	

Safety of victim (victim's views and IDVA/specialist support service views).	<input type="radio"/>	<input checked="" type="radio"/>	
Whether victim has been contacted by suspect/friends/family whether supportive or intimidating contact – detail within comments section.	<input type="radio"/>	<input checked="" type="radio"/>	
Counter allegations/defence.	<input type="radio"/>	<input checked="" type="radio"/>	
Restraining Order – does the victim want one and if so with what terms?	<input type="radio"/>	<input checked="" type="radio"/>	
Bail conditions that do not restrict the victim and any children. Include locations to avoid.	<input type="radio"/>	<input checked="" type="radio"/>	
Withdrawing support/retraction. There may be a number of reasons why the police might be asked not to proceed further including fear of further harm or repercussions. See CPS Legal Guidance for further information and steps to follow including the need for an officer's statement on the appropriateness of a summons.	<input type="radio"/>	<input checked="" type="radio"/>	
Ability/willingness of victim to attend court, give evidence and any special considerations.	<input type="radio"/>	<input checked="" type="radio"/>	
Special measures needed? And type (views of victim and IDVA/specialist support service) need to complete an MG2.	<input type="radio"/>	<input checked="" type="radio"/>	
<b>Information regarding any children and/or dependants</b>			
(When a child is interviewed it should be done in safety and privacy and in no circumstances should a child be used as a translator for their parent).	YES	NO	COMMENT*
Safety of children (Police and Victim's views).	<input type="radio"/>	<input checked="" type="radio"/>	
Whereabouts of children during incident (include relation to victim/suspect and age).	<input type="radio"/>	<input checked="" type="radio"/>	
Child Protection Proceedings; include whether referral made to Children's Services.	<input type="radio"/>	<input checked="" type="radio"/>	

\* The comment box must be completed if no evidence available

### CPS Prompts for Prosecutors

Prosecutors must refer to the CPS Legal Guidance on Domestic Abuse ([link](#)); however, the table below provides some helpful prompts for prosecutors to consider.

Provision and **gathering of wider information** in addition to this evidence gathering checklist.

If further evidence is required from the police ensure this is articulated in a clear and concise action plan and discussed with the Officer as appropriate.

Find out whether there are any concurrent or imminent public law or private law family proceedings or civil proceedings and remedies involving the complainant or suspect.

### **Assessing the suspect/defendant.**

Ensure timely applications for; hearsay evidence and/or bad character.

Has the credibility of the defendant been fully considered? E.g. Are there any previous instances of misconduct/convictions?

Are there any aggravating features?

What are the possible defences?

Consider the acceptability of pleas.

### **Victim and witness support** following a decision to charge.

Victim Personal Statement obtained and updated throughout the case progression.

Timely consideration of; special measures, Pre-Trial Witness Interviews, expert evidence and other support measures.

Identification and consideration of vulnerabilities (BME, physical or mental impairment, LGBT, age).

Ongoing communication through IDVA/Witness Care Units/other specialist services on case progression and any other useful information.

Where there is a withdrawal or retraction; see CPS Legal Guidance for further information on the possible reasons including fear or coercion, which should be fully explored with victim/WCU/IDVA/Specialist support.



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## Annex B

The table below sets out the factors that will tend to either support or not support the decision to issue a witness summons - prosecutors may find this helpful in assisting them with their decision. A combination of factors needs to be considered, with all options balanced; a seemingly minor incident may be serious in the context of escalating abuse.

Consideration	Desirability of summons
Seriousness of the offence:	
○ serious offence(or escalation of severity from previous incidents)	High
○ minor offence and isolated event	Low
Complainant's injuries (including psychological):	
○ serious injuries	High
○ no injuries or minor injuries	Low
History of relationship:	
○ violent relationship and/or pattern of offending	High
○ high level of continued dependency/contact between perpetrator and complainant (e.g. carer/patient or child/parent relationships)	High
Child of complainant under 18 years old:	
○ insufficient understanding of giving evidence	Low
Complainant under 18 years old:	
○ insufficient understanding of giving evidence	Low
Attack had been planned	High
Incident witnessed seen or heard by children	High
Offence was committed in the presence of or in close proximity to a child	High

Offence(s) have been committed against a child/children	High
Effect (including psychological) on any children or other dependant living in the household	High
Likelihood of recurrence	High
Threat to health and/or safety of complainant or any other person involved	High
Pregnancy	High
Current state of complainant's relationship with defendant:	
○ further incidents	High
○ relationship assessed as 'unstable'	High
○ no separation or divorce proceedings	High
○ still lives within same household	High
○ no further incidents	Low
○ no further police call-out	Low
○ no ongoing civil proceedings	Low
○ no history of volatile relationship	Low
Defendant's criminal history (particularly if there has been any previous violence)	High
Information from any other agencies supporting proceeding with a prosecution (e.g. Social Services, Housing, Health, Women's Aid, other voluntary sector [including perpetrator services])	High

Annex C			
Myth	Implications	Considerations to address myths	Relevant Caselaw / Links
<p><b>1. Domestic abuse is always physical (FALSE)</b></p>	<ul style="list-style-type: none"> <li>• Ignores the reality of the abuse</li> <li>• Disbelieves and invalidates the experience of the victim</li> <li>• Disregards elements of power, control, coercion, and humiliation in DA.</li> </ul>	<ul style="list-style-type: none"> <li>• The Domestic Abuse Act recognises behaviour is abusive if it consists of any of the following, and it does not matter whether the behaviour consists of a single incident or a course of conduct: <ul style="list-style-type: none"> <li>a) Physical or sexual abuse</li> <li>b) Violent or threatening behaviour</li> <li>c) Controlling or coercive behaviour</li> <li>d) Economic abuse</li> <li>e) Psychological, emotional, or other abuse</li> </ul> </li> <li>• Domestic abuse does not need to involve physical abuse. Abusers may use non-physical manipulative techniques to control, intimidate and/or coerce their victims. Even when it does involve physical abuse, domestic abuse does not always leave physical signs. The colours of a bruise, for example, can appear different depending on the victim's skin tone, and bruising may be less apparent on victims with darker skin tones.</li> </ul>	<p>Prosecutors should consult the <a href="#">vulnerable victims toolkit</a> which highlight common types of offender tactics and behaviours.</p> <p><a href="#">Domestic Abuse Act</a></p> <p><a href="#">Serious Crime Act, S76 Controlling or coercive behaviour in an intimate or family relationship</a></p>
<p><b>2. Domestic abuse is a crime of passion, a momentary loss of control (FALSE)</b></p> <p><b>3. Domestic abuse is usually a one-off incident (FALSE)</b></p>	<ul style="list-style-type: none"> <li>• Romanticises domestic abuse and implies normalisation of the behaviour</li> <li>• Assumes domestic abuse is impulsive and unplanned</li> <li>• Assumes people are incapable of controlling their actions and behaviours</li> <li>• Attempts to remove responsibility from the abuser to justify their behaviour/actions.</li> <li>• Prevents victims from coming forward and getting the help they need.</li> </ul>	<ul style="list-style-type: none"> <li>• Domestic abuse perpetrators can be calculating in the way they deploy abusive behaviour to minimise the chance of being challenged or reported of a crime. They may also seek to rationalise their behaviour as a result of their love, strength of feeling or concern for the victim. There is no justification for domestic abuse. Prosecutors should identify and challenge any attempt at justification on such grounds with reference to the law and the facts of the case. Prosecutors should be prompted to consider the offence of coercive and controlling behaviour and consult relevant legal guidance.</li> <li>• The victim may co-operate with the abuser out of fear that they or someone they care about could otherwise be seriously injured, killed, or suffer some other harm.</li> <li>• According to research by <a href="#">SafeLives</a>, on average high-risk victims live with domestic abuse for 2.3 years and medium risk victims for 3 years before getting help.</li> <li>• DG6 at Annex 3 confirms that when a charging decision is submitted '<i>Checklists including those relevant to cases involving e.g. Domestic Abuse, Harassment and Stalking, Hate Crime, Youths</i>' forms part of the evidential material and must be included with the file.</li> <li>• Incidents of domestic abuse are rarely a one-off and will in most cases increase in frequency and severity.</li> <li>• The 'domestic' nature of the offending behaviour is an aggravating factor because of the abuse of trust involved.</li> </ul>	<p><a href="#">Legal Guidance on Coercive and Controlling Behaviour</a></p> <p><a href="#">Charging (The Director's Guidance) - sixth edition (Annex 3)</a></p> <p>Joint Evidence Checklist</p>

<p><b>4. Domestic abuse is a private family matter, it's not a social issue (FALSE)</b></p>	<ul style="list-style-type: none"> <li>• Ignores the reality of the abuse</li> </ul>	<ul style="list-style-type: none"> <li>• Domestic abuse is not a private issue. It is a crime.</li> <li>• Joint working by police and prosecutors is required to build a case and prosecutors should always prompt the police where it is considered that further supporting evidence may be useful to build the file.</li> <li>• Given the seriousness of DA offending a prosecution will normally be required when the evidential requirements under the Code for Crown Prosecutors are met and the victim is willing to give evidence.</li> <li>• Where there is other evidence, consideration should be given to applying to introduce hearsay if it would be in the interests of justice to do so.</li> <li>• Prosecutors must not introduce a requirement for corroboration in the review process - one person's word can be enough (and often is) but the quality of the evidence must be assessed and prosecutors may be able to proceed on evidence alone</li> <li>• Res gestae - statements made by the victim or a witness to a third party, on or around the time that the offence was allegedly committed - may be admissible other than as hearsay.</li> <li>• Prosecutors must encourage investigators to take an offender-centric approach to case building which involves looking closely at the actions of the suspect before, during and after the alleged offence</li> <li>• It is important that efforts aimed at gathering evidence to build a robust prosecution case are not focused solely on the evidence of the victims (called an evidence-led prosecution)</li> </ul>	<p>Consult the principles set out in <a href="#">Wills v CPS [2016] EWHC 3779</a> when considering introducing res gestae</p>
<p><b>5. People often lie about suffering abuse (FALSE)</b></p> <p><b>6. Domestic abuse allegations are mainly malicious, especially where there are family court proceedings in place (FALSE)</b></p>	<ul style="list-style-type: none"> <li>• Ignores the reality of the abuse</li> <li>• Disbelieves and invalidates the experience of the victim</li> </ul>	<ul style="list-style-type: none"> <li>• False allegations about domestic abuse are rare.</li> <li>• Domestic abuse often takes place in private, so the victim may be the only witness. Prosecutors must not introduce a requirement for corroboration in the review process - one person's word can be enough (and often is) but the quality of the evidence must be assessed and prosecutors may be able to proceed on evidence alone.</li> <li>• Prosecutors must encourage investigators to take an offender-centric approach to case building which involves looking closely at the actions of the suspect before, during and after the alleged offence</li> <li>• It is important that efforts aimed at gathering evidence to build a robust prosecution case are not focused solely on the evidence of the victims (evidence led prosecution)</li> <li>• Giving evidence may be very difficult for them, or may cause additional difficulties. Prosecutors should consider all support that is available for victims.</li> </ul>	<p>Link to DA Legal Guidance</p> <p>See section in DA Legal Guidance on:</p> <ul style="list-style-type: none"> <li>- Offending Centric Approach</li> <li>- Case Building</li> </ul>
<p><b>7. The victim's culture/religion or beliefs/background justifies or is responsible for domestic abuse (FALSE)</b></p>	<ul style="list-style-type: none"> <li>• Condone domestic abuse due to cultural / religious reasons</li> <li>• Prevents victims from coming forward and getting the help they need</li> <li>• Can deploy racial and religious prejudices and stereotypes to blame the victim, exonerate the abuser and disregard the facts of the case</li> </ul>	<ul style="list-style-type: none"> <li>• Domestic abuse can have a long lasting and detrimental effect on victims, their children, families, and extended networks. It is prevalent across all communities, regardless of sex/gender identity, sexual orientation, culture, age, or socio-economic factors.</li> <li>• Abusers may seek to manipulate or interpret religious text to justify their harm of the victim, their behaviour or prevent them from seeking safety/justice. Prosecutors should identify and challenge any attempt at justification on racial or religious grounds with reference to the law and the facts of the case.</li> <li>• Some victims may face cultural or other barriers that prevent them from seeking help, such as fear of dishonouring family, shame, stigma, taboo and being rejected by the community. Victims may be told to be patient and / or pray for their situation to change rather than seeking protection or justice through the criminal justice system.</li> <li>• Such barriers may cause delay in reporting, currently, prosecutions must begin within 6 months of the offence. Under the PCSC Bill, for report of common assault or battery – this will be moved to six months from the date the incident is formally reported to the police – with an overall time limit of two years from the offence to bring a prosecution.</li> </ul>	<p>Refer to Issues relevant to particular groups within DA Legal Guidance.</p> <p>Consider expert evidence, refer to Evidence Led Prosecutions section in DA Legal Guidance</p>

<p><b>8. Domestic abuse is only perpetrated by men on women (FALSE)</b></p> <p><b>9. Domestic abuse only occurs between co-habiting couples (FALSE)</b></p>	<ul style="list-style-type: none"> <li>Assumes that law does not apply equally to all.</li> <li>Disbelieves the victim and dismisses their experience.</li> <li>Disregards elements of power, aggression, violence, and control.</li> <li>Prevents victims from coming forward and getting the help they need.</li> </ul>	<ul style="list-style-type: none"> <li>People of all genders and gender variance can be victims or perpetrators of domestic abuse. Each victim should be looked at as unique individuals, using the facts of the case.</li> <li>Crime Survey for England and Wales showed that of an estimated 2.3 million adults aged 16 to 74 years who experienced domestic abuse in the last year 757,000 were men</li> <li>Family members such as in-laws, children, grandparents or other extended family can perpetrate domestic abuse. <ul style="list-style-type: none"> <li>Domestic abuse can occur where the victim and perpetrator no longer or have never lived together; for example, teenagers in abusive relationships, those involved in gangs and abuse committed by extended family members.</li> <li>The Domestic Abuse Act removes the co-habitation requirement from the offence of controlling and coercive behaviour (Section 76 Serious Crime Act 2015), ensuring that post-separation abuse and familial domestic abuse is provided for when the victim and perpetrator do not live together.</li> </ul> </li> <li>DA Legal Guidance applies to all cases of current or former partner or family domestic abuse on an equal basis.</li> </ul>	<p>Refer to Issues relevant to particular groups within DA Legal</p> <p><a href="#">Public statement on male victims for crimes covered by the CPS Violence against Women and Girls (VAWG) Strategy</a></p> <p><a href="#">Amendment to controlling or coercive behaviour offence. Commences Spring 2022</a></p>
<p><b>10. Young people will never face prosecution for domestic abuse (FALSE)</b></p>	<ul style="list-style-type: none"> <li>Assumes the law does not apply equally to all</li> <li>Implies the implications for the offender are more important than the impact of the abuse</li> </ul>	<ul style="list-style-type: none"> <li>The definition of domestic abuse applies to offenders 16 and over.</li> <li>Young offenders can be just as dangerous as older offenders and can be serial offenders.</li> <li>Prosecutions will always proceed where there is sufficient evidence and it is in the public interest. Prosecutors should challenge any assumptions that attempts to remove responsibility due to their age or future career prospects.</li> </ul>	<p>Prosecutors should consult legal guidance on youth offenders</p> <p><a href="https://www.cps.gov.uk/legal-guidance/youth-offenders">https://www.cps.gov.uk/legal-guidance/youth-offenders</a></p>
<p><b>11. They were provoked (FALSE)</b></p>	<ul style="list-style-type: none"> <li>Stigmatises and blames the victim</li> <li>Attempts to remove responsibility from the abuser to justify their behaviour/actions</li> </ul>	<ul style="list-style-type: none"> <li>Domestic abuse is rarely a one-off incident, and the cumulative and interlinked physical, psychological, sexual, emotional, or financial abuse has a particularly damaging effect on the victims and those around them. DA is likely to become increasingly frequent, more serious the longer it continues and may result in death. Prosecutors should be alert to the potential for escalating risk. Prosecutors keep cases of domestic abuse under constant review which includes assessing and reassessing the safety of victim and witnesses involved in the case through the police and specialist support agencies. Even minor offences have the potential to escalate.</li> <li>It may not always be straightforward to identify the primary aggressor and true complainant in cases of domestic abuse. It is possible in some cases that a primary 'complainant' of the abuse or violence may have acted in a manner in which they are then seen as the perpetrator. For example, retaliation against the primary aggressor after years of abuse.</li> </ul>	<p>Victims of DA are entitled to receive an enhanced service under the Code of Practice for Victims of <a href="#">Crime</a>.</p> <p>Prosecutors should refer to the Victims and Witnesses: CPS Public Policy Statement on the Delivery of Service to Victims – The Prosecutor's <a href="#">Pledge</a></p>
<p><b>12. It was the alcohol / drugs, not the perpetrator (FALSE)</b></p>	<ul style="list-style-type: none"> <li>Attempts to remove responsibility from the abuser</li> </ul>	<ul style="list-style-type: none"> <li>Consumption of alcohol or drugs does not provide any sort of justification for being abusive. Alcohol and drugs can make abusive situations worse, but they do not cause domestic abuse and the abuser is solely responsible for their actions.</li> <li>Being under the influence of alcohol/drugs is an aggravating factor. Prosecutors should consult the Sentencing Council's Guidelines on the corresponding charge brought so sentences for offenders of domestic abuse properly reflects the offence committed. Prosecutors have a duty to actively assist the court with the law and guidelines on sentencing</li> <li>The World Health Organisation (WHO) estimates that approx. 55% of domestic abuse perpetrators consumed alcohol prior to assault.</li> <li>Identification of the triggers for abuse will assist in understanding the context of the offending and should be considered as part of the offender-centric approach.</li> </ul>	<p><a href="#">Sentencing Council Guidelines overarching principles for Domestic Abuse</a></p>

<p><b>13. Strong / independent / powerful / older people are not subject to domestic abuse (FALSE)</b></p>	<ul style="list-style-type: none"> <li>Disregards elements of power, aggression, violence, control, and humiliation in domestic abuse.</li> <li>Stigmatises the victim and their circumstances rather than focussing on the actions of the abuser.</li> </ul>	<ul style="list-style-type: none"> <li>There is no typical victim of domestic abuse. People of all ages, appearance, status, characteristics and backgrounds can be victims. Prosecutors should challenge any assertion that typifies who perpetrates domestic abuse and who is subjected to abuse.</li> <li>Domestic Abuse incidents often take place in private, so the victim may be the only witness.</li> <li>Giving evidence may be very difficult for them, or may cause additional difficulties (for example, fear of reprisals; safety of their children; increased family pressures or serious financial repercussions; fear of being 'outed'; fear of a lack of support by the criminal justice system, or specialist support organisations; or, an emotional attachment or loyalty towards the offender), leading to uncertainty about the course of action they should take.</li> </ul>	<p>Display of emotion/distress or lack of it when providing account to the police played to the jury and/or when giving evidence</p> <p>Crown Court Compendium – Example 7</p> <p><a href="https://www.judiciary.uk/wp-content/uploads/2020/07/Crown-Court-Compendium-Part-I-July-2020-1.pdf">https://www.judiciary.uk/wp-content/uploads/2020/07/Crown-Court-Compendium-Part-I-July-2020-1.pdf</a></p>
<p><b>14. Previous withdrawals of complaints, or fear to co-operate with a prosecution, always means the victim lacks credibility as a witness (FALSE)</b></p> <p><b>15. Where the victim has previous convictions, they always lack credibility as a witness as a result (FALSE)</b></p> <p><b>16. Victims / complainants who do not support domestic abuse prosecutions are always hostile (FALSE)</b></p> <p><b>17. If a statement is retracted, a prosecution cannot proceed (FALSE)</b></p>	<ul style="list-style-type: none"> <li>Re-victimises and stigmatises the victim.</li> <li>Undermines the victims support for seeking justice.</li> <li>Stigmatises the victim and their circumstances rather than focussing on the actions of the abuser.</li> <li>Ignores the reality of the abuse</li> <li>Disbelieves and invalidates the experience of the victim</li> <li>Disregards elements of power, control, and humiliation in DA.</li> </ul>	<ul style="list-style-type: none"> <li>Victims can face very difficult decisions when considering whether to report domestic abuse and/or support a prosecution. Some may decide not to report or withdraw support for a number of reasons including intimidation by the accused, fear of not being believed, coerced into withdrawing, limited knowledge of or access to support services or places of safety, or fear of the consequences including if there are children in the relationship, or fear of being killed if the prosecution is not successful. Prosecutors should consider the facts of the case in front of them with reference to the law.</li> <li>A victim's previous convictions or untruths do not automatically impact on the credibility of allegation - it is important to consider relevance and applicability.</li> <li>Efforts by investigators and prosecutors should be made to identify evidence other than that of the victim. Consideration should be given to introducing hearsay or res gestae evidence.</li> <li>Proactive enquires into the perpetrator's previous criminal behaviour, or intelligence reports relating to DA incidents (even if they concern a different victim) should be obtained.</li> <li>Careful consideration of any special measures, or other support requirements are all important factors for prosecutors to consider.</li> <li>Section 62 DA Act ensures that all DA victims are automatically eligible for special measures whenever it is alleged that behaviour falls within the DA definition.</li> <li>Prosecutors should always consider whether there is any risk to the safety of the victim in the case by proceeding without their support.</li> </ul>	<p>Victims of DA are entitled to receive an enhanced service under the Code of Practice for Victims of <a href="#">Crime</a>.</p> <p>Prosecutors should refer to the Victims and Witnesses: CPS Public Policy Statement on the Delivery of Service to Victims – The Prosecutor's <a href="#">Pledge</a></p> <p>Where the victim remains resolute in not supporting the prosecution, prosecutors should consider requesting leave from the court to treat the witness as 'hostile'. Such applications should be made at the first signs of hostility, (R v Petsamo [1981] Crim LR <a href="#">(R v Pestano [1981] Crim LR 397</a>)</p> <p>The <a href="#">Domestic-Violence Disclosure Scheme</a> provides two routes for disclosing information on perpetrator behaviour – the “Right to Know” and the “Right to Ask”.</p>



<p><b>18. Where the victim has a learning disability or mental health condition, they always lack credibility as a witness (FALSE)</b></p>	<ul style="list-style-type: none"> <li>• Disbelieves and re-traumatises the victim.</li> <li>• Disregards elements of power, aggression, violence, and control.</li> <li>• Undermines the victims support for seeking justice.</li> <li>• Disregards and/or stigmatises the victim and their circumstances rather than focussing on the actions of the abuser.</li> </ul>	<ul style="list-style-type: none"> <li>• Perpetrators often deliberately target individuals who are vulnerable due to mental or physical health conditions or disabilities. Prosecutors should take an offender-centric approach to considering the facts of the case.</li> <li>• A person with a mental health condition and/or disability can become more symptomatic after trauma or during recall of trauma. This does not mean that they lack credibility as a witness. Prosecutors and investigators should, where possible and where it would assist the case, identify evidence other than that of the victim to support and strengthen their account.</li> <li>• It should be noted that, because disclosure of medical records will engage the Article 8 right to privacy of the victim, it is crucial that the police obtain the victim's informed consent to: <ul style="list-style-type: none"> <li>○ gain access to the records; and</li> <li>○ enable disclosure, where appropriate, to take place.</li> </ul> </li> <li>• Prosecutors must satisfy themselves that consent to disclose the medical records has been obtained by the police from the person to whom the notes refer before any disclosure of material takes place.</li> <li>• When obtaining consent, the victim should be informed by the police why the request is being made and what might happen to the record. The victim or witness has the right to decline consent if they wish but must also be told about the possible consequences for the case outcome.</li> </ul>	<p>Prosecutors should consult the <a href="#">vulnerable victims toolkit</a> which highlight common types of offender tactics and behaviours.</p>
<p><b>19. If it were that bad, the victim would just leave the relationship (FALSE)</b></p> <p><b>20. Domestic abuse is not a serious crime (FALSE)</b></p>	<ul style="list-style-type: none"> <li>• Stigmatises and blames the victim.</li> <li>• Attempts to remove responsibility from the abuser to justify their behaviour/actions.</li> <li>• Ignores the reality of the abuse.</li> <li>• Disregards elements of power, aggression, violence, and control.</li> <li>• Prevents victims from coming forward and getting the help they need.</li> </ul>	<ul style="list-style-type: none"> <li>• Domestic abuse cases are serious and amongst the highest priority work being dealt with by the CPS and criminal justice system.</li> <li>• Prosecutors should consider the case with reference to the law and the facts. Simply because the victim stays with their abuser does not mean the impact of the abuse or the offending is in any way lessened - in fact, it can be common for victims to remain in an abusive relationship.</li> <li>• People stay in abusive relationships for many reasons and it can be very difficult or dangerous to leave, even if they want to. Abuse often gets worse over time, and the victim can feel conflicted about the abuse they are suffering and the love they might still feel for the perpetrator.</li> <li>• Perpetrators may seek to isolate the victim from family and friends in order to control them, which makes it even more difficult for someone being abused to leave the relationship.</li> <li>• Fear, lack of safe options, and the inability to survive economically prevent many victims from leaving abusive relationships. Threats of harm, including death to the victim and/or children, keep many abused people in abusive situations.</li> <li>• The immigration status of victims can be a barrier, especially where they do not have recourse to public funds.</li> <li>• The most dangerous time for a victim is often when they attempt to leave the relationship, or when the abuser discovers that they have plans to leave. Support and safety needs for victims should be identified from the outset and continually considered throughout the life of a prosecution case. There may be a continuing threat to the victim's safety, and in the worst cases a threat to their life or the lives of others around them.</li> <li>• Many different criminal offences can involve domestic abuse and, where they do, advocates should make representation in court to ensure that the sentence reflects that an offence has been committed within this context.</li> <li>• Abuse of trust and power is an aggravating factor in DA cases and the seriousness of such offending is reflected in sentencing guidelines. Prosecutors should refer to the Sentencing Council guidelines for the charges brought</li> </ul>	<p>This guideline identifies the principles relevant to the sentencing of cases involving domestic abuse</p> <p><a href="#">Sentencing Council – DA</a></p>
<p><b>21. The parent's relationship doesn't affect the children (FALSE)</b></p>	<ul style="list-style-type: none"> <li>• Ignores the reality of the abuse</li> <li>• Disbelieves and invalidates the experience of the victim</li> </ul>	<ul style="list-style-type: none"> <li>• The Domestic Abuse Act provide that a child (0-18 years old) who sees or hears, or experiences the effects of, domestic abuse and is related to the victim or the perpetrator is also to be regarded as a victim of domestic abuse.</li> <li>• Where the evidential criteria has been met but in circumstances where a victim is not willing to support a prosecution, prosecutors will need to carefully consider the interests and safety of the victim, other family members and any children or other dependents.</li> </ul>	<p><a href="#">Domestic Abuse Act – Children as Victims of DA</a></p>



<b>22. Domestic abuse victims can be cross-examined in court by the defendant (FALSE)</b>	<ul style="list-style-type: none"> <li>Prevents victims from coming forward and getting the help they need</li> </ul>	<ul style="list-style-type: none"> <li>Section 36 Youth Justice and Criminal Evidence Act 1999 stops the defendant from personally cross-examining a victim/witness of Domestic Abuse.</li> <li>The DA Act prevents perpetrators and alleged perpetrators of abuse from cross-examining their victims in person (and vice versa) in <a href="#">family</a> and <a href="#">civil</a> proceedings in England and Wales.</li> <li>The court will appoint a qualified legal representative in some cases where the prohibition applies.</li> </ul>	<a href="#">s36 Youth Justice and Criminal Evidence Act 1999</a> where s34 and 35 YJCEA do not apply.
<b>23. People in domestic abuse cases would benefit from a 'cooling off' period (FALSE)</b>	<ul style="list-style-type: none"> <li>Prevents victims from coming forward and getting the help they need.</li> <li>Disregards elements of power, aggression, violence, and control.</li> </ul>	<ul style="list-style-type: none"> <li>All charging decisions should be made speedily and with specific attention to the victim's, and any children's or other dependants', safety in mind. Prosecutors should not delay a charging decision to allow the perpetrator to 'cool off', or for the victim to decide whether they want to support a prosecution.</li> <li>Domestic Violence Protection Orders and Domestic Violence Protection Notices provide protection to victims by enabling the police and magistrates' courts to put in place protective measures. These can be implemented immediately after a domestic abuse incident and where there is insufficient evidence to charge a perpetrator and provide protection to a victim via bail conditions.</li> </ul>	<a href="#">DVPO and DVPN Guidance</a>
<b>24. It was just rough sex gone wrong (FALSE)</b>	<ul style="list-style-type: none"> <li>Disbelieves and invalidates the experience of the victim</li> <li>Attempts to remove responsibility from the abuser to justify their behaviour/actions</li> <li>Romanticises domestic abuse and implies normalisation of the behaviour</li> <li>Assumes domestic abuse is impulsive and unplanned</li> <li>Assumes people are incapable of controlling their actions and behaviour</li> </ul>	<ul style="list-style-type: none"> <li>It is not a defence to claim that a person consented to serious harm for the purpose of sexual gratification.</li> <li>The DA Act clarifies the law by restating, in statute, the broad legal principle established in the case of R v Brown, that a person cannot consent to actual bodily harm or to other more serious injury or, by extension, to their own death. The Act makes clear that:               <ul style="list-style-type: none"> <li>a person is unable to consent to the infliction of harm that results in actual bodily harm or other more serious injury or, by extension, to their own death, for the purposes of obtaining sexual gratification.</li> <li>a defendant is unable to rely on a victim's consent to the infliction of actual bodily harm, or more serious injury, in any context and this includes during sexual activity an exception remains, in relation to the transmission of sexually transmitted infections (STIs) where, in certain circumstances, a person may consent to the risk of acquiring an STI. This exception is in line with current case law.</li> <li>the law applies in all situations and is not limited to those which might also amount to incidents of domestic abuse</li> </ul> </li> </ul>	<a href="#">R v Brown [1993] 2 W.L.R. 556</a>  <a href="#">DA Act: Factsheets Consent to serious harm for sexual gratification not a defence</a>
<b>25. It was only a threat, and/or intimate photos and films weren't actually shared (FALSE)</b>	<ul style="list-style-type: none"> <li>Attempts to remove responsibility from the abuser to justify their behaviour/actions</li> <li>Romanticises domestic abuse and implies normalisation of the behaviour</li> <li>Assumes domestic abuse is impulsive and unplanned</li> <li>Assumes people are incapable of controlling their actions and behaviours</li> <li>Ignores the reality of the abuse and the impact on the victim.</li> </ul>	<ul style="list-style-type: none"> <li>The DA Act extends the existing offence of disclosing private sexual photographs and films with intent to cause distress at <a href="#">section 33 of the Criminal Justice and Courts Act 2015</a> to include "threats" to disclose such materials. It will constitute a criminal offence within England and Wales. Such behaviour will be subject to the existing maximum penalty of two years' imprisonment, or a fine, or both.</li> <li>The CPS is required to prove that the threat to disclose a private sexual image was made, not whether the image exists. This is because it is the threat that is the offence and that the threat was made with the intention of causing distress.</li> <li>If private sexual images or films do exist, it does not matter that the victim consented at the time they were taken.</li> </ul>	<a href="#">S33 of the Criminal Justice and Courts Act 2015</a>

With reference to:

<https://www.womensaid.org.uk/information-support/what-is-domestic-abuse/myths/>

<https://www.refuge.org.uk/our-work/forms-of-violence-and-abuse/domestic-violence/myths-of-domestic-violence/>

<https://www.mankind.org.uk/help-for-victims/is-a-man-you-know-a-victim-spotting-the-signs/>

<https://www.jwa.org.uk/in-the-jewish-community>

<https://safelives.org.uk/policy-evidence/about-domestic-abuse>

<https://galop.org.uk/wp-content/uploads/2021/05/Myths.pdf>

Draft

## Annex D - Impacts of Domestic Abuse

### Introduction

This section of the guidance seeks to highlight the different impacts of domestic abuse on people from a range of communities and groups, and the particular considerations that prosecutors will need to bear in mind.

It is essential that prosecutors recognise that each complainant's experience of domestic abuse is unique and that the interconnected nature of social categorisations including, but not limited to, race, class, caste, gender, ethnicity, sexuality, disability, nationality, immigration status, geographical location and religion can create interdependent systems of discrimination and disadvantage.

Prosecutors should note that the list of groups identified below is not exhaustive and should only be used as a guide as it is not possible to include every scenario within this guidance.

It might also be useful to refer to Annex C on tackling myths and stereotypes which explore a number of considerations domestic abuse and domestic abuse victims which may be of relevance to particular groups.

### Women

Data shows that women are disproportionately represented among DA victims. Women are more likely to be subjected to prolonged, repeated and more severe forms of abuse or sexual violence that becomes increasingly frequent and more serious the longer it continues. Women are more likely to be killed as a result of domestic abuse.

Non-fatal strangulation (NFS) is a form of domestic abuse more commonly experienced by women. It is a tactic usually used by abusers to instil fear, power, and control over their victim rather than being an attempt at homicide. Prosecutors should be aware that evidence of external signs of NFS, such as bruising, may not always be visible and symptoms can fade quickly. Internal damage and psychological impacts, however, can be long lasting and detrimental to the victim's well-being and ought to be taken into consideration when assessing the harm caused. Some offenders may exploit the specific vulnerabilities of a female victim to perpetrate abuse or manipulate/control their behaviour, examples may include:

- Destroying / withholding birth control or practising unsafe sex that may result in unwanted pregnancies or risking the victim's sexual health e.g. by contracting STI's
- Alcohol or substance misuse may be a coping mechanism for female victims which can increase susceptibility to abuse or be used to undermine credibility.
- Pregnancy can be a trigger for DA<sup>i</sup>, postpartum there is an increased risk of escalation in severity and frequency of abuse. Additionally, children may be used as to heighten threats of abuse.

There is an intrinsic link between poverty, DA and gender inequality that can make women more vulnerable to economic or financial abuse. Offenders may misuse the victim's money or put limits on the money they are able to spend which can leave women without sufficient funds for basic essentials such as food, clothes and can contribute to period poverty. A number of female victims flee the relationship to the safety of a refuge, but this can result in the accumulation of debt, loss of their family home, homelessness, or destitution.

Some offenders may actively encourage victims to resign from work or be encouraged to give up their career under the premise of “looking after” the victim, increasing financial independence on the abuser. Economic abuse can mean that women stay in abusive relationships longer.

## **Men**

Men can also be victims of DA. They, like all victims, can be subjected to the cumulative and interlinked physical, psychological, sexual, emotional and/or financial abuse as well as coercive controlling behaviour.

Preconceptions about a man’s physical appearance or gender should not influence a prosecutor’s consideration of whether or why the abuse is occurring. Men may, as a result of preconceptions and/or societal attitudes, feel less able to report the abuse they are experiencing for embarrassment shame or fear that they will not be believed.

Prosecutors should be aware that there is a significant under-reporting of DA against victims who are men. Many victims will be reluctant to report offending in the fear that it may damage their reputation or pride; others may be hesitant as they fear the consequences that may ensue with their family. Prosecutors will need to deal with these issues with great care to ensure that the credibility of men’s allegations is not undermined by myths and stereotypes.

Prosecutors should note that cases that involve perpetrators who are women and commit abuse against men can be particularly complex. Some women may use children within the relationship to manipulate a man, by for example threatening to take away contact rights. It is therefore essential that where such instances arise, prosecutors work very closely with the police to investigate and consider the whole picture before any charging decision is made.

Familial abuse may be perpetrated on men by other men or women in the form of physical violence, abuse or to exert dominance or control. For example, men who are victims may be susceptible to abuse perpetrated in the context of forced marriage, being LGBT+ and/or identifying as non-binary. For further guidance, prosecutors should refer to the legal guidance on [Forced Marriage and Honour Based Violence](#).

Again, prosecutors will need to work very closely with police colleagues to ensure that a holistic investigation has been conducted to select the most appropriate charge.

## **Trans and non-binary victims**

Gender identity is not the same as anatomical sex. Gender identity is what you know your gender to be and can only be decided by the individual for themselves. Gender identity might be the same as assigned sex (cisgender) or different to assigned sex (trans). Gender identity is not the same as sexuality; trans and non-binary people identify as heterosexual, gay, lesbian, bisexual, pansexual, asexual, and aromatic, amongst other identities.

Trans people know their gender to be different to that which they were assigned at birth. ‘Trans’ is an umbrella terms which some non-binary people feel part of, but not all. Many trans people have a binary gender identity (male or female) but not all. Some will have taken, or been given the opportunity to take, steps to align their bodies, dress, name, pronoun, and social identity to be congruent with who they know themselves to be. Prosecutors should be aware that this process - called ‘transitioning’ – is not easy and can take many years. For some trans people, it is not medically or socially possible to transition and some may not want to in any event.

Please refer to [Rape and Sexual Offences - Chapter 5: Issues relevant to particular groups of people](#) for further information.

Trans and non-binary people can experience domestic abuse regardless of the gender identity of either person. Trans and non-binary people can be subjected to unique forms of domestic abuse linked to their trans or non-binary identity, including some that mirror those of LGB communities. Therefore, this segment should be read in conjunction with sexual orientation.

Although not an exhausted list, some examples of how trans and non-binary people may be abused by intimate partners or family members include<sup>ii</sup>:

- Using the process of transitioning or “coming out” as a form of control
- Threatening or sharing pre-transition images
- Body shaming or criticising the victim for not being “a real man/woman” if they have not undergone reassignment surgery
- Minimise or disregard the abuse by blaming the victim’s “perception” on their hormones
- Physically assaulting surgically or medically altered body parts
- Withholding money for transitioning
- Targeting sexual or emotional abuse towards parts of the body they are ashamed of or forcing the victim to expose scars
- Refusing to use their preferred name or pronoun
- Destroying medication or clothes

Trans and non-binary victims may have additional needs, particularly in relation to mental health and physical disabilities. Domestic abuse is traumatic for all victims, however trans and non-binary people can experience additional barriers to disclosing abuse or accessing support.

Additionally, for trans and non-binary victims, they often struggle to get access to refuges, while non-binary individuals, who were assigned female at birth (AFAB), may be forced to be “closeted” to avoid removal from places of safety. Where victims are able to access safe accommodation, staff are specially trained to recognise their needs and support services required to provide appropriate protection.

## **Sexual Orientation**

The dynamics of violence within relationships involving lesbian, gay or bisexual (LGB) individuals may be similar to those within heterosexual relationships, but there may be additional issues, dynamics and barriers that will require careful consideration by prosecutors. For example, there may be some pre-existing isolation from the victim's family as a result of the individual's sexual orientation which may be exploited by an intimate partner.

Exploitation and abuse by the perpetrator could manifest in a variety of ways, as explored above through the use of physical or sexual violence, or through controlling or coercive behaviours. A victim may fear their sexual orientation, preferences or relationship choices may be 'outed' by an intimate partner or there may be threats of removal of children by authorities.

Additionally, where victims' families are aware of sexual orientation, there may be coercive or controlling behaviours used by those family members to deny or hide an individual's sexual

orientation. Such as being forced into marriage or being abused in the belief that this may 'rectify' their sexual orientation. Prosecutors should in such cases consider the legal guidance on [Forced Marriage and Honour Based Violence](#).

There may be some complex dynamics involving LGB individuals. Careful and sensitive handling will be required to ensure that victims' needs are fully recognised, and appropriate support services involved to assist the victim through the criminal justice process.

Where appropriate, prosecutors should consider the use of reporting restrictions (under section 46 of the Youth Justice and Criminal Evidence Act 1999) to alleviate worries about the publicity of any court proceedings; this may be particularly helpful where the victim is fearful of repercussions of their sexual being revealed to the wider community, especially where such a disclosure may place them at risk or harm. This may be a more pertinent requirement for LGB individuals who also fall into one or more of the other groups identified in this section; for example, if the individual is also from a religious or minority ethnic community where sexual orientation is not openly discussed or shared. To ensure victims' safety and support requirements are properly met, prosecutors should consider such applications carefully and in the context of the case and the victim's specific requirements.

Some victims may fear homophobic reactions from the statutory services when reporting incidents or feel less confident in accessing services they perceive to be more readily available for heterosexual individuals. These fears or previous experiences of negative reactions by the individuals themselves, or others they know, can make it more difficult to report the abuse they may be experiencing. Victims should be assured they will be treated fairly, in the same way as everyone else and without judgement, and with specialist support to their specific circumstances if further support is required.

Prosecutors should be aware that LGB victims may not have access to the same range of places of safety as heterosexual victims. There are few refuges for men, and whilst women may access refuges, lesbians may be subjected to homophobia within the refuge and the abusive partner may be able to gain access to the refuge themselves by posing as a victim.

## Age

### Child to parent violence and familial abuse

Violence or abuse perpetrated on parents by their children also falls under the definition of DA. Violence and abuse may also be taking place on elderly relatives such as grandparents by their grandchildren or other family members.

Victims do not usually report abuse as a result of a number of barriers. Such barriers may include:

- shame or embarrassment that they are being subjected to abuse by a younger family member;
- disagreement between family members on how the abuse should be handled;
- a possible lack of awareness that the behaviour actually constitutes abuse;
- little understanding of the issues which may contribute to the abuse perpetrated (e.g. a new baby in the family; break down of family relationships; new partners of family members; substance or alcohol misuse, mental health issues);
- parents/other victims may feel that there are no support services available to them in these scenarios;
- parents/other victims may not want the perpetrator to end up with a criminal record and may fear that by reporting they would be impacting on the future of the perpetrator; or
- victims may be unaware of the support and services available for the young person.

Prosecutors and investigators should attempt to understand the nature of the abuse. The Joint Evidence Checklist will be extremely useful in these cases to ensure that evidence collation can be maximised. Prosecutors should pay particular attention to gathering and/or sharing information with other agencies, such as Social Services and Children's Services, as well as from other support organisations where appropriate, such as mental health services.

The dynamic between a parent and child may be a determining factor in whether support for the prosecution can be secured and should be considered by prosecutors when considering the charging decision.

## Young People

Prosecutors need to take into consideration a number of factors when dealing with cases of teenage victims who find themselves in abusive relationships with individuals of their own or similar age.

Prosecutors should also be aware of the linked issue of abusive relationships regarding gang-related activity. Abuse may take place in the confines of gangs and be part of members' initiation or part of a particular gang's behaviour. Prosecutors should be conscious that gang environments are largely dominated by men and abuse taking place is mainly against women victims; that is not to say that women in gangs will not also perpetrate abuse or that men or non-binary victims will not suffer abuse.

Please refer to [Rape and Sexual Offences - Chapter 5: Issues relevant to particular groups of people](#) for further information on correlating considerations.

## **Older people**

Some older people may be more vulnerable to serious harm as a result of DA and may be higher risk due to mental or physical frailty, and/or mental capacity or physical disabilities; however, these are not the only factors which could lead to an older person being abused.

Prosecutors may also wish to refer to the legal guidance on [Prosecuting Crimes Against Older People](#) and [Rape and Sexual Offences - Chapter 5: Issues relevant to particular groups of people](#) for further information on correlating considerations.

## **Disability**

Disabled women and men are more likely to be victims of DA than non-disabled women and men.

Many disabled people face problems of negative attitudes towards either their mental or physical impairment and may often feel or be made to feel isolated. In fact, some victims may be specifically targeted as a result of their mental health condition or physical impairment by the abuser, to exert control and dominance, whether through physical violence, or through less obvious controlling and coercive behaviours.

The early identification of specific support needs is critical. Certain disabilities such as deafness, will require specialist care and attention to ensure that the victim has been properly understood when providing their account of the offending behaviour, and that they are supported with special measures and other support requirements if attending court.

Please refer to [Rape and Sexual Offences - Chapter 5: Issues relevant to particular groups of people](#) for further information on correlating issues to consider.

## **Race and Religion**

### **Black and minoritised groups**

Perceptions or experiences of racism in the criminal justice system and throughout other aspects of society may make it difficult for victims of DA in minority ethnic communities to feel sufficiently confident to report an offence or support a prosecution. Additional considerations, such as pressure from within the immediate and extended family or wider community, together with beliefs, may prevent or delay victims from reporting offences of DA.

Some examples that might be relevant to this section are:

- so called honour based violence and forced marriage (as distinct from an arranged marriage, where the marriage is based on free consent);
- dowry-related violence.
- enforcement of cultural/traditional roles at a young age
- Female genital mutilation (FGM) [prosecutors should see separate guidance on [FGM](#) for further information]; shaving of the head or acid attacks to minimise the woman or girls' physical appearance; preventing the victim from finishing education or pursuing a career);



and, physical appearance; preventing the victim from finishing education or pursuing a career);and,

- violence and disowning of the victim by the family or community (for so called 'shameful behaviour').

Such behaviours may be perpetrated by intimate partners and also by family members and/or wider community members. Further advice and information on these issues can be found in the legal guidance on [so-called Honour Based Violence and Forced Marriage](#).

Prosecutors should be very careful not to make assumptions that all DA within minority ethnic communities takes these forms. Some abuse will be similar to that perpetrated in non-minority communities (for example, prejudices towards inter-racial relationships; pregnancy outside of marriage). As such, prosecutors should proceed with caution when communicating with the victim about a case. It is highly likely that the victim and perpetrator will be living in the same household. Some cases will be very clearly honour-based, and some will not; others, may also be a combination of both.

In some cases, offences may be perpetrated by multiple offenders and despite the conviction of one offender the abusive behaviour may still continue by others who still have access to the victim. It is therefore essential that prosecutors and police work closely to understand the nature of the abuse and identify whether there are single or multiple perpetrators involved.

The forms of DA experienced by victims in some religious communities or cultures can be triggered by a number of issues, including, but not limited to:

- loss of virginity;
- being in a 'secret' or what the family perceive as 'unsuitable' relationship;
- disclosure of rape or sexual abuse;
- pregnancy (particularly where pregnancy occurs outside marriage, or from a 'secret' or 'unsuitable' relationship) and/or forced abortion or termination of pregnancy; or,
- lifestyle (alcohol, sexual activity, sexual orientation and/or gender identity) being revealed.

Early consultation with the police to identify whether any such triggers are involved in such cases is important to understand the dynamics of the offending behaviour, as well as the risk posed to a victim. This will assist with how communications need to be managed and the specific support needs a victim may require.

In some minority groups, victims may become more vulnerable and fear leaving their abuser because they may be unable to speak or understand English to a confident level and may therefore feel unable to access the support that is needed. This lack of confidence may be exploited by abusers, especially in scenarios between intimate partners where threats may be made to have children taken into care. The same methods of manipulation may be used to suggest that the victim is suffering from mental health issues, where they may not be.

Additionally, some victims with little understanding or confidence of English language may be left in difficult situations where they have participated in religious (but not legally binding) ceremonies to marry British nationals. Some victims in these circumstances will experience castigation by their spouse where they do not conform to family expectations and may be as a result left without any family or friends, community support, financial means, and in some extreme cases even made homeless. These are only some examples of the barriers and difficulties faced by victims from ethnic minority communities and should not be seen as an exhaustive list.

It is therefore important that prosecutors obtain as much information from the police, and with the assistance of specialist groups where available, to understand the nature of abuse experienced by the victim, and to enable identification of the support needs required by them.

There are specific support organisations available for some ethnic minority groups – victims should be put in contact with these support organisations by the police, wherever possible.

Cultural or religious beliefs may also be a deterrent for victims coming forward; victims may be made to feel ashamed by their community or may fear isolation by the community. Additionally, community leaders or faith leaders in some cultures or ethnic groups may play the role of a mediator and discourage the victim from reporting. Non-harmful cultural and religious practices should be respected; however, harmful practice should never be seen as an 'excuse' or justification for DA.

Prosecutors should be aware of community courts/arbitration forums in some Jewish and Muslim communities by victims and perpetrators. Prosecutors will be aware that they should not be used as an alternative to criminal proceedings. Some perpetrators may use these mechanisms to make a case for staying with their partner, thereby enabling the abuse to be continued. Prosecutors should refer to specialist support services and organisations where required to ensure that a proper understanding of such practices is obtained, and that any risks to victims are properly identified.

Prosecutors should ensure that family members do not act as interpreters for those who do not have a competent or confident understanding of English. Prosecutors should refer to the legal guidance on [Interpreters](#) and ensure that through the police or support agencies, checks are made with the victim that the interpreter does not have any connection with them or their family. Victims may request an interpreter of the same sex - this should be arranged as far as is possible. Prosecutors should also bear in mind that written communication may also be difficult for a victim to understand, and translators may be required in these circumstances.

Interpreters from within the victim's or perpetrator's community group should also be avoided as this may place victims at further risk of abuse. Community members may discover the victim's recourse through the criminal justice system and may put the victim at further risk in an attempt not to bring shame on the family or community. The element of shame may result in increased pressure for the victim to withdraw from a prosecution.

See [Rape and Sexual Offences - Chapter 5: Issues relevant to particular groups of people](#) for further information about abuse in Gypsy, Roma, Traveller communities.



### **People with insecure immigration status, refugees, and asylum seekers**

There will be a number of victims with insecure immigration status, and they may as a result have no recourse to public funds despite having valid leave to stay in the country. This restriction has made it difficult for victims of DA to leave abusive situations, often leaving them with no option but to stay in the abusive relationship or leave with little support thereafter.

Victims with insecure immigration status may experience many barriers to reporting DA; an individual's immigration status may be used as a vulnerability to perpetrate abuse through fear that insecure immigration status of the victim may be exposed. The perpetrator's immigration status may also be used as a way to commit offences and exploit a victim – for example, the perpetrator may use the insecure status to prevent the victim from reporting the offending behaviour to the police,

by telling the victim they may be penalised by the authorities in some way. Some victims may have entered the country through forced marriage and be kept isolated from other people or services or social freedom and may find themselves being unable to leave their situation for fear of lack of support or knowledge of services available. Prosecutors may find it helpful to also refer to the legal guidance on [Modern Slavery, Human Trafficking and Smuggling](#) to support case handling which exemplify such issues.

Victims may suffer abuse by multiple perpetrators, such as a main perpetrator, and their family members. It is possible that in such circumstances, victims may be forced into domestic servitude as part of the control and manipulation exerted by some perpetrators.

Prosecutors may want to refer to the legal guidance on [UK Visas and Immigration \(UKVI\)](#) which provides the criteria required to apply for leave to remain to victims of DA. Often, applications may not be easily approved as eligibility criteria can be difficult to meet for some immigrants. As a result, perpetrators can use these vulnerabilities as a further lever for abuse.

When reviewing a DA case in which the victim is a refugee or an asylum seeker, prosecutors should take into account the combination of social and cultural factors, communication difficulties, lack of information (particularly in their own language) and lack of access to informal and formal support, which may make it difficult for the victim to support or take part in a prosecution. Some asylum seekers and refugees may have been victims of abuse in the countries they have escaped from; they may also be suffering from experiences related to that abuse, such as mental health problems.

Prosecutors should include in their review the potential problems and solutions and set out what steps need to be taken if the victim is to give evidence (for example, special measures, use of an interpreter, support from an immigration lawyer, specialist domestic abuse organisation, or in some cases Victim Support in order to give their best evidence).

See [Rape and Sexual Offences - Chapter 5: Issues relevant to particular groups of people](#) for further information.

## **Other circumstances**

### **Individuals involved in prostitution**

Individuals involved in prostitution can also fall into the category of those who experience DA. In some cases, these individuals may be more vulnerable as a result of their immigration status, age, mental health vulnerabilities, ethnic background, or addiction/substance misuse. Victims may be at risk of DA, particularly if, as in many instances, their partner is also their 'pimp'. Additionally, victims may be forced or coerced to become involved in prostitution by their spouse or partner, which is also seen as a way of perpetrating DA.

See [Rape and Sexual Offences - Chapter 5: Issues relevant to particular groups of people](#) for further information on correlating issues

## Annex E: National Support organisations

### 24hr Domestic Violence Helpline

The confidential 24 hour national domestic violence freephone helpline is run in partnership by Refuge and Women's Aid. The helpline provides support, information and a listening ear to women experiencing (or who have experiences) domestic abuse and to those seeking help on a woman's behalf and, if appropriate, refer callers on to refuges and other sources of help and information. The 24-hour free phone number is: 0808 2000 247.

### BAWSO

BAWSO provide generic and specialist services for minority ethnic communities, including the provision of temporary accommodation in Wales for those suffering from domestic abuse and all forms of violence; including Female Genital Mutilation, Forced Marriage, Honour Based Violence and Human Trafficking.

Address: Unit 4, Sovereign Quay, Havannah Street, Cardiff, CF10 5SF

Helpline: 0800 731 8147

Email: [Info@bawso.org.uk](mailto:Info@bawso.org.uk)

Website: <http://www.bawso.org.uk/>

### ChildLine

ChildLine is the free 24-hour helpline for children and young people in the UK about any problem, day or night. Tel: 0800 1111

Website: <http://www.childline.org.uk/Pages/Home.aspx>

### The Everyman Project

The Everyman Project aims to help men to change their angry, violent or abusive behaviour with respect and dignity for every man, every woman and every child.

Address: Everyman Project, Eurolink Business Centre, 49 Effra Road, London, SW2 1BZ

Phone: 0203 642 8850

Email for General Enquiries: [everymanproject@btinternet.com](mailto:everymanproject@btinternet.com)

Email for Survivors: [partnersupport@everymanproject.co.uk](mailto:partnersupport@everymanproject.co.uk)

Website: <http://www.everymanproject.co.uk/>

### Galop

Galop provides assistance to lesbians, gay men, bisexual and transgender (LGBT) people in Britain who are affected by homophobic, transphobic and same sex domestic violence.

Helpline Number: 0800 999 5428

Email: [help@galop.org.uk](mailto:help@galop.org.uk); [info@galop.org.uk](mailto:info@galop.org.uk)

Website: [www.galop.org.uk](http://www.galop.org.uk)

### The Hideout

Website to help children and young people understand domestic abuse, and how to take positive action.

Website: <http://www.thehideout.org.uk/>

### Hourglass

Hourglass works to protect and prevent the abuse of vulnerable older adults.  
Address: Office 8, Unit 5, Stour Valley Business Centre, Brundon Lane, Sudbury, Suffolk, CO10 7GB.  
Tel: 0808 808 8141  
Email: [enquiries@wearehourglass.org](mailto:enquiries@wearehourglass.org)  
Website: [www.wearehourglass.org](http://www.wearehourglass.org)

#### IMKAAN

Imkaan is a black feminist organisation dedicated to addressing Violence Against women and girls. Imkaan supports a network of specialist women's services run by and for black and minority ethnic women.

Address: Tindlemannor, 52 - 54 Featherstone Street, London EC1Y 8RT  
Tel: 020 7842 8525  
Email: [info@imkaan.org.uk](mailto:info@imkaan.org.uk)  
Website: <http://imkaan.org.uk/>

#### Jewish Women's Aid

Jewish Women's Aid is the only specialist organisation in the UK supporting Jewish women affected by domestic violence and abuse.

Helpline: 0808 801 0500  
London Office Number: 020 8445 8060  
Manchester Office Number: 0161 772 4071  
Office Email: [clientsupport@jwa.org.uk](mailto:clientsupport@jwa.org.uk)  
Advice Email@ [advice@jwa.org.uk](mailto:advice@jwa.org.uk)  
Website: <http://jwa.org.uk/>

#### Mankind Initiative

Mankind Initiative directly, and indirectly help others to, support male victims of domestic abuse and domestic violence and abuse across the UK and within their local communities.

Address: Flook House, Belvedere Road, Taunton, Somerset, TA1 1BT  
Phone: 01823 334244  
Email: [admin@mankind.org.uk](mailto:admin@mankind.org.uk)  
Website: <http://www.mankind.org.uk/>

#### The Mix

The Mix is the UK's free, confidential helpline for young people under 25 who need help and don't know where to turn.

Address: 209 City Road, London, EC1V 1JN  
Phone: 0808 808 1994  
Website: [www.themix.org.uk](http://www.themix.org.uk)

#### Muslim Youth Helpline

MYH is a charity that provides free and confidential faith and culturally sensitive support services targeted at vulnerable young people in the UK.

Helpline: 0808 808 2008  
Office telephone: 0207 435 8171

Email: [help@myh.org.uk](mailto:help@myh.org.uk)

Website: <http://www.myh.org.uk/>

### Muslim Women's Network UK

The Muslim Women's Network (MWN-UK) is an independent national network of individual Muslim women and Muslim women's organisations across the UK.

Address: First Floor, 1192 Stratford Road, Birmingham, B28 8AB Helpline: 0800 999 5786

Tel: 0121 236 9000

Email : [contact@mwunuk.co.uk](mailto:contact@mwunuk.co.uk)

Website: <http://www.mwunuk.co.uk/>

### National Youth Advocacy Service

NYAS is a UK charity providing socio-legal services that offer information, advice, advocacy and legal representation to children, young people and vulnerable adults through a network of dedicated paid workers and volunteers throughout England and Wales.

Address: NYAS, Egerton House, Tower Road, Birkenhead, Wirral, CH41 1FN

Office Telephone: 0151 649 8700

Email: [main@nyas.net](mailto:main@nyas.net)

Helpline: 0808 808 1001

### NSPCC National Child Protection Helpline

Helpline for people concerned about a child at risk of abuse, including children themselves. Offers counselling, information and advice about the care of children, legal issues, sexual, physical or emotional abuse, neglect etc. The helpline is a free and confidential service that is open 24 hours a day, seven days a week.

Tel: 0808 800 5000

Email: [help@nspcc.org.uk](mailto:help@nspcc.org.uk)

Website: <http://www.nspcc.org.uk/>

### Rape Crisis England & Wales

Rape Crisis England & Wales is a national charity and the umbrella body for their network of independent member Rape Crisis organisations.

Address: Rape Crisis England & Wales, Suite E4, Josephs Well, Hanover Walk, Leeds, LS3 1AB.

Freephone helpline: 0808 802 9999

Email: [rcewinfo@rapecrisis.org.uk](mailto:rcewinfo@rapecrisis.org.uk)

Website: <http://www.rapecrisis.org.uk/>

### Refuge

Refuge is a national charity for women and children experiencing domestic violence and other forms of violence and abuse, including sexual violence, trafficking, FGM, 'honour'-based violence, forced marriage, stalking and prostitution. Refuge runs a national network of specialist services, including emergency refuge accommodation; community-based outreach services; culturally specific services.

Address: 4th Floor, International House, 1 St Katharine's Way, London E1W 1UN

Tel: 020 7395 7700

National Domestic Violence Helpline: 0808 2000 247

Website: [www.refuge.org.uk](http://www.refuge.org.uk)

## Respect

Respect is a UK-wide membership organisation for practitioners and organisations working with perpetrators of domestic violence and abuse and associated work with women partners and ex-partners. Respect's key focus is on increasing the safety of those experiencing domestic violence and abuse through promoting intervention with perpetrators.

Address: Hubhub, 20 Farringdon Street, London, EC4A 4AB.

Phoneline: 0808 8024040

Email: [info@respect.uk.net](mailto:info@respect.uk.net)

Website: [www.respect.uk.net](http://www.respect.uk.net)

## Respect (Men's Advice Line)

A confidential helpline for men who experience violence from their partners or ex-partners or from other family members.

Tel: 0808 801 0327

Email: [info@mensadviceline.org.uk](mailto:info@mensadviceline.org.uk)

Website: [www.mensadviceline.org.uk](http://www.mensadviceline.org.uk)

## Rights of Women

Rights of Women works to attain justice and equality by informing, educating and empowering women on their legal rights.

Address: Rights of Women, 52-54 Featherstone Street, London, EC1Y 8RT.

Administration: 020 7251 6575

Email: [info@row.org.uk](mailto:info@row.org.uk)

Website: <http://www.rightsofwomen.org.uk/>

## Safe Lives

Safe lives is a national charity dedicated to ending domestic abuse. previously called Co-ordinated Action Against Domestic Abuse (Caada), we're here for one simple reason: to make sure all families are safe. Our experts find out what works to stop domestic abuse. Then we do everything we can to make sure families everywhere benefit.

Address: Suite 2a, Whitefriars, Lewins Mead, Bristol, BS1 2NT

Tel: 0117 403 3220

Email: [www.info@safelives.org.uk](mailto:www.info@safelives.org.uk)

Website: <http://safelives.org.uk>

## Shelter

Shelter help millions of people every year struggling with bad housing or homelessness – and campaign to prevent it in the first place.

Address: Shelter Head Office, 88 Old Street, London, EC1V 9HU

Main Switchboard 0344 515 2000

Helpline on 0808 800 4444

Email: [info@shelter.org.uk](mailto:info@shelter.org.uk)

Website: <http://england.shelter.org.uk/>

## Sign Health

Sign Health provides a support service to help deaf women and children who suffer domestic abuse.  
Phone: 07800 003421  
Email: [da@signhealth.org.uk](mailto:da@signhealth.org.uk)  
Website: [www.signhealth.org.uk/with-deaf-people/domestic-abuse/](http://www.signhealth.org.uk/with-deaf-people/domestic-abuse/)

### Southall Black Sisters

Southall Black Sisters provide a range of advice and support services to enable black and minority women to gain the knowledge and confidence they need to assert their human rights. They provide general and specialist advice on gender-related issues such as domestic violence and abuse, sexual violence, forced marriage, honour killings and their intersection with the criminal justice, immigration and asylum systems, health, welfare rights, homelessness and poverty.  
Address: Southall Black Sisters, 21 Avenue Road, Southall, Middlesex, UB1 3BL  
Tel: 0208 571 9595  
Website: <http://www.southallblacksisters.org.uk/>

### Stay Safe East

Stay Safe East works to tackle violence and abuse against disabled and deaf individuals including: domestic violence and abuse by partners, family members, or by paid or unpaid carers, disability and other hate crime, bullying, anti-social behaviour and harassment, sexual violence, financial abuse and human rights abuses in residential care or supported housing.  
Address: Waltham Forest Resource Hub (South), 90 Crownfield Road, London, E15 2BG  
Tel: 07865340122  
Email for referrals or self-referral: [referrals@staysafe-east.org.uk](mailto:referrals@staysafe-east.org.uk)  
Email for Enquiries: [enquiries@staysafe-east.org.uk](mailto:enquiries@staysafe-east.org.uk)  
Website: <http://www.staysafe-east.org.uk/>

### Stonewall

Stonewall works to achieve equality and justice for lesbians, gay men and bisexual people.  
Address: 192 St. John Street, London, EC1V 4JY  
Info Line: 0800 050 20 20  
Office (admin): 020 7593 1850  
Email: [info@stonewall.org.uk](mailto:info@stonewall.org.uk)  
Website: <http://www.stonewall.org.uk/>

### Stonewall Housing

Stonewall Housing works to ensure lesbian, gay, bisexual and trans people live in safer homes, free from fear.  
Address: 8 Coppergate House, 10 Whites Row, London, E1 7NF  
Tel: 0207 359 5767  
Email: [info@stonewallhousing.org](mailto:info@stonewallhousing.org)  
Website: [www.stonewallhousing.org](http://www.stonewallhousing.org)

### Suzy Lamplugh Trust

The Suzy Lamplugh Trust provides guidance and information to anybody who is currently or has previously been affected by harassment or stalking.  
Email: [info@suzylamplugh.org](mailto:info@suzylamplugh.org)



Helpline: 0808 802 0300

Website: [www.suzylamplugh.org](http://www.suzylamplugh.org)

### Victim Support

Victim Support is the independent national charity that helps people to cope with the effects of crime. It provides free and confidential support and information to help victims deal with their experiences.

Victim Support line: 0808 1689 111

Website: <https://www.victimsupport.org.uk/>

### Women's Aid

Women's Aid is a key national charity working in England to end domestic violence of women and children. It supports a network of over 300 domestic and sexual violence services across the UK.

Address: PO Box 3245, Bristol, BS2 2EH.

National Domestic Violence Helpline: 0808 2000 247

Email: [info@womensaid.org.uk](mailto:info@womensaid.org.uk); [helpline@womensaid.org.uk](mailto:helpline@womensaid.org.uk)

Website: <http://www.womensaid.org.uk/>

### Welsh Women's Aid

Welsh Women's Aid is the national umbrella organisation representing local Women's Aid Groups situated throughout Wales. Member groups provide direct services for women and children who have experienced or are experiencing domestic abuse.

Address: Welsh Womens Aid, Pendragon House, Caxton Place, Pentwyn, Cardiff, CF23 8XE

Tel: 02920 541 551

Wales Domestic Abuse Helpline: 0808 801 0800

Website: [www.welshwomensaid.org](http://www.welshwomensaid.org)

### Youth Access

Youth Access is the largest provider of young people's advice and counselling services in the UK.

Address: Youth Access, 1-2 Taylors Yard, 67 Alderbrook Road, London, SW12 8AD

Tel: 020 8772 9900 (from 9.30 to 1, and 2 to 5.30)

Email: [admin@youthaccess.org.uk](mailto:admin@youthaccess.org.uk)

Website: <http://www.youthaccess.org.uk/>

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<sup>i</sup> [www.nhs.uk/pregnancy/support/domestic-abuse-in-pregnancy](http://www.nhs.uk/pregnancy/support/domestic-abuse-in-pregnancy)

<sup>ii</sup> [Domestic Violence: A resource for trans people in Brighton and Hove](#)