

Toolkit for Prosecutors on Violence Against Women and Girls Cases Involving a Vulnerable Victim

The purpose of this Toolkit is to support prosecutors dealing with Violence Against Women and Girls (VAWG) cases involving a vulnerable victim. An effective prosecutorial approach will ensure that the credibility of the overall allegation, in line with the Code for Crown Prosecutors ([link](#)), is appropriately assessed. The approach should also ensure that vulnerable victims are supported to give their best evidence. Prosecutors should refer to the relevant CPS Legal Guidance and refer to the tables at the end of this document to support their decision-making.

What is 'Violence Against Women and Girls' (VAWG)?

VAWG covers, but is not limited to, offences related to domestic violence, stalking and harassment, sexual offences (including rape), forced marriage and honour-based violence. VAWG is mainly perpetrated by men against women. Perpetrators and victims can come from all socio-economic groups. The gendered patterns and dynamics involved in VAWG cases need to be understood in order to provide an appropriate and effective response. The recognition of these dynamics does not neglect abuse towards men or perpetrated by women. All CPS polices are gender neutral and all victims receive the same access to protection and legal redress.

What are 'Vulnerabilities' within the Context of this Toolkit?¹

Vulnerabilities can describe the particular circumstances of a person, or a group, which might need to be addressed in order to ensure full and equal recourse from the criminal justice system. It also applies to people who are at risk as a result of conditions, environmental or personal, which compromise their safety or security. While it should not be assumed that the presence of vulnerable factors will automatically indicate vulnerability, their recognition is important as it can highlight issues requiring a different approach.

There are a number of vulnerabilities which, if misunderstood in the context of a VAWG case, might have a negative impact on a person's credibility and therefore undermine their account. However, if considered in a different way, these very vulnerabilities might support rather than detract from an allegation. For example, an inconsistent account owing to the consumption of drugs might be seen to militate against somebody's credibility. However, somebody's drug use might be the very reason they were vulnerable to being victimised and targeted by an offender.

Some vulnerabilities might be masked or exacerbated by alcoholism or drug dependency; some people have a combination of vulnerabilities; some vulnerabilities are obvious while others are hidden.

¹ The legal definitions of vulnerable or intimidated witnesses is outlined in the revised Code of Practice for Victims – this section considers a much wider definition of vulnerability. The legal definitions are based on the criteria set out in sections 16 and 17 of the Youth Justice and Criminal Evidence Act 1999 and are narrower in scope. See CPS Legal Guidance for further information: [link](#)

Key Considerations in VAWG Cases Involving Vulnerable Victims

The dangers of misunderstanding vulnerabilities of victims in VAWG cases include:

- Insufficient consideration of the circumstances of the offence including the credibility of the overall allegation and the offender; and
- A lack of support for victims to give their best evidence.

Before making a decision *not* to treat a vulnerable witness as being able to give credible or reliable evidence, it is important to ensure that all practicable steps to gather all evidence and to support the witness to provide credible or reliable evidence have been taken.

Assessing the Credibility of the Overall Allegation

Effective case building and prosecution requires the early consideration of the *credibility of the overall allegation*, rather than focussing solely on the victim. This should be with the intention to address head-on any issues related to vulnerabilities in order to support, rather than undermine, the case.

Investigators and prosecutors need to consider issues related to the credibility of the overall allegation when applying the two stages of the Code for Crown Prosecutor's Full Code Test: (i) the evidential stage; followed by (ii) the public interest stage. Charging decisions will be made in line with the Director of Public Prosecution's Guidance on Charging. Prosecutors must also take into account what becomes known of the defence case.

Experts

Referring to relevant CPS Legal Guidance, explore the extent of the impact of any vulnerability. This could be through an appropriate medical assessment; however it is important to note that the purpose of the assessment should be clearly explained to the victim. With the victim's consent, consider the possibility of adducing information from psychologists and other professionals to explain behaviour related to the impact of offending.

Experts can also provide admissible evidence about the victim, any diagnoses and possible causes (see the case of *R v Adam Eden*). However, evidence relevant to general human behaviour is inadmissible. The most appropriate person to approach will depend on the victim's circumstances and their informed consent, but should be someone closely involved in their care who has specific expertise on VAWG issues in order to avoid misconceptions about the offence.

Offender-Centric Approach

Consider the role and behaviour of the suspect/defendant in order to ensure a balanced consideration of the accounts provided. **Table 1** provides information about the types of tactics and behaviours that an offender might use or display to minimise the risk of punishment and should be considered alongside relevant CPS Legal Guidance. Table 1 also considers other potential sources of evidence. Table 1 does not provide an exhaustive list and an offender, or offenders, might use multiple tactics.

Giving Evidence

Victims are more likely to cooperate with the proceedings and give their best evidence if they understand:

- What to expect;
- What is expected from them; and
- The process and its implications.

Support needs should be identified as early as possible and reviewed regularly as the case progresses. Be upfront, but sensitive, and facilitate early discussions with the victim to understand their needs. Be clear and use simple language. If appropriate, and with the permission of the victim, think about speaking to a family member, carer or health professional in order to better identify the needs of the victim (bearing in mind that they may also hold subjective notions about VAWG).

The Victim's Account

A clear and coherent account from the victim is reliant upon their powers of recall/concentration, their cognition of the events and their ability to communicate. Consult relevant CPS Legal Guidance and consider the key issues outlined in **Table 2**, noting that the table does not provide an exhaustive list.

In addition, also refer to Mind's Mental Health Toolkit ([link](#)) for further information about key witness tasks and which:

- Sets out some common diagnoses and the various symptoms and experiences of mental distress;
- Can help to shed light on the impact of more 'lower level' mental health issues which can be difficult to diagnose but may have an impact on the ability of a victim to give evidence;
- Lists possible side effects of major psychiatric medication such as anti-depressants which can cause loss of mental sharpness, poor concentration, memory problems and slurred speech; and
- Provides information about the types of triggers which can cause or exasperate mental health issues or distress including: being given lots of new information, long sessions, time pressures, presence of technology, changes of personnel, authority figures and official procedures, feelings of not being listened to or believed, sudden changes, being hurried, sharing intimate or personal information.

Support Through the Criminal Justice Process

The criminal justice process can feel disempowering for victims, and people have varied coping strategies including those that involve showing anger or frustration. Consider **Table 3** which consolidates advice in CPS Legal Guidance and provides an overview of the types of support available to victims.

TABLE 1: ASSESSING THE CREDIBILITY OF THE OVERALL ALLEGATION BY UNDERSTANDING OFFENDER TACTICS AND BEHAVIOURS*

| Tactic | Consideration | Prompts |
|---------------------------|--|---|
| Access to the Victim | <p>An offender might target someone who they have access to including through the family, or a wider social or professional, network. Consider the extent of the victim's support network and interactions with people other than the offender.</p> <p>Note that where the abuser is a family member, the impact on family relationships can be lifelong. Victims can also be ostracised by family groups</p> | <ul style="list-style-type: none"> • Was the suspect/defendant a current partner, part of a close (family, friend, flatmate) or wider network (friend of a friend, colleague, patient, neighbour)? • Did they 'access' the victim via the sex work industry? • Had they gained the trust of family and friends? • Were they the victim's main support or social network? • How might the victim's vulnerabilities facilitate the type and level of access the suspect/defendant had to them? |
| Authority Over the Victim | <p>An offender might target someone who trusts them or who they are in a position of power over. The offender may also be considered to be a reasonable or a respectable person, while the victim may be deemed to be of 'bad character' and might be less likely to be believed.</p> | <ul style="list-style-type: none"> • Was the suspect/defendant already in a trusted position (partner, family, friend) or in a position of power or authority (employer, landlord, religious leader, teacher)? • Were they involved in gang-related activities? • Was it easy for them to gain the victim's trust? e.g. is the victim emotionally vulnerable (young, socially isolated, mental health issues), using alcohol or drugs, intimidated, already a victim of abuse? |
| Type of violence | <p>VAWG is closely linked with power, intimidation and control and an offender might use coercion as opposed to, or alongside, physical violence. An offender can be manipulative – at times being loving and sensitive. This can include blackmail or the promise of drugs to make the victim act in a certain way.</p> <p>Challenge pre-conceptions about violence in VAWG cases. Rape does not always result in bodily or genital injuries. Rape is about power and control, not sexual gratification</p> | <ul style="list-style-type: none"> • Could the suspect/defendant have made threats to family, friends or pets? • Have they made threats to publish photos, recordings, naked images or images of the victim being abused? • Have they made threats to disclose the victim's sexuality, the relationship or abuse to family members (particularly relevant where a victim is from the black-minority ethnic community)? |

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|------------------------------------|---|---|
| Capacity | <p>An offender might use drugs and alcohol to disarm the victim and facilitate the abuse; or the victim may do so as a way of coping. An offender might target someone who may lack the capacity to understand abuse, because of mental health conditions or learning difficulties, and might therefore be less likely to report and less likely to be believed.</p> | <ul style="list-style-type: none"> • Was the victim incapacitated at the time of the abuse? • Does the victim have a mental health condition or learning difficulties? • In rape cases, did the suspect/defendant have a reasonable basis for thinking the victim was not freely consenting? |
| Timing and Location | <p>An offender might think carefully about the location and timing of the offence in order to minimise the risk of detection and punishment.</p> | <ul style="list-style-type: none"> • What might be the significance of the location of the abuse? • What might be the significance of the timing of the abuse? |
| Offender Behaviour after the Crime | <p>Offenders may take steps which, on the face of it might seem normal or reasonable, to distance themselves from an offence or to reframe the offence after committing a crime in order to undermine or pre-empt any allegation. For example, by:</p> <ul style="list-style-type: none"> • Contacting the victim, perhaps being overfriendly or seeking reassurance • Reinterpreting events leading up to the offence as spontaneous rather than planned • Going out of their way to boast or brag about the offence to friends or family • Appearing entirely unconcerned or pretending to sleep despite the obvious distress of the victim • Making a counter-allegation against the victim | <ul style="list-style-type: none"> • What was the suspect/defendant's conduct and demeanour like when arrested? |

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|------------------------|--|--|
| Pattern of Behaviour | <p>VAWG is rarely a one-off crime. Explore fully any indication of a pattern of behaviour to support the allegation.</p> <p>Also consider whether there is evidence of the victim being subject to abuse in the past e.g. evidence of domestic violence related financial abuse where the victim is forced to steal; wider coercion into criminality by an offender; a sex worker could be vulnerable to abuse but might be more likely to be criminalised.</p> | <ul style="list-style-type: none"> • Is there relevant police intelligence about the suspect/defendant in their local area or elsewhere? • Are they subject to other allegations or have they received other convictions? These do not have to be VAWG-related. • Do they associate with other people suspected of, or convicted for, committing similar offences? • Are there any relevant civil proceedings ongoing? • Has the victim made previous allegations (which may have been withdrawn) that might support their account? |
| All Available Evidence | <p>Consider all possible third party accounts or evidence supporting the allegation or negating the account of the suspect or defendant. Remember that friends, neighbours, peers may also hold misconceptions about VAWG or be subjected to coercion or manipulation by an offender.</p> <p>Also note that using the lack of corroboration of a victim's account to justify a decision to drop proceedings is flawed.</p> <p>Note that some offences can be extremely organised, planned by more than one individual and may be instigated by others.</p> | <p>Have the following been considered to ensure all available evidence has been gathered?:</p> <ul style="list-style-type: none"> • Police officer's account or another eye witness statement? • Enquires of friends, neighbours, peers? • House searches? • 999 tape, photographs, footage, texts, social media? • CCTV and car number plate recognition? • Medical and/or DNA evidence? • Damage to property? • Details of victim/suspect contact with other agencies? • Local problem profiling of victims, offenders, gangs, high-risk businesses and neighbourhoods? |

*NOTE: Investigators and prosecutors need to consider issues related to the credibility of the overall allegation when applying the two stages of the Code for Crown Prosecutor's Full Code Test: (i) the evidential stage; followed by (ii) the public interest stage. Charging decisions will be made in line with the Director of Public Prosecution's Guidance on Charging. Prosecutors must also take into account what becomes known of the defence case.

TABLE 2: ISSUES TO CONSIDER RELATED TO A VULNERABLE VICTIM'S ACCOUNT

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| <p style="writing-mode: vertical-rl; transform: rotate(180deg);">Recall and Concentration</p> | <p>A number of issues can impact on the precision or the detail of the account provided. Consider:</p> <ul style="list-style-type: none"> • The impact of recalling a traumatic situation or if someone feels under pressure • Possible side effects of medication, drugs or alcohol on memory • Whether the victim is consciously providing an inconsistent account. This might be for a number of reasons including a fear of not being believed or criminalisation; to protect their sexuality or gender identity; intimidation including to their family; allegiance to the suspect/defendant • Biological impact e.g. stress releases corticosteroids into the brain, and this may have effect on declarative memory or heightened perception of some, not all, senses such as smell and sound • The impact of post-traumatic stress where recall might be less sharp immediately after the event and increasing as time goes by • The age of the victim both at the time the offence occurred and when the account is given |
| <p style="writing-mode: vertical-rl; transform: rotate(180deg);">Cognition and Interpretation of Events</p> | <p>Understanding or acceptance of an offence can impact on the ability to provide evidence which can require people to be able to put experiences within a wider context. Consider the impact of any:</p> <ul style="list-style-type: none"> • Feelings of guilt or shame leading to minimisation of abuse • Manipulation by the suspect/defendant or family, friends or peers • Resignation or acceptance of abuse, perhaps linked to culture • Grooming into a lifestyle where sexual exploitation is the norm • Allegiance or love towards the suspect/defendant • Delusions, paranoia or thought disorder |
| <p style="writing-mode: vertical-rl; transform: rotate(180deg);">Communication</p> | <p>Consider factors that might make it difficult for someone to communicate effectively:</p> <ul style="list-style-type: none"> • Fear of speaking in public perhaps due to lack of literacy or learning difficulties • Wanting the process to end quickly so providing quick answers or telling the interviewer what they think they want to hear • Fear of repercussions to themselves or their family • Offending might be reported by others leading to a reluctance to cooperate • English not as a first language making it difficult to engage with the process • Physical barriers to communication such as language barriers, hearing or visual impairment, learning difficulties, diseases which affect sensory or neurological functioning and side-effects of medication |

TABLE 3: SUPPORT FOR VULNERABLE VICTIMS THROUGHOUT THE CRIMINAL JUSTICE PROCESS

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|---------------------------------------|---|
| Point of Contact | Engage with dedicated support from the third sector (including Independent Domestic Violence Advisors, Independent Sexual Violence Advisors (ISVAs), Refuge Workers and other sources of independent support). They can play an important and valuable role, especially in ensuring effective communication to and from the victim. Discussion about a suitable single point of contact should be part of an effective case management strategy. |
| Special Measures ⁱ and RIs | <p>Special measures can be used to reassure the victim and minimise distress. For example:</p> <ul style="list-style-type: none"> • Video-evidence from another site (where available) might be helpful for those unable to speak in public • Screens can help the victim to focus or overcome feelings of shame and/or fear • Removal of wigs can help those who have difficulty with authority figures • Emotional support when being cross-examined e.g. from an ISVA <p>When an application is made for special measures, the victim should be asked by the police whether they would like to meet the prosecutor. Registered Intermediaries (RIs) can also be crucial in enabling witnesses to give their best evidence possible, both at statement/interview stage and during the court process.ⁱⁱ</p> |
| Practical Steps | <p>Other practical steps which might be appropriate include:</p> <ul style="list-style-type: none"> • Pre-trial court visits to familiarise victims with procedures • Showing Achieving Best Evidence videos in good time before court cases so that the victim knows what to expect • Requesting shorter sittings for those who would benefit from regular breaks • Pre-trial therapy as a source of support |
| Safety Planning | The victim and relevant agencies should be updated on the progression and outcome of a case, particularly if bail conditions are no longer in place or the suspect is released from custody. On the conclusion of criminal cases, consider at the earliest stage if a victim would benefit from any ancillary orders. If a victim is in need of further protection from the defendant, a restraining order can be a useful way to increase their (or any at-risk children's) safety. Support for a victim should continue after the court process has concluded, regardless of the outcome, including sign-posting to relevant support services and a risk assessment of further re-victimisation where relevant. |

ⁱ See CPS Legal Guidance on Special Measures for further information: [link](#)

ⁱⁱ RIs might be used to support vulnerable witnesses (see section 16 of the Youth Justice and Criminal Evidence Act 1999) including those who are under the age of 17, and who suffer from a mental disorder or significant impairment of intelligence and social functioning or have a physical disorder or condition that is likely to affect their evidence. Witnesses under the age of 17 are automatically vulnerable witnesses.