



**HMCPSI**

HM Crown Prosecution  
Service Inspectorate

# The service from the CPS to victims of domestic abuse

**A thematic inspection of the  
handling by the Crown  
Prosecution Service of domestic  
abuse cases in the magistrates'  
courts**

**March 2023**

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## Who we are

HM Crown Prosecution Service Inspectorate inspects prosecution services, providing evidence to make the prosecution process better and more accountable.

We have a statutory duty to inspect the work of the Crown Prosecution Service and Serious Fraud Office. By special arrangement, we also share our expertise with other prosecution services in the UK and overseas.

We are independent of the organisations we inspect, and our methods of gathering evidence and reporting are open and transparent. We do not judge or enforce; we inform prosecution services' strategies and activities by presenting evidence of good practice and issues to address. Independent inspections like these help to maintain trust in the prosecution process.

# Contents

<b>1. Chief Inspector’s foreword</b> .....	<b>6</b>
<b>2. Summary</b> .....	<b>9</b>
Recommendations, compliance issues, good practice and strengths .....	12
Key findings .....	15
<b>3. Context</b> .....	<b>26</b>
Background to the inspection .....	27
The Covid-19 pandemic and the current landscape .....	28
Legal landscape .....	32
<b>4. Framework and methodology</b> .....	<b>36</b>
The inspection framework .....	37
Methodology .....	38
<b>5. Pre-charge decisions</b> .....	<b>40</b>
Complying with the Code .....	41
Timeliness of charging decisions .....	42
Selection of charges .....	44
Quality of the review at the pre-charge stage .....	45
Our findings .....	47
<b>6. Police and CPS operational case building</b> .....	<b>60</b>
Police file quality .....	61
Use of action plans and escalation .....	64
<b>7. Post-charge case management and progression</b> .....	<b>67</b>
Post-charge decision-making .....	68
Quality of the review after charge .....	69
Post-charge reviews .....	71
Preparedness for hearings .....	75
<b>8. Support and protection for victims</b> .....	<b>83</b>
Risk .....	84
Bail and remands in custody .....	86
Special measures .....	91
Pre-trial court visits .....	96
Protective Orders .....	98

<b>9. Consultation and communication with victims .....</b>	<b>102</b>
Victim transformation.....	103
Witness care communications .....	104
Liaison with IDVAs .....	106
Speaking to witnesses at court .....	108
Victim Personal Statements .....	109
Victim Communication and Liaison scheme letters.....	110
<b>10. Training.....</b>	<b>114</b>
National training.....	115
Local training .....	117
On the job learning .....	117
Training for court .....	118
Joint training .....	119
<b>11. Quality assurance .....</b>	<b>121</b>
Individual Quality Assessments .....	122
Other mechanisms for quality assurance and feedback .....	124
<b>12. Partnership working.....</b>	<b>126</b>
Partnership working with the police .....	127
Partnership working with other stakeholders.....	128
Specialist Domestic Abuse Courts.....	130
<b>Annexes</b>	
<b>Inspection framework.....</b>	<b>132</b>
<b>File examination data .....</b>	<b>138</b>
<b>File examination questions.....</b>	<b>149</b>
<b>Glossary.....</b>	<b>162</b>

# **1. Chief Inspector's foreword**

Domestic abuse is a prevalent crime. In England & Wales an estimated 2.4 million adults experienced domestic abuse in the year ending March 2022. One in five children live with domestic abuse. Women and girls are disproportionately endangered by this kind of violence and abuse.

Given all this it has been essential that HM CPSI make a rigorous assessment of how the Crown Prosecution Service (CPS) addresses domestic abuse so that victims and survivors, ministers, and the public, can be assured that the service being provided, and the standards relied on, are fit for purpose.

The CPS's policy statement makes clear that domestic abuse cases are amongst the highest priority in the Criminal Justice System (CJS). The CPS guidance highlights the need for the support and safety of victims to be identified from the outset, and continually considered throughout the life of a case.

## **In England & Wales an estimated 2.4 million adults experienced domestic abuse in the year ending March 2022**

We have met and spoken with committed and passionate domestic abuse leads and prosecutors in the CPS during this inspection. There is no doubt the CPS takes its own policy around domestic abuse very seriously. The CPS is a driving force in work across the CJS to improve domestic abuse prosecutions and the service provided to victims. Charging decisions

by the CPS are almost always correct in domestic abuse cases but our inspection also exposed that CPS casework quality needs improvement and the support for victims and survivors needs to be enhanced. This support of course needs adequate funding. Only with adequate funding will victims of domestic abuse receive the best support they can within the CJS. Such support only enhances the prospect of effective outcomes in the criminal process.

There remains misunderstanding of what victims expect the CPS should be doing on their behalf, and what the CPS is there to do. Successive governments have asserted that the 'victim is at the heart of the criminal justice system'. The Code of Practice for Victims sets out the twelve rights of victims but that document lacks clarity on who is responsible for ensuring those rights are respected at each stage. Victims have understandably come to expect that the CPS should represent them in the criminal process, but this is not the role of our public prosecution service. Our engagement with the third sector, and feedback from victims in this inspection, reinforces the need for greater clarity around the role of the CPS in the CJS and its interaction with victims. Also there needs to be clarity around who is responsible and accountable for ensuring the twelve rights of victims are respected.

## The service from the CPS to victims of domestic abuse

The evidence of this inspection points to a number of other serious concerns which must be addressed if victims of domestic abuse are to be properly supported. The availability of independent domestic violence advisors to support victims through the criminal process is a lottery. In some areas the overwhelming demands on the charities and third sector organisations, who provide this vital service, means there are just too many cases for every victim to receive the support they need. That cannot be right.

In some magistrate jurisdictions specialist courts have been set up to deal with domestic abuse cases. This is welcome progress. Prosecutors, support services and judges all develop expertise in a specialist court where victims can be more actively supported on their journey through the criminal justice system. Again, we found significant geographical variations in this commendable approach. It is essential that all relevant agencies respond collectively and consistently across England and Wales to give victims the service they deserve.

Victims and survivors of domestic abuse deserve better. This inspection demonstrates the intention is there to do better but there is still much to be done to make sure victims are properly supported in domestic abuse cases. The CPS is doing a lot of things well in these cases, but this report identifies compliance issues which the CPS should address. It also makes six recommendations which we believe will enhance the prospects for success in domestic abuse cases.



Andrew T Cayley CMG KC

His Majesty's Chief Inspector



## 2. Summary

**2.1.** HM Crown Prosecution Service Inspectorate (HMCPPI) last inspected domestic abuse casework in 2020. This was a joint inspection with His Majesty's Inspectorate of Constabulary Fire and Rescue Services on whether the police and Crown Prosecution Service (CPS) built viable evidence-led prosecutions where appropriate<sup>1</sup>.

**2.2.** Domestic abuse accounts for almost 13% of the CPS's overall caseload<sup>2</sup> and is a high priority. Our business plan for 1 April 2022 to 31 March 2023 included a thematic inspection of how the CPS handles domestic abuse cases, with an emphasis on how victims are supported and how victim issues are addressed to build stronger cases.

**2.3.** Domestic abuse cases feature a range of different offences, the majority of which are tried in the magistrates' court (82.0% of the total domestic abuse caseload nationally) with the remainder in the Crown Court (18.0% of the total domestic abuse caseload nationally). Whilst there are undoubtedly common issues cutting across both, the procedures in the magistrates' courts and the Crown Court are very different.

**2.4.** We focused this inspection on the magistrates' court casework, which accounts for the majority of the domestic abuse casework. This allowed us to examine the service and experience that the largest proportion of domestic abuse victims receive from the CPS. The decision to charge cases of domestic abuse must be made by the CPS. We included cases where the charging advice was given by CPS Direct, the CPS out-of-hours charging service. We anticipate looking at the CPS's handling of domestic abuse cases in the Crown Court in a future inspection.

**2.5.** Our findings confirm that the CPS does recognise domestic abuse as a priority area of work. Its ambition to secure justice in all possible domestic abuse cases is reflected in a continuing commitment of resources, training, and support to this area of work. The CPS is a driving force in work across the criminal justice system to improve domestic abuse prosecutions and the service provided to victims. The CPS is working closely with the police on a joint plan to improve the handling of domestic abuse cases and the victim experience, highlighting what needs to be done locally and nationally.

**2.6.** We found that local and national domestic abuse leads, and Area staff working on domestic abuse cases, are passionate and committed to improving

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<sup>1</sup> *Evidence led domestic abuse prosecutions*; CJII; January 2020  
[www.justiceinspectors.gov.uk/cjii/inspections/joint-inspection-evidence-led-domestic-abuse-prosecutions](http://www.justiceinspectors.gov.uk/cjii/inspections/joint-inspection-evidence-led-domestic-abuse-prosecutions)

<sup>2</sup> CPS data for the 12 months to the third quarter of 2022-23 shows that the proportion of domestic abuse cases in the overall caseload was 12.7%.

performance and want to achieve the best possible outcome for victims. However, they fear that competing demands and workloads sometimes mean that they do not invest the time and attention needed at every stage of the case.

**2.7.** Whilst we found some strong aspects to the quality of casework and the service provided to victims, we also found that there are areas that require improvement to ensure that strong cases are built and that victims receive an effective service and appropriate support.

**2.8.** This report deals with the casework findings first, followed by support for and communication with victims. We have structured it in this way because the level of support and quality of communication with victims is naturally derived from, and impacted by, the quality of casework and our findings in that regard.

## Recommendations, compliance issues, good practice and strengths

### Recommendations

By March 2024 the CPS to introduce a system for domestic abuse cases that identifies any summary time limit applicable on receipt from the police at pre-charge and ensures that the case is progressed effectively and efficiently within that summary time limit. [Paragraph 5.15]

By July 2023 the CPS to implement a process where, on a domestic abuse case where the summary time limit is due to expire within eight weeks, all communications with the police, including any pre-charge advice or decisions are clearly marked with the relevant summary time limit. [Paragraph 5.15]

By December 2023, the CPS to have communicated the need for prosecutors to review the risk assessment in all domestic abuse cases before completing the pre-charge decision (unless there are specific factors in the case such that the decision to charge cannot be delayed) and that where the risk assessment has been omitted in the file provided, or is referenced simply by level (standard, medium or high), the full risk assessment is requested. This approach to be embedded by March 2024. [Paragraph 6.14].

By December 2023, the CPS to embed a process to ensure that in all magistrates' court domestic abuse cases involving a Newton hearing or trial, all up-to-date relevant information about victims, including information relevant to ancillary orders, is requested in a timely manner for the sentence hearing. [Paragraphs 8.64 and 9.32]

By December 2023 the CPS to develop a consistent approach to trauma training across violence against women and girls (VAWG) casework that reflects engagement with specialist VAWG organisations, and which focuses on how understanding trauma can improve casework and the service to victims of domestic abuse. [Paragraph 10.5]

From July 2023, the CPS to ensure that a minimum of one IQA per year is conducted on a domestic abuse case for prosecutors dealing with magistrates' court domestic abuse cases. [Paragraph 11.5]

<b>Compliance issues</b>
Prosecutors are not setting out a clear and cogent analysis of the material, or a clear case strategy in their pre-charge review. [Paragraph 5.24]
Prosecutors are not addressing evidence-led principles sufficiently well, or at all, at the pre-charge review stage. [Paragraph 5.28]
Area managers should ensure there is a renewed focus on prosecutors' compliance with their disclosure duties both at pre-charge review stage and at post-charge stage. Where there are failings on the police side, they should encourage prosecutors to feedback the issues and escalate where appropriate. [Paragraphs 5.39 and 7.49]
Prosecutors are not consistently completing the Director's Guidance Assessment on the case management system (CMS) as a feedback mechanism to the police on file quality. Area managers should continue to encourage a greater level of compliance as well as consider how further opportunities to feedback on police file quality can be implemented through the system. [Paragraph 6.8]
The CPS administrative triage process for police submissions for charging advice in domestic abuse cases is routinely failing to include a check for the risk assessment. This is a DG6 requirement and Area managers should remind staff of the requirement for a risk assessment before the case is triage accepted. [Paragraph 6.11]
Prosecutors are not utilising the chaser task on the CPS case management system when setting an action plan for the police. [Paragraph 6.20]
Escalation policies are not being regularly or effectively utilised. Area managers should ensure that staff are familiar with their escalation policies and that they are being utilised when necessary. [Paragraph 6.22]
Area managers should make sure there is a proper focus on the consideration of a suspect's bail status in pre-charge reviews. This should include whether applications for conditional bail have been adequately considered where a suspect has been released under investigation and is to appear for the first hearing on a postal requisition. [Paragraph 8.18]

**2.9.** The CPS will want to address these compliance issues to improve their domestic abuse casework.

**2.10.** We define good practice as an aspect of performance or activity that demonstrates an innovative or creative approach and that leads to a positive change, improved quality or better performance, or represents value for money. Strengths are aspects where the CPS performs particularly well.

**Good practice**

In one Area, prosecutors have been instructed to send staged action plans to police to make it clear which items are essential before a charging decision can be made. This resulted from a review of cases with multiple action plans which showed that action plans were not staged, clear or proportionate. This measure will likely result in more timely charging decisions, with less delay for vulnerable victims. [Paragraph 5.51]

One Area has a Direct Contact Team that deals with communications and case progression tasks. The team is supported by a lawyer so that matters requiring legal input, such as acceptability of pleas or whether hard media can be served, are dealt with promptly. [Paragraph 7.28]

One Area has created a chat channel in Microsoft Teams for operational delivery staff to raise queries with their legal colleagues. This supports the prompt resolution of queries and provides useful guidance in case the same issue arises again. [Paragraph 7.29]

The paralegal officer pilot in magistrates' courts teams has the potential to significantly improve the efficiency of case progression, including the reduction of outstanding witness care communication and other tasks. This will free up lawyers' time for work that requires legal experience, provide a better service to witness care units, victims and witnesses, and build skills and morale across magistrates' courts teams. Whilst our file examination predated the introduction of the pilot, the early signs from the other evidence we gathered are that it is delivering benefits. [Paragraph 7.45]

In some Areas, prosecutors send the police an extract of the CPS legal guidance which explains the information needed in the background report from the police when the victim withdraws their support for a prosecution. [Paragraph 8.8]

Dip-sampling the quality of police forms which set out what special measures the victim or witnesses may require, with feedback to the police, enables the CPS to drive improvements that support victims. [Paragraph 8.36]

National online training for the new offences of suffocation and strangulation was timed to coincide with the relevant legislation coming into force. [Paragraph 10.6]

One Area we visited provides a comprehensive guidance pack for agents and holds regular meetings with them to provide training and updates on developments. They also use the meetings to give and receive feedback. [Paragraph 10.16]

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## Strengths

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Prosecutors are making Code compliant charging decisions in most cases (97.3%). [Paragraph 5.7]

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Prosecutors are selecting charges that are appropriate and proportionate in reflecting the criminality involved and give the court adequate sentencing powers. [Paragraph 5.18]

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Prosecutors are making Code compliant decisions after charge in most cases (96.3%). [Paragraph 7.2]

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Prosecutors are demonstrating a good application and understanding of the domestic abuse policy and guidance when it comes to deciding whether to summons a reluctant victim. [Paragraph 7.41]

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Prosecutors are applying for restraining orders to protect victims of domestic abuse in appropriate cases. This includes prosecutors making robust applications following a defendant being acquitted. [Paragraph 8.61]

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## Key findings

### Casework quality

**2.11.** We found that 97.3% of the cases we examined where the CPS had advised charge complied with the Code for Crown Prosecutors ('the Code')<sup>3</sup>. To comply with the Code, prosecutors must assess the material supplied by the police and apply a two-stage test. The first stage is deciding whether there is sufficient evidence for a realistic prospect of conviction. The second is deciding whether a prosecution is required in the public interest. Only if both stages are met should the prosecutor advise charging. We also found that 100% of the cases we examined where the CPS had advised that no further action be taken (effectively stopping the case before charge) were Code compliant. This is a strength.

**2.12.** The CPS made timely charging decisions, or the delay was minimal and had no material impact in most of the cases we examined. There were, however, several issues with the operation of the six-month summary time limit (STL) for some offences<sup>4</sup>. These included cases that were presented by the police to the

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<sup>3</sup> *The Code for Crown Prosecutors*; CPS; October 2018.

[www.cps.gov.uk/publication/code-crown-prosecutors](http://www.cps.gov.uk/publication/code-crown-prosecutors)

<sup>4</sup> Our files pre-dated the change to the time limit for some domestic abuse allegations. From 28 June 2022, S.49 of the Police, Crime, Sentencing and Courts Act 2022 introduced a new section 39A into the Criminal Justice Act 1988. This means for cases of common assault or battery where the alleged behaviour of the accused amounts to domestic abuse (as defined by section 1 of the Domestic Abuse Act 2001), the six-month prosecution time limit does not run from the date of the alleged offence but rather from when the alleged offence is

CPS very close to, or after, the STL or where the CPS set a target date for charging advice to be given which post-dated its expiry. There is no agreed mechanism or process across Areas for the police to notify the CPS of an impending STL when submitting a file for advice or for the CPS to notify the police on the provision of authority to charge, of an impending STL. In some cases, this led to the police not raising a summons or charging the suspect until after an STL even though a prosecutor had advised charge within the STL. One of the pre-charge decisions, and three of the post-charge review cases that we assessed as not Code-compliant, featured issues with the STL. We make two recommendations regarding STLs.

## **A clear analysis of the material and a thoughtful case strategy are key**

**2.13.** Prosecutors are good at selecting the appropriate charges to reflect the offending and give the court adequate sentencing powers, including to make protective orders. In 82.8% of the cases where the CPS decided to charge, we assessed the prosecutor as fully meeting

the standard for the selection of charges. This is a strength.

**2.14.** Prosecutors also performed well in providing sufficient information to enable the police to explain the decision to the victim where the CPS advised no further action, with 70.0% of cases fully meeting the expected standard.

**2.15.** The Director's Guidance on Charging, sixth edition (DG6)<sup>5</sup> requires the police to provide a risk assessment to the CPS at the pre-charge review stage. In most cases, the risk assessment was missing and neither the CPS administrative triage nor the prosecutor identified the omission and requested the document. This meant that prosecutors were making charging decisions without considering victim safety and support needs, or other offending and possible bad character evidence that may have been disclosed within it. We make a recommendation in this regard.

**2.16.** A clear analysis of the material and a thoughtful case strategy are key to the efficiency and effectiveness of later stages in a case. In all domestic abuse cases, irrespective of whether the victim supports the prosecution at the outset, CPS policy requires a consideration of whether to progress a case and how to go about it if a victim does not support a prosecution. They should start by

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formally reported to the police through either a witness statement or a video recorded interview. It is subject to an overall time limit of a prosecution being commenced within two years of the alleged offence occurring.

<sup>5</sup> *Charging (the Director's guidance) – sixth edition*; CPS; December 2020. [www.cps.gov.uk/legal-guidance/charging-directors-guidance-sixth-edition-december-2020](http://www.cps.gov.uk/legal-guidance/charging-directors-guidance-sixth-edition-december-2020)



building cases in which the prosecution does not need to rely on the victim. This is known as an evidence-led prosecution (ELP).

**2.17.** We found that the quality of pre-charge case analysis and strategy was poor, and we identify this as a compliance issue. We assessed 12.3% of cases as fully meeting the standard for a proper case analysis and strategy. The remaining cases were almost evenly split between assessments of partially meeting and not meeting the standard. Issues included failure to address potentially undermining material, failure to identify issues or defences that could reasonably arise and articulate how they could be countered, and failure to consider how elements of offences would be proved. Many of the cases did not include any analysis or consideration of evidence-led principles.

**2.18.** It is important to consider evidence-led prosecutions in domestic abuse cases because of the higher rates of victim and witness attrition. We assessed how well prosecutors had set out a clear case strategy at the pre-charge review stage, showing how the case might be developed to proceed as an evidence-led prosecution (ELP) if need be. We found that prosecutors were fully meeting the standard in 21.4% of cases, partially meeting it in 25.9% of cases and not meeting the standard in 52.7% of cases. Failure to address it at this early stage resulted in some lost opportunities to gather evidence that could have enabled the prosecution to continue when the victim later withdrew their support. We identify this as a compliance issue.

**2.19.** The 2020 evidence-led domestic abuse joint inspection found that ELPs were properly considered at pre-charge review stage in 57.9% of cases and not considered in 42.1% of cases. Our findings indicate that performance has declined since. The 2020 joint inspection report recommended that prosecutors ensure that, in all domestic abuse cases, at the charging stage they clearly set out whether an ELP is viable and if so, define an effective prosecution strategy.

## Many of the cases did not include any analysis or consideration of evidence-led principles

**2.20.** We were told in interviews with CPS legal managers and saw in documents that had been provided that poor performance persisted in relation to case analysis and trial strategy, including consideration of evidence-led principles. Many Areas had previously and more recently provided bespoke training for

their prosecutors. Some of the more recent training had been delivered towards the end of our file examination and prior to our Area visits so we could not assess the impact of such training. However, during our on-site interviews with prosecutors, it was clear that they understood why there is a need to address

ELP within their pre-charge review. They now need to ensure they are considering this in every case and evidencing it in their reviews.

**2.21.** Another recommendation in the 2020 joint inspection report was that at the further review stage, prosecutors should clearly outline a strategy for proceeding as an evidence-led prosecution in all appropriate domestic abuse cases. Our findings identify there is still a need for greater awareness and proper recording of the consideration of evidence-led prosecutions, but we did find that prosecutors more consistently considered ELP if a victim retracted their support after charge. The issue is live at that stage, whereas at the pre-charge review, in many cases, it is still abstract as the victim is often still supportive of the case. In post-charge reviews, we assessed 20.6% of the relevant cases as not meeting the standard. This is better than the 2020 evidence-led domestic abuse joint inspection when in 40.1% of cases prosecutors had not considered whether the case was suitable to continue without the victim's participation.

**2.22.** CPS compliance, with its duties of disclosure within the charging advice, requires improvement to ensure that unused material features in a cohesive case strategy, especially to reflect where there is material that may undermine the strength of the prosecution case. We assessed 22.6% of cases as fully meeting the standard for this aspect, 38.9% of cases as partially meeting the standard and 38.5% of cases as not meeting the standard. We identify this as a compliance issue.

## **Prosecutors more consistently considered ELP if a victim retracted their support after charge**

**2.23.** Whilst the police are responsible for criminal investigations, prosecutors are required to identify and, where possible, seek to rectify evidential weaknesses and advise the police on reasonable lines of enquiry. We found that prosecutors are not using action plans as effectively as they could do to build strong cases. In just over a quarter of cases we

assessed action plans as not meeting the standard. This included cases where there was no action plan when one was required to deal with outstanding lines of enquiry. We assessed half of the action plans as partially meeting the standard. Following on from failings in many cases to proactively consider evidence-led principles, necessary actions to support an ELP such as obtaining 999 calls and officers' body worn video (BWV) of first accounts and/or the scene of an incident were missed. However, in one Area, prosecutors have been instructed to send staged action plans to police to make it clear which items are essential before a charging decision can be made. We identified this as good practice.

**2.24.** After charge, reviews and strategy are vitally important to a case's effective and efficient progress. We found that 96.3% of post-charge reviews

were Code compliant. This is a strength. Two of the ten cases that were not Code compliant were due to the prosecution stopping a case when it should have proceeded. One case was stopped due to a misunderstanding regarding the statutory time limit. The second was stopped due to a misunderstanding of *res gestae*<sup>6</sup> evidence where there was sufficient evidence for the case to proceed as an evidence-led prosecution.

## **We found that prosecutors were making sound decisions when it came to deciding whether to seek a witness summons for an unsupportive victim**

**2.25.** The CPS is progressing domestic abuse cases effectively at the first hearing. We assessed 89.8% of cases as fully meeting the standard. This is a real strength as it limits any delay for victims which can lead to increased victim attrition.

**2.26.** Post-charge reviews did not always adequately reflect changes to the trial strategy or demonstrate a continued application of the domestic abuse policy and guidance. Inadequacies in pre-charge reviews around

ELP and missing risk assessments were rarely rectified in later reviews.

**2.27.** When a victim withdraws their support after charge, the police should send a background report. The report should cover the officer's view of the case, including an assessment of any reasons the victim has given for withdrawing their support, whether it is suspected that there has been pressure on the victim to withdraw, and the officer's view on how the case should be dealt with. It is an important document as it assists the prosecutor in deciding if there is sufficient evidence and if it is still in the public interest to continue with the prosecution. It can also help the prosecutor to decide whether additional charges (such as witness intimidation or harassment) would be appropriate, whether it would be right to seek a witness summons to compel the victim to give evidence and whether there is evidence to support a hearsay application, for example, due to the victim being in fear. In the cases where it was omitted, we found that the CPS were often not asking for the report. In some Areas, prosecutors send the police an extract of the CPS legal guidance setting out the information needed in the background report from the police when the victim withdraws their support for a prosecution. We identify this as good practice.

**2.28.** We found that prosecutors were making sound decisions when it came to deciding whether to seek a witness summons for an unsupportive victim. This is

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<sup>6</sup> *Res gestae* is an exception to the rule against hearsay evidence. For more information, see the CPS guidance on hearsay. [www.cps.gov.uk/legal-guidance/hearsay](http://www.cps.gov.uk/legal-guidance/hearsay)

a strength. The recording of their rationale for the decision could however be improved.

**2.29.** As with the pre-charge advice, after charge, improvements are required in prosecutors' compliance with their disclosure duties. In 24.1% of cases, we assessed compliance with the initial disclosure duty as fully meeting the required standard. In a further 38.7% of cases, we assessed initial disclosure as partially meeting the expected standard, and in the remaining 37.2% of cases as not meeting the standard. In the weaker cases, we found prosecutors had failed to identify items of unused material that were disclosable or had failed to identify when obvious items of unused material (whether disclosable or not) were not listed on the schedule sent by the police. We identify this as a compliance issue.

**2.30.** We found that better use could be made of applications such as bad character and hearsay to strengthen cases effectively. We assessed 15.5% of cases as fully meeting the standard for appropriate applications being used, 18.3% of cases as partially meeting the standard and 66.2% of cases as not meeting the standard. The weaker cases featured a lack of application where one was clearly indicated, poorly drafted applications, and reliance on the fact of a previous conviction rather than its detailed circumstances. The lack in many cases of a risk assessment could mean that some opportunities to identify possible bad character evidence are being missed.

**2.31.** The CPS's relationship with the police and others in the criminal justice system can impact casework quality. We found that relationships were good with police and other stakeholders at a strategic and local level. Many resources were being allocated and many meetings taking place, but it was often difficult to see evidence of any resulting improvement in the casework.

**2.32.** Police file quality was poor at both the pre-charge and post-charge stages with rates of non-compliance with the National File Standard (NFS) in our file sample assessed at 84.7% before charge and 85.0% after charge. The main failing identified at both stages was missing risk assessments. We found that the CPS too often did not feed back to the police on poor performance. In 68.1% of the cases where the police file did not comply with the NFS for pre-charge submission, the CPS did not adequately feedback on the failings. In 80.6% of cases where the police file did not comply with NFS for post-charge submission, the CPS did not adequately feedback on the failings. Prosecutors' use of the Director's Guidance Charging Assessment feedback mechanism and the chaser task for late action plan responses needs to improve. We have identified these as compliance issues.

**2.33.** Although Areas have escalation policies in place to deal with incomplete or late responses from the police, we found they were used inconsistently.

Failing to escalate issues through managers often means that matters are not resolved as quickly and effectively as they should be. We identify this as a compliance issue.

**2.34.** The CPS and police have regular meetings to discuss performance data and key aspects which impact on casework quality. However, some Areas felt there is an over-reliance on CPS data and that commitment to an agreed data set with the police is needed. We were told that CPS and police are working at a national level to get a nationally agreed data set which will include more helpful police data. This should give a fuller picture of performance issues impacting on domestic abuse casework quality.

**2.35.** We found that the best practice framework<sup>7</sup> is inconsistently applied in Areas. We did not find evidence that the specialist domestic abuse courts (SDACs) we visited are achieving better results for domestic abuse victims because many of them are not being run as envisaged for SDACs. For example, we found that Independent Domestic Violence Advisors (IDVAs) were not present at some courts, domestic abuse remand cases were not being listed and non-domestic abuse cases were appearing in the SDAC court list. We consider that a clustering of domestic abuse NGAP and GAP courts would address some of the listing issues with SDACs and if implemented in line with the best practice framework would afford a better service to victims of domestic abuse.

**2.36.** The findings from individual quality assessments (IQAs) and other quality assurance methods undertaken by the CPS frequently supported our file examination findings, especially regarding the quality of case strategy and analysis and the lack of sufficient consideration of whether and how the case could proceed if the victim withdrew their support. We make a recommendation to ensure that the number of IQAs conducted on domestic abuse cases is subject to a mandatory minimum.

## **Support and protection for, and communication with, victims**

**2.37.** We consider that there is scope to improve prosecutors' knowledge and understanding of the impact of trauma on victims, a view that the third-sector organisations supporting victims that we spoke to endorsed. We make a recommendation for training to help address this.

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<sup>7</sup> *Domestic abuse prosecutions supported by new framework*; CPS; December 2018.

[www.cps.gov.uk/cps/news/domestic-abuse-prosecutions-supported-new-framework](http://www.cps.gov.uk/cps/news/domestic-abuse-prosecutions-supported-new-framework)

**2.38.** The CPS delivered national online training for the new offences of suffocation and strangulation, timed to coincide with the relevant legislation coming into force. We identify this as good practice.

**2.39.** We were told by the CPS national domestic abuse lead and CPS policy leads that the CPS needs to carry out a review for cases charged under the new legislation. However, they told us that the initial signs suggested that providing key information through a training podcast and publicising it in advance, were embedding the information with prosecutors at an early stage. The good feedback they have received from prosecutors and the number of cases prosecutors had charged shortly after its implementation were indicative to them of its success.

**2.40.** Pre-charge reviews were weak when setting out the defendant's bail status and the prosecution's position on bail. This was particularly so if the defendant had been released under investigation by the police. We assessed 66.7% of cases as not meeting the standard. Prosecutors should evidence their assessment of the situation and the victim's safety, and provide instructions on an application for conditional bail if conditions are considered necessary to address any of the fears identified in the exceptions to bail. If conditions are not considered necessary, the reasoning for this should be evidenced in the review. We identify this as a compliance issue.

**2.41.** After charge, we found that timely and appropriate decisions about bail and custody were generally good. It is ultimately a matter for the court to decide a defendant's bail or custody status, but the prosecution should make appropriate applications. We assessed 85.5% of cases as fully or partially meeting the standard.

**2.42.** There is room for improvement in how victim and witness issues are considered and dealt with at the pre-charge review stage. We assessed 45.3% of the relevant cases in our file sample as fully meeting the standard for active consideration of pre-charge applications and ancillary matters to support victims. This included early consideration of special measures, Victim Personal Statements (VPS) and restraining orders.

**2.43.** To ensure early support for a victim to give their best evidence, prosecutors made oral applications for special measures at the first hearing in most cases, even those where the pre-charge advice lacked specific instructions about special measures. Unfortunately, the measures they applied for were not always what the victim wanted or needed due to the lack of proper probing and instructions at the pre-charge review stage when the police information did not provide adequate information. Some Areas have carried out dip-sampling of the quality of police forms setting out what special measures the victim or witnesses



may require, with feedback being provided to the police. We identify this as good practice.

**2.44.** We found no evidence of special measures meetings taking place. There were 18 cases where the information from the police indicated that the victim or witness wanted a special measures meeting, but the CPS did not offer one and one did not take place.

**2.45.** Pre-trial court visits are useful to help victims and witnesses familiarise themselves with the court surroundings and how special measures will work in practice. They can lessen the victim's anxiety on the day of the trial. However, we found it difficult to assess how well they are being utilised and what impact they may be having on keeping victims supportive of a prosecution because of a lack of recording. We encourage the CPS to discuss with agencies through their Local Criminal Justice Board meetings the need for the witness care unit to note whether a visit had been offered and the offer taken up.

## Innovations are helping to address some of the issues we had identified around witness care unit communication handling

**2.46.** The CPS has a policy on speaking to witnesses at court (STWAC), but we found inconsistent compliance. We assessed 50.3% of cases as fully meeting the expected standard, 23.1% as partially meeting the standard and 26.5% of cases as not meeting the standard. We received positive feedback from partner agencies and the third sector about good communication that prosecution

advocates have with victims at court on the day of trial. We saw many examples of this during our court observations. This indicates that in most cases the required conversations are taking place and it is the recording of these conversations on hearing record sheets that needs attention.

**2.47.** The CPS's handling of correspondence from witness care units requires improvement for victims to feel better supported. We rated 56.3% of cases as fully meeting the standard for timely and effective actions being taken in response to witness communications. However, 23.0% of cases were assessed as not meeting the standard. Prosecutors told us that their competing demands and workloads mean they cannot always deal with such correspondence in a timely way.

**2.48.** The CPS is piloting the use of paralegal officers to deal with witness communications and other case progression tasks in four Areas, including two of the Areas we visited. In addition, another Area we visited has set up a Direct Contact Team to deal with witness queries, with recourse to a support lawyer

where required. Legal managers in these Areas told us that these innovations are helping to address some of the issues we had identified around witness care unit communication handling. They are also reducing backlogs in tasks on the CPS case management system relating to witness care unit communications. Another Area has set up a Microsoft Teams chat for operational delivery and legal staff where questions on communications and other tasks can be asked and answered. This also provides a repository of answers if the same question arises again.

**2.49.** Allocating tasks to the correct staff grade, providing support to operational delivery staff, and making good use of the skills and experience of paralegal officers can free up prosecutor resources to deal with matters requiring legal input. We identified the paralegal pilot, the Direct Contact Team, and the Microsoft Teams chat as good practice.

**2.50.** The arrangements for the provision of independent domestic violence advisors (IDVAs) and other third-sector agency support differ greatly across different geographical regions. Funding plays a key part. Where IDVAs were regularly present in court we found good evidence of prosecutors liaising with them and building strong relationships. However, witness care units are not regularly recording the details of IDVAs. As a result, unless prosecutors have direct routine contact with the IDVAs in the Area or the IDVA is present at court, the prosecutor will not be aware that there is an IDVA supporting the victim from whom they could get valuable input and information to help support the victim.

**2.51.** The CPS needs to improve its adherence to its obligations regarding Victim Personal Statements (VPSs). We assessed half the relevant cases in our file sample as fully meeting the standard for VPS handling, with a fifth rated as not meeting the standard. We noted that the CPS rarely request an updated VPS for the sentencing hearing in appropriate cases where the original VPS may have been taken many months earlier, where circumstances may have changed either for better or worse and potentially before the impact of the offending has made itself felt. Accurate information should be supplied to the court for sentencing purposes and to assist with applications for restraining orders. We make a recommendation in this respect.

**2.52.** The CPS seeks appropriate restraining orders to protect the victim in most cases. We saw examples of robust applications being made for restraining orders on acquittal as well as conviction. We assessed 81.1% as fully meeting the standard. This is a strength.

**2.53.** Our findings show that improvement is needed in the timeliness and quality of Victim Communication and Liaison scheme (VCL) letters to victims. We assessed 33.7% of letters as fully meeting the timeliness requirements,



## **The service from the CPS to victims of domestic abuse**

14.1% as partially meeting the standard and 52.2% as not meeting the standard. We assessed 44.1% of VCL letters as fully meeting expectations for quality, 35.3% as partially meeting the quality standard and 20.6% as not meeting the standard.

## 3. Context

## Background to the inspection

**3.1.** In January 2020, we and His Majesty's Inspectorate of Constabulary and Fire and Rescue Services published the report of our joint inspection of police and CPS handling of evidence-led prosecutions in domestic abuse. An evidence-led prosecution is one where the victim of domestic abuse decides not to support a prosecution and the Crown Prosecution Service (CPS) therefore needs to decide whether it is possible to proceed without them. The joint inspection found that there was not enough consideration given to evidence-led prosecutions and that handling of domestic abuse prosecutions required improvement.

**3.2.** We have also recently completed a CPS Area baseline inspection programme across all 14 geographical CPS Areas, which focused on casework quality, including the treatment and experience of victims in the criminal justice system. The need to improve case analysis and strategy and to address victim issues at the pre-charge decision stage were common themes. Whilst some domestic abuse cases were naturally captured within those assessments of the 14 CPS Areas, they were not a specific focus. This thematic inspection sought to drill down into magistrates' court domestic abuse casework in more detail, with an emphasis on how victims are supported and how victim issues are addressed to build stronger cases.

**3.3.** A core function of the CPS is to decide whether to bring a criminal prosecution by applying the principles set out in the Code for Crown Prosecutors ('the Code'), and to provide information, assistance and support to victims and witnesses. The CPS's commitment to support victims and witnesses states that the: "fundamental role of the CPS is to protect the public, support victims and witnesses and deliver justice. The CPS will enable, encourage and support the effective participation of victims and witnesses at all stages in the criminal justice process". This framework provides prosecutors with easy access to the key considerations that they should take into account when dealing with victims and witnesses.

**3.4.** The CPS has provided national guidance for prosecutors dealing with cases of domestic abuse. It sets out how prosecutors should apply the Code when considering any offences which fall within the definition of domestic abuse and reinforces the principle that the safety of victims is fundamental when prosecuting such cases.

**3.5.** Domestic abuse legal guidance has been available for a long time, but it has recently been updated to reflect changes brought about by the Domestic Abuse Act 2021 (DA Act). Further sections of the DA Act are due to come into

force later this year and it is expected that the guidance will again be updated once they have commenced.

**3.6.** Covid-19 brought immediate pressure upon the CPS and the wider criminal justice system. It had abated in the magistrates' court units and magistrates' courts themselves by the time we conducted this inspection. However, long-term effects are still evident in the CPS, police, and courts, with magistrates' court caseloads still 17% higher than pre-pandemic figures at the time of our inspection. We set out the impact of Covid-19 in more detail below.

**3.7.** Despite the pressures, the public expects and deserves the CPS to meet its requirement to provide high-quality legal decisions and case management. Our findings are therefore based on existing standards and expectations that the CPS sets itself, but where the pressures of the pandemic have impacted, we have provided the context to better understand the CPS's performance.

## The Covid-19 pandemic and the current landscape

**3.8.** Not long after the January 2020 publication of the joint inspection on evidence-led domestic abuse prosecutions, the Covid-19 pandemic struck worldwide. It created severe backlogs and delays in the criminal justice system. A joint inspection report<sup>8</sup> published in May 2022 by the criminal justice inspectorates, including HMCPsi, reported that, whilst restrictions had eased, some parts of the criminal justice system were struggling to recover sufficiently to provide acceptable levels of service. The report's most notable findings in relation to the CPS, which we develop further below, included:

- Overall, CPS staff numbers had increased, but that came at the cost of extra induction, training and mentoring work. Recruiting and moving staff around to cover vacancies and absences, or to deal with rising workloads, led to many staff, including managers, being inexperienced in their roles.
- Remote working also hampered efforts to upskill newer staff and meant some staff felt isolated. Despite strong support measures in place, staff were beginning to feel burned out.

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<sup>8</sup> *The impact of the COVID-19 pandemic on the criminal justice system – a progress report*, CJI; May 2022.

[www.justiceinspectorates.gov.uk/cji/inspections/chief-inspectors-warn-pandemic-recovery-in-the-criminal-justice-system-remains-elusive](https://www.justiceinspectorates.gov.uk/cji/inspections/chief-inspectors-warn-pandemic-recovery-in-the-criminal-justice-system-remains-elusive)

- Operational delivery staff and prosecutors faced significant challenges in managing increasing caseloads. The longer cases run, the more case tasks there are to manage.
- Some Areas took a deliberately light-touch approach to formal performance management, owing to fears that staff were losing resilience and morale was weakening. The additional time spent by line managers on welfare also impacted the time they had available to assure the quality of casework.
- Many of the Areas outside London reported that the availability of external advocates is a real issue, both for Crown Court cases and as agents in the magistrates' courts. This was at a time when the Areas needed more of both. It was apparent that Covid-19 had accelerated an existing crisis in the criminal bar.
- Pressures on defence practitioners had not eased substantially. The barriers to effective engagement between Areas and the defence also persisted. The ability to resolve cases early with acceptable pleas was hampered, so an opportunity was missed to prevent cases from going into long trial queues.

**3.9.** In addition to the backlogs created by the pandemic, the overall crime rate rose by 14% from October 2020 to September 2021, further increasing pressures. Live caseloads in the magistrates' court peaked nationally at 124,824 in the second quarter of 2020-21 (July to September 2020) but steadily declined thereafter. By the fourth quarter of 2021-22 (January to March 2022), live caseloads had reduced to 69,112. This was, however, still 17% above pre-pandemic levels. The level of recovery was not uniform across all CPS Areas. Some have found it harder to deal with the longer-term effects than others, with factors such as abstraction rates for sickness, levels of staff experience, and the ability to recruit and retain staff impacting differently.

**3.10.** Backlogs and delays in dealing with cases inevitably led to adverse experiences for some victims and witnesses and increased the likelihood that they would withdraw their support for a prosecution. The need to put in place more support, provide updates to victims and witnesses over a longer time frame, and maintain their engagement created additional pressure.

**3.11.** In recent years, there has been a fall in the number of referrals of domestic abuse cases from the police to the CPS. The rate at which the CPS advises charging in a domestic abuse allegation had remained steady at over 70%, but the volume of cases received by the CPS has fallen in line with the fall in referrals to the police. However, since the fourth quarter of 2020-21 (January to March 2021) there has been a slow upward trend in domestic abuse receipts and the latest data for the second quarter of 2022-23 (July to September 2022)

shows an increase in domestic abuse receipts of 3.7% compared to the previous quarter. The charge rate however decreased slightly in the second quarter of 2022-23 with charge volumes reducing from 77.2% in the previous quarter to 76.5%.

**3.12.** In the Areas we visited, CPS managers were aware of and shared concerns that fewer domestic abuse cases were resulting in a prosecution. They have been discussing rates of referral to the CPS and charge rates with their police partners and trying to identify relevant factors or causes. This inspection did not look at these issues specifically. More work would be needed to evaluate them, including reviewing a larger number of cases which concluded in a decision to take no further action than we were able to include in this inspection. However, it is envisaged that the CPS and police joint activity that we discuss in paragraphs 2.5 and 12.6 will provide both agencies with the forum to look at and address these issues at a national level.

**3.13.** Despite the challenges in bringing cases to court in good time, the conviction rate for domestic abuse cases in the magistrates' court remained relatively stable between April 2019 and March 2022. It reached a peak of 80.7% in the second quarter of 2020-21 but fell steadily to 75.7% in the second quarter of 2021-22. The rate increased to reach 78.4% in the fourth quarter of 2021-22. However, domestic abuse cases in which a guilty plea was entered at the first hearing have been reducing since 2019-20 from 35.98% in 2019-20 to 28.18% in 2021-22.

**3.14.** In August 2019, prior to the pandemic, the CPS was allocated an additional £85 million in funding over a two-year period to allow it to handle the work created by an increase of 20,000 police officers across England and Wales. The CPS intended to use the extra money to recruit almost 400 additional prosecutors and 100 operational delivery staff. By April 2020 the CPS had 220 new prosecutors in post and further recruitment was planned. However, providing induction, training, and mentoring for new staff added more pressure on staff already dealing with increased caseloads during the pandemic. As a result, the benefits of increased staffing levels were not immediate, and it took a considerable amount of time before new prosecutors were fully trained and had gained sufficient experience to take on a full caseload.

**3.15.** At the same time as the recruitment of new staff, staff turnover figures (which had reduced in 2019-20 and 2020-21) increased to 7.6% in 2021-22. Many of those leaving were experienced staff who were carrying significant caseloads and acting as mentors for new starters. There was also movement of staff between units internally to cover vacancies, rising caseloads and absences which depleted the number of experienced staff in some units. Most new prosecutors in the CPS are recruited into the magistrates' courts units where

they are likely to deal with a significant number of domestic abuse cases. Many of the prosecutors we spoke to in our focus groups told us that they had been in post for less than two years. In our Area inspections carried out between 2020 and 2022, we found that in many CPS Areas there were a significant number of legal managers who were new to the role and still in the process of gaining experience.

**3.16.** Areas have been given flexibility in deciding how their casework teams are structured to deal with pressures and demands. One Area we visited had created a specialist domestic abuse magistrates' courts team, consisting of six prosecutors. The prosecutors do not generally undertake pre-charge advice on cases, because the Area has its own charging hub. They are allocated the more complicated charged domestic abuse cases. The same prosecutor reviews the not guilty anticipated plea (NGAP) then prosecutes them in the specialist domestic abuse court. They told us that they very rarely prosecute domestic abuse trial courts, which are normally covered by agent advocates. The prosecutors have had no more training than their colleagues working in the main magistrates' courts team, where a proportion of the domestic abuse casework remains.

**3.17.** In another Area we visited, they had recently introduced an operational delivery team called the direct contact team (DCT). This team is supported by a designated lawyer. The DCT deals with communications and case progression tasks such as the service of initial details of the prosecution case (IDPC) on the court and defence. With legal support from the designated lawyer, decisions can also be made when queries arise before the first hearing on issues such as plea offers and whether hard media can be served.

**3.18.** The CPS is piloting the use of paralegal officers (POs) for case progression in magistrates' courts teams, including domestic abuse casework. The pilot is part of the national response to the continuing pressures faced by Areas due to the Covid-19 pandemic. It was announced in March 2022 and started in four CPS Areas in July 2022. Our file examination predated the implementation of the pilot, so we were limited in our ability to assess the impact of it on casework, but initial reports of the benefits to case progression are positive.

## Legal landscape

### Specialist Domestic Abuse Courts (SDACs)

**3.19.** Specialist Domestic Abuse Courts (SDACs) were piloted in England and Wales in 1999 and rolled out nationally in 2005. They were borne out of the recognition that domestic abuse differed from other types of offences owing to the complex relationship between victim and defendant. There was also an acceptance that the criminal justice system had failed to provide an effective response to these cases.

**3.20.** SDACs are intended for the first appearances and sentencing of defendants who are charged with domestic abuse. There are 12 key components<sup>9</sup> to an SDAC, but we found that some of these core principles are not being delivered consistently in some courts. SDACs differ widely across England and Wales, and their effectiveness can depend to a large extent on the collaborative partnership between agencies and with the voluntary sector. We detail in Chapter 12 what we found when we visited and observed SDACs.

**3.21.** At the time of writing this report, Standing Together Against Domestic Abuse (a national charity)<sup>10</sup> is in the process of finalising their national mapping of SDACs. They aim to compile a list of which areas still have SDACs, and to understand how domestic abuse cases are dealt with where there is no SDAC.

### Best practice framework

**3.22.** In 2015, an in-depth examination was commissioned into the capacity and capability of the criminal justice system to respond effectively to domestic abuse cases and effectively support victims. It emphasised the importance of all agencies working closely together to ensure that cases are handled effectively, and victims and witnesses are supported appropriately to increase their safety and satisfaction in the criminal justice system.

**3.23.** The deep dive involved an exploration and analysis of the differing levels of performance in domestic abuse across local criminal justice system areas. Areas achieving higher early guilty plea rates and higher conviction rates after trial than the national average were visited to try and identify the factors that led to these higher rates.

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<sup>9</sup> *Specialist Domestically Violence Court Programme: Resource Manual*; CPS; March 2008.

[www.cps.gov.uk/publication/specialist-domestic-violence-courts-resource-manual](http://www.cps.gov.uk/publication/specialist-domestic-violence-courts-resource-manual)

<sup>10</sup> *Criminal justice*; Standing Together.

[www.standingtogether.org.uk/criminal-justice](http://www.standingtogether.org.uk/criminal-justice)



**3.24.** Early findings from the deep dive identified that there were four main best practice components to achieving successful outcomes in domestic abuse cases:

- A clear multi-agency/community approach which addresses risk management and safeguarding procedures.
- Independent domestic violence advisor (IDVA) support
- Trained and consistently deployed staff across all agencies.
- In-court services such as proactive witness services, pre-trial familiarisation visits and appropriate use of special measures

**3.25.** As a result of the work done, a best practice framework was developed and tested across lower-performing criminal justice system court sites between 2016 and 2018. Afterwards, these sites all reported improved performance in domestic abuse cases, and they all reached levels of performance in line with, or above, the national average. The National Criminal Justice Board then approved the national rollout of the model.

**3.26.** In December 2018, the best practice framework<sup>11</sup> was launched at a national conference and implemented across England and Wales in January 2019. As it was a cross-agency initiative between the CPS, police and HM Courts and Tribunals Service (HMCTS), the domestic abuse regional leads for the criminal justice system agencies across England and Wales organised the implementation of the framework in their respective areas. This enabled areas to re-visit what they were doing and look at the operation of their SDACs and what elements were important in securing the best outcomes and support and protection for victims.

**3.27.** We were told that feedback and data returns were initially being provided by Areas, to assess how the four components were working. There were plans in late 2019 and early 2020 for a stocktake to be undertaken of how the framework was embedding. However, the pandemic then hit, leading some local criminal justice system areas to have to pause their focus on the framework. As backlogs within the magistrates' courts reduce and caseloads stabilise, the expectation is that Areas will re-focus attention on the framework. We were told there would be a cyclical process to inform comprehensive insights into domestic abuse performance which will be reviewed on a quarterly basis,

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<sup>11</sup> *Domestic abuse prosecutions supported by new framework*; CPS; December 2018.

[www.cps.gov.uk/cps/news/domestic-abuse-prosecutions-supported-new-framework](http://www.cps.gov.uk/cps/news/domestic-abuse-prosecutions-supported-new-framework)

beginning in the third quarter of 2022-23 (January to March 2023). This will also include a series of staff workshops in Areas, facilitated by the Strategy and Policy Directorate (SPD) and the Performance Management Unit (PMU).

## **Domestic abuse landscape review**

**3.28.** In 2021, the victim-focused crime sub-group of the CPS's Legal Governance Group commissioned a landscape review of domestic abuse within CPS Areas. The aim of the review was to ensure that changes to the domestic abuse policy translated successfully into operational change to drive improvements in casework quality. The review provided a snapshot of local Area governance, implementation of the domestic abuse best practice framework and Areas' responses to the decline in receipts. It identified factors contributing to variations in Areas and aspects of good practice. The conclusions and recommendations have set the direction for the Domestic Abuse Programme 2022/23<sup>12</sup>. The programme is underpinned by a commitment to prioritise referrals and joint work to increase the volume of domestic abuse prosecutions. The impact of the Domestic Abuse Programme is monitored through the CPS business plan and evaluated by the Domestic Abuse Steering Group.

## **The Victims' Bill**

**3.29.** The draft Victims' Bill was published on 25 May 2022 with the aim of improving the experiences of victims and helping them to navigate the criminal justice system. The Bill contains measures to make victims' entitlements clearer. It also preserves the main principles of the Victims' Code in legislation so that it is clear what victims can and should expect from the criminal justice system. It also aims to improve the support for victims through better coordination of local support services. Statutory guidance will state that victims have the right to be supported by Independent Domestic Violence Advisors (IDVAs) through the criminal justice system. There is a risk that the Bill will put an additional strain on already stretched services, particularly as domestic abuse victims become more aware of their rights. To counter this, there has been increased funding for support services. The Victims' Bill is due to be introduced to Parliament imminently.

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<sup>12</sup> *Domestic abuse: context and challenges*; CPS.  
[www.cps.gov.uk/domestic-abuse-context-and-challenges](http://www.cps.gov.uk/domestic-abuse-context-and-challenges)

## The Domestic Abuse Act 2021

**3.30.** The Domestic Abuse Act 2021 (DA Act) created a statutory definition of domestic abuse. New offences were created by the Act, including non-fatal strangulation and non-fatal suffocation. It also provided victims of domestic abuse an automatic eligibility for special measures on the grounds of fear or distress. Whether the court grants special measures will still depend on whether it considers the measures would be likely to improve the quality of the victim's evidence.

**3.31.** Some parts of the DA Act are not yet in force, including new police powers such as issuing domestic abuse protection notices and applying to the court for a domestic abuse protection order. These are to be piloted in certain police forces initially.

### Legal guidance

**3.32.** The CPS legal guidance on domestic abuse has recently been revised to reflect legislative changes brought in by the DA Act. Further sections of the DA Act are still due to come into force and the guidance is expected to be updated again when this happens. It promotes a revitalised 'offender-centric' approach to case building. It sets out a clear expectation that a strategy for evidence-led prosecutions should be developed from the outset. The guidance also tackles the need to identify and address misconceptions and assumptions to ensure a proper case strategy is developed and strong cases are built without preconceptions of how a victim will look or behave. It provides guidance on the new statutory time limits for offences of common assault and battery which amount to domestic abuse. It is a very comprehensive and detailed document which sets out how prosecutors should apply the Code when considering offences that fall within the definition of domestic abuse.

**3.33.** The CPS provides other guidance on the commitments to support victims and witnesses, which it describes as a new framework to give prosecutors easy access to the key considerations they should consider in their dealings with victims and witnesses.

### Domestic abuse policy statement

**3.34.** The CPS has developed a stand-alone domestic abuse policy statement which was published on 5 December 2022<sup>13</sup>. This is to explain to victims, witnesses, defendants and the public, the CPS's role in delivering justice in domestic abuse cases and how they handle such cases.

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<sup>13</sup> *Domestic abuse: policy statement*; CPS; December 2022.  
[www.cps.gov.uk/publication/domestic-abuse-policy-statement](http://www.cps.gov.uk/publication/domestic-abuse-policy-statement)

## **4. Framework and methodology**

## The inspection framework

4.1. We devised an overarching inspection question with ten criteria underpinning it. Each criterion had a number of sub-questions, which are included in the full framework set out in Annex A.

### Inspection question

4.2. How effective and efficient is the Crown Prosecution Service (CPS) in building strong cases that support and protect victims of domestic abuse?

### Inspection criteria

1. Are domestic abuse cases receiving proper care and consideration when the CPS is reviewing cases pre-charge?
2. Is the CPS working collaboratively with the police in cases of domestic abuse by timely communication and liaison, building evidentially strong cases and ensuring victims have the support and information required?
3. Does the CPS handle domestic abuse prosecutions proactively and efficiently following a suspect being charged?
4. Is the CPS effectively considering measures both pre and post-charge to assist domestic abuse victims in getting the right support at court and to enable them to give their best evidence?
5. Does the CPS make appropriate applications in respect of protective orders and bail/remand so that victims of domestic abuse are being properly protected?
6. Are victims of domestic abuse consulted and communicated with at appropriate stages of their case?
7. Is the CPS working well with criminal justice partners at operational and strategic levels to resolve barriers to effective casework and to improve domestic abuse victims' experience?

8. Can domestic abuse victims be confident that the CPS provides sufficient training and support to prosecutors?
9. Are the Individual Quality Assessments effective in the CPS determining the quality of domestic abuse casework and are they used to improve cases for all victims?
10. Does the CPS use other quality assurance and feedback mechanisms (such as adverse case reports, dip-sampling, and engagement with community groups and local scrutiny and improvement panels) to improve the service provided to victims of domestic abuse?

## Methodology

### Terminology

**4.3.** There are various terms used to describe someone who has experienced and/or reported domestic abuse. They are often called a complainant, a victim, or a survivor. We have used the term “victim” for ease and consistency. Those who are alleged to have perpetrated abuse are variously called the abuser, the suspect, or the defendant. This report uses “suspect” to clarify that the person was either not charged with or not convicted of an offence. We use “defendant” in all other instances. We mean no disrespect by any of these choices.

### File examination

**4.4.** Inspectors examined 300 recently finalised magistrates’ court files flagged as domestic abuse, 50 cases from each of the six CPS Areas visited. The sample did not contain any cases dealt with by the Crown Court unit, rape and serious sexual offence unit or the complex casework unit. A separate inspection will take place into domestic abuse cases dealt with by these units. The file sample included cases with youth defendants, stalking and harassment offences, controlling and coercive behaviour, cases in which the defendant had been remanded in custody and files in which the CPS had made the decision to take no further action in the case.

**4.5.** HMCPSI house style is to round figures to a single decimal point so where percentages are cited, they may not total 100%.

## **Interviews and focus groups**

**4.6.** Interviews were held in each of the six CPS Areas with CPS staff and relevant external stakeholders. Inspectors interviewed CPS staff including the Deputy Chief Crown Prosecutor with responsibility for magistrates' court casework, CPS domestic abuse leads, focus groups of prosecutors working in the magistrates' court unit and any appropriate paralegal staff in magistrates' court units. Stakeholder interviews included district judges, court legal managers, police officers dealing with domestic abuse cases, defence solicitors, independent domestic violence advisors (IDVAs), witness service representatives, and local third-sector groups. Interviews were also held at a national level with CPS staff including the CPS national leads for domestic abuse and stalking and harassment, senior policy advisors and the legal training manager at CPS headquarters. Inspectors also met with the Domestic Abuse Commissioner.

**4.7.** We spoke with third-sector groups concerned with domestic abuse, including Victim Support, Rights of Women, Refuge and Women's Aid to gain insight into the victims' views on the prosecution process. On our behalf, Women's Aid sent out a survey to survivors of domestic abuse and Refuge held focus groups with survivors to collect feedback. Following these, we held a meeting with Refuge, Women's Aid, and the Domestic Abuse Commissioner's office to discuss the survivors' remarks and get feedback on other aspects of our inspection. We are grateful to these three organisations for their participation and assistance.

## **Document review**

**4.8.** Inspectors examined documents requested from the Areas and CPS Headquarters. We examined documents relating to domestic abuse training available to staff and local training plans, details of performance monitoring and examples of any casework learning arising from domestic abuse cases, copies of meeting minutes with criminal justice partners where domestic abuse was discussed and details of any local joint initiatives for dealing with domestic abuse. We also asked for minutes of local scrutiny and involvement panels where domestic abuse cases had been discussed.

## **Court observations**

**4.9.** During the on-site visits, inspectors attended magistrates' courts and observed courts in which domestic abuse cases were listed, whether these were specialist domestic abuse courts, trial courts or non-specialist courts. We spoke informally to court users as part of these observations.

## **5. Pre-charge decisions**



**5.1.** While it is the police who investigate criminal allegations, in many cases the CPS decides whether a suspect should be charged and with what. The CPS then conducts the case through to the end. The police have powers to charge some offences without consulting the CPS, including those expected to be a guilty plea and suitable to be dealt with in the magistrates' courts. However, if the allegation is of domestic abuse, the police are not authorised to charge the suspect without CPS advice.

**5.2.** Once the case is with the CPS, they review the evidence and other material sent by the police and make their decision based on the Code for Crown Prosecutors (the Code). This is a public document issued by the Director of Public Prosecutions, which sets out the general principles prosecutors should follow when making decisions on cases.

## Complying with the Code

**5.3.** Compliance with the Code requires prosecutors to assess the material supplied by the police and to apply the two-stage test. The first stage is deciding whether there is sufficient evidence for a realistic prospect of conviction and the second is whether a prosecution is required in the public interest.

**5.4.** The first, or evidential stage, is an objective test that the prosecutor must consider. It means that a bench of magistrates, properly directed in accordance with the law, will be more likely than not to convict the defendant of the alleged charge. This is a different test from the one the criminal courts must apply which is that they should only convict if they are sure of a defendant's guilt.

**5.5.** The second stage (or public interest stage) will only be considered if the prosecutor concludes that the evidential test has been met. Where there is sufficient evidence for a realistic prospect of conviction, a prosecution will usually occur unless the prosecutor is satisfied that there are public interest factors against prosecution which outweigh those tending in favour. In reaching this decision, prosecutors must have regard to the paragraphs set out in the Code for Crown Prosecutors at 4.14(a) to 4.14(g).

**5.6.** As part of our methodology, we assess Code compliance. If we conclude that the Code decision was incorrect and one that no reasonable prosecutor could have made in the circumstances and at the time it was made or ought to have been made, we describe it as a wholly unreasonable decision (WUD).

**5.7.** For this inspection, we examined 300 magistrates' courts cases. We concluded that in 292 cases (97.3%) the decision to charge complied with the Code. There were eight cases with wholly unreasonable decisions to charge, six of which went on to feature wholly unreasonable decisions in post-charge reviews. The CPS discontinued the remaining two cases promptly after charge.

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**Strength**

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Prosecutors are making Code compliant charging decisions in 97.3% of cases.

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**5.8.** The most common reason for the findings of WUDs at charge was lack of sufficient evidence to prove the mental element of the offence. Examples included difficulties in proving that the suspect intended to use an item to cause injury, that the suspect knew or ought to have known that their conduct would amount to harassment of the victim, or that the suspect intended to cause distress or anxiety to the victim. Two assault allegations featured evidence that was not sufficient to rebut beyond reasonable doubt the suspect's claim of self-defence.

## Timeliness of charging decisions

**5.9.** In most instances, the CPS charging advice was delivered on time, or any delay did not have a material impact.

**5.10.** Of the 300 cases in our sample, we assessed 201 cases (67.0%) as fully meeting the expected standard. In a further 77 cases (25.7%), we assessed the timeliness as partially meeting the standard, meaning that there was a delay in providing the charging advice, but with no material impact on the case. The remaining 22 cases (7.3%) were assessed as not meeting the required standard, either because there was a substantial delay or because a shorter delay had a material impact on the case.

**5.11.** However, we noted in the cases in our file sample that there was often a marked delay between the date of the alleged offence or reporting of the allegation to the police and the police referring the case to the CPS for a charging decision. This was supported by the evidence from focus groups of prosecutors and CPS domestic abuse champions or leads. This is something that the CPS will want to address in partnership working with the police.

## Summary time limits

**5.12.** Where offences are summary-only (which means they can be heard only at the magistrates' courts), there is a six-month time limit (called the summary time limit) within which the charge must be put to the suspect, or a summons or postal requisition issued. At the time we read the files in our sample, the law had recently changed<sup>14</sup> to allow the time to run from the date of an allegation being reported in certain circumstances, subject to an overall limit of two years. However, very few of the cases we read were impacted by the change, and we did not come across any issues in those that were, so the findings set out here relate to cases with a six-month time limit.

**5.13.** One of the cases featuring a wholly unreasonable decision at charge was where the summary time limit had expired before the CPS gave charging advice. In that case, the suspect was charged with three allegations of common assault, all of which were out of time. The CPS noticed the error after charge and promptly discontinued those charges. After charge (which we discuss below) issues with the summary time limit also arose in cases featuring WUDs.

**5.14.** Our file sample demonstrated a number of other issues with STLs at the charging stage. We examined cases where:

- the CPS was unable to advise charging a suspect because the only appropriate charges were summary only and the time limit had already expired by the time the police submitted the case for a charging decision.
- the request for charging advice was within time, but the date by which the lawyer was tasked to or did complete the charging advice was after the STL expired.
- the CPS asked the police to complete further work on a case and either the police response or the follow-up advice by the prosecutor was after the six-month limit had expired.
- the CPS felt deterred from setting reasonable lines of enquiry for the police because the STL was nearing expiry.
- the CPS gave charging advice within the summary time limit, but by the time the police came to charge or issue a summons or postal requisition, the six months had expired, which meant the case could no longer proceed.

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<sup>14</sup> Section 49 of the Police, Crime, Sentencing and Courts Act 2022, which is explained in CPS guidance: [www.cps.gov.uk/legal-guidance/offences-against-person-incorporating-charging-standard](https://www.cps.gov.uk/legal-guidance/offences-against-person-incorporating-charging-standard)

**5.15.** There is no consistent process whereby the police tell the CPS of an impending summary time limit when they submit a file for a charging decision or for the prosecutor to tell the police that the time limit is nearing expiry when they give charging advice. There is also no provision in the administrative triage of files arriving from the police for a check on the expiry date so that cases near to it can be expedited. Given that many domestic abuse cases involve summary-only matters, it is important that there is a clearly understood and routinely applied system to avoid the expiry of summary time limits before a suspect can be charged. The CPS needs to develop its own processes to address this and to work with police partners to ensure that relevant dates are flagged when charging advice is requested. We make two recommendations.

### Recommendations

By March 2024 the CPS to introduce a system for domestic abuse cases that identifies any summary time limit applicable on receipt from the police at pre-charge and ensures that the case is progressed effectively and efficiently within that summary time limit.

By July 2023 the CPS to implement a process where, on a domestic abuse case where the summary time limit is due to expire within eight weeks, all communications with the police, including any pre-charge advice or decisions are clearly marked with the relevant summary time limit.

## Selection of charges

**5.16.** When advising the police, prosecutors should select charges that reflect the seriousness and extent of the offending, enable the case to be presented in a clear and simple way, and give the court adequate powers to sentence and impose appropriate post-conviction orders, such as restraining orders or compensation.

**5.17.** The selection of charges in domestic abuse allegations is a strong aspect of CPS charging advice.

**5.18.** We assessed 217 of the 262 applicable cases<sup>15</sup> (82.8%) as fully meeting the required standard. In a further 34 cases (13.0%) we assessed the charges as partially meeting the standard, meaning that the main charge was correct and satisfied most or all the criteria for the choice of charge but that other charges should have been included. In the stronger cases, prosecutors displayed real care in assessing the often-complicated history and circumstances, analysing the possible charges available on the evidence, and clearly setting out the

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<sup>15</sup> Cases recorded as a wholly unreasonable decision, and those where the charging advice was to take no further action were not assessed for this question.

reasoning for the choices they made. This included a reference to the impact on the venue and the court's sentencing powers.

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### Strength

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Prosecutors are selecting charges that are appropriate and proportionate in reflecting the criminality involved to give the court adequate sentencing powers.

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**5.19.** In the remaining 11 cases (4.2%), we assessed the choice of charge as not meeting the expected standard. In most of those cases, we considered that the charging lawyer had not advised additional charges that were disclosed on the evidence, for example, other assaults on the victim or another person present, malicious communications, breaches of non-molestation orders, and, in one instance, a possible charge of perverting the course of justice. In three cases, we assessed the main charge as wrong. These included one assault allegation that was overcharged and one that was undercharged, and a case where we concluded the appropriate charge was using violence to secure entry rather than criminal damage.

## Quality of the review at the pre-charge stage

### Quality standards

**5.20.** A clear analysis of the evidence and other material in a case, and setting out a clear strategy for how the case will proceed are fundamental to a good charging advice. They help to ensure the efficiency and effectiveness of the subsequent stages and support the initial application of the Code and selection of charges as the case moves through the criminal justice system.

**5.21.** The prosecutor's review should set out a clear and cogent analysis of the material, identifying how the evidential test is met, and setting out a clear case strategy. A case strategy should encompass what the case is about or 'tell the story', and explain how potentially undermining material, such as material impugning the credibility of a victim or witness, can be addressed.

**5.22.** A good review that meets the standard will include the following aspects:

- A clear trial strategy was set out. Where there were two or more suspects, the prosecutor considered each suspect separately and applied the Code individually to all charges, including where joint enterprise was alleged.
- Evidence-led prosecution in domestic abuse cases was considered, whether or not the victim was supportive at that point. A trial strategy should be

devised as to how prosecuting the case without the victim's support would be achieved.

- Reasonable lines of enquiry, such as the need for scientific evidence or examination of communications, were identified, including any lines of enquiry that could point away from prosecution. The action plan identifying reasonable lines of enquiry was proportionate and set a realistic target date for completion. The charging prosecutor rationally assessed the strengths and weaknesses of the case and any impact they might have, identifying a strategy for how to address any weaknesses. There was consideration of any ancillary applications that may strengthen the case, such as bad character evidence of the defendant. Relevant issues of admissibility were addressed. The review identified the significance of any hard media, such as CCTV or police officers' body-worn video footage.
- Issues or defences that could reasonably arise were addressed and the prosecutor articulated how they could be countered. Unused material which could undermine the prosecution or assist the defence was properly considered.
- The credibility and/or reliability of key witnesses was considered, including previous convictions and past reports to the police. Where a video-recorded interview took place, it was properly assessed.
- Relevant CPS policies were followed, for example, the domestic abuse policy.
- Victim and witness issues were considered.
- Instructions to the court prosecutor were set out clearly.

## Our findings

**5.23.** There is a clear need for improvement in the quality of pre-charge reviews. In our file sample, we assessed 37 of the 300 cases (12.3%) as fully meeting these standards, 128 cases (42.7%) as partially meeting them, and 135 cases (45.0%) as not meeting the standard.

**5.24.** We identified a number of themes in the cases that were assessed as partially or not meeting the required standard. These included:

- Evidential assessments that repeated the contents of the police summary or witness statements without analysis or making the links to what was needed to prove the offence under consideration. Strengths were defined or listed solely by reference to the witnesses that supported the case with weaknesses being the defendant's account in interview.
- The need for an application to admit bad character or hearsay evidence was not identified, or, where it was, the grounds for the application or route to admissibility were not explained.
- Trial strategies were frequently omitted or were too simplistic, often consisting of a list of which witnesses to call and which statements to serve on the defence for agreement to their being read. Often the trial strategy did not address what would happen if the victim withdrew their support for a prosecution.
- Failure to review and record decisions relating to hard media containing the victim's initial account, for example officers' body-worn video footage of the allegation made to them at the scene or the 999 call to emergency services. In some cases, the hard media was not reviewed. In others, the file lacked an adequate record of the contents and impact on the case strategy, such as whether the hard media supported or undermined the prosecution case.
- The credibility and reliability of victims and other witnesses were not sufficiently considered and/or the impact was not properly tied into the case strategy.

- Possible defences or the defendant's account of the incident were inadequately considered or superficially dismissed as implausible. This was particularly the case where self-defence was raised, which the prosecution must disprove beyond reasonable doubt.
- Action plans did not include requests for the police to explore reasonable lines of enquiry indicated by gaps in the prosecution case or the contents of the defence account. In some cases, opportunities were missed to obtain further evidence to counter weaknesses in the defendant's account where it was open to being discredited.

#### Compliance issue

Prosecutors are not setting out a clear and cogent analysis of the material, or a clear case strategy in their pre-charge review.

**5.25.** In the stronger cases, we saw careful consideration of how the case was to be presented at trial, with the prosecutor viewing and noting the evidential value of hard media such as CCTV, officers' body-worn video and 999 calls. In one such case, the defendant was charged on the threshold test<sup>16</sup> with an assault occasioning actual bodily harm. The lawyer carefully analysed the available evidence and what other key evidence was expected to become available. They also set out the conditions for a threshold test, and applied them clearly to the circumstances of the case, explaining how they were met. The advice covered other important aspects, such as the grounds for a remand application, whether a bail appeal was appropriate, victim care, and what unused material was apparent at this early stage and had been considered. The defence indicated a guilty plea with a basis of plea the day before trial, which the prosecution accepted the same day.

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<sup>16</sup> There may be circumstances where the police do not have all the evidence yet but anticipate getting more, and the seriousness of the case demands an immediate charging decision. If the police intend to hold the defendant in custody, they can ask the CPS to make a threshold test charging decision. There are five conditions which must be met before the threshold test can be applied, and a review applying the full Code test must be carried out as soon as the anticipated extra evidence or material is received.



### Case study

The victim and defendant were in a relationship with the defendant living at the victim's home. On 5 November 2021, an argument developed between them over the defendant's alleged cruelty towards the victim's dog. The defendant reacted aggressively, shouting abuse, and repeatedly grabbing the victim, pushing, and shoving her, leaving her with bruises. He also broke her car windows with a kettlebell. The victim asked her adult daughter to call the police. The defendant was arrested.

In interview the defendant admitted damaging the car recklessly but denied assault, saying he was stopping the victim pushing him during the argument.

The evidential checklist suggested that the victim was reluctant to support a prosecution, although the police had not taken a statement from her to that effect, and her earlier statement indicated she would attend court. Across several charging consultations, the lawyer persuaded the police to take a further statement, confirming that she retracted her evidence.

The charging advice across the various consultations included good analysis of the evidence, stressing its strengths and weaknesses. Given the victim's retraction and no other supporting evidence, a charge of animal cruelty was ruled out, but charges of criminal damage and common assault were advised.

The trial strategy for the evidence-led prosecution in the final advice was particularly impressive, with guidance on the use of hearsay and *res gestae*, including reference to relevant caselaw. The CCTV seized from the victim, the 999 call by the victim's daughter, and the body-worn video clips of the arrest, complaint and the scene showing the damaged car were all reviewed by the prosecutor, and their evidential weight analysed.

Consideration was given both to summoning the victim and to proceeding without her. The prosecutor also asked the police to remove evidential items from the unused material schedule, and add items that had been omitted.

The defendant admitted the criminal damage at the first hearing, and the assault allegation proceeded to trial. On the day of trial, the defendant pleaded guilty on an accepted basis. He was fined. In view of the victim's withdrawal of support, no restraining order was made.

## Evidence-led prosecutions

**5.26.** Prosecutors are required in all allegations of domestic abuse to consider, at charge, how a case might be presented without the live evidence of the victim. This is called evidence-led prosecution (ELP). The CPS guidance on domestic abuse states: “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.”

**5.27.** The pre-charge review should consider an ELP in every circumstance, not just where the victim has already indicated a lack of support for the prosecution. Experience shows that there is a very real possibility of retraction in domestic abuse cases, so the guidance reflects the need to address whether the prosecution is tenable and how it will be presented if that transpires. The use of other evidence can strengthen the case even where victims remain supportive throughout, so this should be routinely considered.

**5.28.** Our file examination shows that there is significant room to improve the consideration of ELP within the pre-charge review. Failure to do so was a significant contributor to our findings of inadequate case reviews. There were 294 relevant cases in our file sample, and of these, we assessed 63 instances (21.4%) as fully meeting the expected standard for consideration of an ELP, 76 (25.9%) as partially meeting the standard, and 155 (52.7%) as not meeting the required standard.

### Compliance issue

Prosecutors are not addressing evidence-led principles sufficiently well, or at all, at the pre-charge review stage.

**5.29.** The most common reasons were that an ELP was not discussed in the review at all, or where the prosecutor recorded an ELP as something to be considered later or as not applicable because the victim supported the prosecution. We also noted instances where there was a superficial reference to *res gestae* and/or other evidence that could be used in the absence of the victim without proper analysis of whether the legal criteria for making an application to adduce the evidence were satisfied.

**5.30.** Consideration of the evidence to support an ELP was stronger in cases where the victim had not supported the prosecution from the outset, or had indicated a withdrawal of support before the police submitted the file for charging advice. In one of the stronger examples, an allegation of a common assault, the police submitted the case as a potential ELP because the victim refused to make a complaint. It was clear from the charging advice that the prosecutor had carefully viewed the CCTV and body-worn video footage supplied and had linked the trial strategy to the processes needed to admit the digital evidence

and to achieve a successful outcome. The defendant pleaded guilty on the day of trial.

**5.31.** Our review of the documents provided and evidence from our interviews in Areas showed that they had identified poor performance in relation to case strategy and analysis and a lack of consideration of ELP and had provided recent training to their prosecutors. This training may have been too recent to have impacted the cases we read during the inspection. The consensus amongst Area legal managers was that the bespoke training delivered had landed well with their prosecutors. From our focus groups with lawyers in the Areas, we found that they were fully aware of the need to address ELP and build a case on the presumption that there may be no victim.

**5.32.** Some prosecutors we spoke to were feeling pressure to complete a certain number of reviews or charging decisions each day and felt that they did not have the time to adequately meet all the expectations of them, such as listening to 999 calls, watching body-worn video, and reviewing unused material. They feared that this impacted on the quality of their case strategy and consideration of ELP. This is a concern that has been raised by prosecutors across a range of inspections we have carried out. It is undoubtedly the case that Areas are still finding it challenging to recover from the significant impacts of the Covid-19 pandemic, as we discuss in Chapter 3.

**CPS Direct**

**5.33.** CPS Direct (CPSD) provide charging advice to the police primarily outside office hours and deal with a significant number of domestic abuse allegations as part of their workload. Our file sample included 29 CPSD cases. Our findings showed that CPSD prosecutors were better at dealing with case analysis and strategy and considering ELP than Area prosecutors, although the differences are not large. The table below sets out the results for the two relevant questions from our file examination.

Question	Answer	CPS Direct	Areas
<b>Pre-charge advice stage</b>			
Q4. The CPS charging advice included proper case analysis and case strategy	Fully meeting the standard	17.2%	11.8%
	Partially meeting the standard	48.3%	42.1%
	Not meeting the standard	34.5%	46.1%
Q5. The CPS charging advice included adequate consideration of evidence-led prosecution.	Fully meeting the standard	32.1%	20.3%
	Partially meeting the standard	17.9%	26.7%
	Not meeting the standard	50.0%	53.0%

## Other aspects of pre-charge reviews

**5.34.** In our file examination, we assessed other aspects of the pre-charge review, including the consideration of unused material, applications and ancillary matters, instructions to the court prosecutor, and the standard of action plans.

### Unused material

**5.35.** The police are required to accurately record all material which does not form part of the prosecution case (called “unused material”), retain it, and reveal it to the prosecutor. The Director’s Guidance on Charging, sixth edition (DG6) requires the police to submit various items when seeking a charging decision (in cases where a not guilty plea is anticipated). These include:

- schedules of unused material; in magistrates’ courts cases, the police use a streamlined disclosure certificate (SDC) to list the items of unused material.
- copies of any items of unused material which may need to be disclosed to the defence, with an explanation for reaching that decision.
- copies of material presumed to be disclosable by virtue of paragraphs 87 to 91 of the Attorney General’s Guidelines on Disclosure 2020<sup>17</sup> (which is known as “rebuttable presumption material”) with an explanation of whether or not it is considered to satisfy the test for prosecution disclosure, and an explanation for the reasons for reaching that conclusion.

**5.36.** In our file examination, we assessed CPS compliance with its duties of disclosure within the charging advice as fully meeting the standard in 61 of the 270 applicable cases (22.6%), as partially meeting the standard in 105 cases (38.9%) and as not meeting the standard in 104 cases (38.5%). This shows clear room for improvement.

**5.37.** In stronger cases, we noted good consideration of the SDC, with proper endorsement of decisions, and actions set for further items or enquiries regarding possible unused material. In one case, an allegation of harassment, the lawyer carefully considered all 47 items listed on the SDC, endorsing their decisions on each, and tasked the police with a reasonable line of enquiry relating to another item. The defendant was convicted after trial. In another case, a common assault, the lawyer reviewed all the rebuttable presumption material and tasked the police to provide a fresh SDC listing the items of unused material that had been omitted from the first one.

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<sup>17</sup> *Attorney General’s guidelines on disclosure 2020*; Attorney General’s Office; December 2020.

[www.gov.uk/government/publications/attorney-generals-guidelines-on-disclosure-2020](http://www.gov.uk/government/publications/attorney-generals-guidelines-on-disclosure-2020)

**5.38.** We identified a number of failures in the weaker cases, including not considering the SDC or dealing with disclosure at all at the charging stage, not identifying material that met the disclosure test (such as previous convictions of the victim or witnesses), and not requesting reports relating to previous incidents involving the parties which may have included disclosable unused material.

**5.39.** We also noted that the CPS rarely provided feedback where the police did not comply with the requirements of DG6 relating to unused material and often did not ask for rebuttable presumption material before charge in instances where it had not already been provided. Whilst there is an understandable desire not to delay charging any longer than necessary, these requirements are an important part of developing a coherent case strategy that reflects all relevant information, especially where it may undermine the strength of the prosecution case or assist the defence case.

<b>Compliance issue</b>
Area managers should make sure there is a renewed focus on prosecutors' compliance with their disclosure duties at pre-charge review stage. Where there are failings on the police side, they should encourage prosecutors to feedback the issues and escalate where appropriate.

### **Applications and ancillary matters**

**5.40.** There were 136 cases in our file sample that required consideration of applications and ancillary matters, such as bad character or hearsay. Of those, we assessed 47 cases (34.6%) as fully meeting the expected standard, 49 cases (36.0%) as partially meeting the standard and 40 cases (29.4%) as not meeting the standard.

**5.41.** Where there is a history of domestic abuse by a suspect resulting in reports to the police made by the same or a different victim, there may be the possibility of using these incidents as evidence of bad character. However, many pre-charge reviews did not address this possibility. We also noted instances where the charging advice considered a bad character application appropriate but did not ask the police for the material needed to progress an application at court.

### **Instructions to the court prosecutor**

**5.42.** The charging lawyer should give appropriate instructions and guidance to the court prosecutor either in the charging advice form (the MG3) or in the preparation for effective trial (PET) form created with the MG3. The information included should cover the bail or remand position, any acceptable pleas, applications to be made, ancillary matters, any unused material which needs disclosing at the first hearing, and advice on venue, including sentencing guidelines where appropriate.

**5.43.** We found that the instructions in 56 of the 270 applicable cases (20.7%) merited an assessment of fully meeting the expected standard. In 158 cases (58.5%), our assessment was of the instructions partially meeting the standard, and in the remaining 56 cases (20.7%) we assessed them as not meeting the standard.

**5.44.** The weaker cases frequently featured a lack of information as to what pleas would be acceptable and/or whether a basis of plea would be appropriate. Other issues we noted were PET forms not consistently being completed and insufficient information about special measures to be sought to enable victims to give their best evidence. We discuss special measures in more detail in Chapter 8.

### **Action plans**

**5.45.** Where prosecutors identify further reasonable lines of enquiry, they should set these out in an action plan, which is a specific section of the MG3. This allows for actions given to the police to be prioritised and timescales to be set to ensure that all appropriate avenues of investigation have been completed, including those that may point away from a prosecution. Poor CPS action plans do not help the police understand what is needed in a case and add delay and inefficiency to the system. Good quality action plans promote effective case progression and also allow the CPS to support the police to build stronger cases.

**5.46.** Our file sample included 278 cases where an action plan was indicated. Of these, we assessed the action plan as fully meeting the standard in 64 instances (23.0%), as partially meeting it in 141 instances (50.7%) and as not meeting the standard in 73 instances (26.3%).

**5.47.** Following on from the failure in many cases to proactively consider an evidence-led prosecution (ELP), which we discuss above, we also noted that prosecutors were missing the necessary actions to support an ELP, such as obtaining the 999 call or body-worn video footage of the victim's account.

### Case study

The victim was the stepfather of the defendant, who was an adult. They had a poor relationship. On the day of the incident, they met whilst the victim was walking his dog and words were exchanged. The victim returned home to his wife. The defendant arrived at the house drunk and abusive, banging on the door and demanding to be let in. When the victim opened the door, the defendant barged his way in and grabbed the victim by the throat. The victim's wife called the police as the incident started, and some of the events were captured on the recording of the 999 call. The defendant accepted he was there but denied there was an assault.

There was a good case analysis, including consideration of the evidential value of the 999 call, but there was no action plan set to request the body-worn video footage of the officers. These recorded the first accounts of the victim and his wife, and may have amounted to disclosable unused material.

The analysis of a possible evidence-led prosecution was superficial (covering just public interest aspects) and did not include reference to the body-worn footage or the likely outcome of a hearsay application.

The advice also did not address whether special measures may be required for the victim, who had been diagnosed with dementia, and there was no action set for the police to supply more information about the victim's need for support in giving his best evidence.

The first trial date had to be vacated because the steps taken after charge, at the behest of the police, to arrange an intermediary for the victim had not been completed in time for the trial. For a reason which is not made plain on the CPS file, there was no intermediary's report produced, and an application for special measures with just the police form requesting an intermediary was refused by the court. The prosecution then decided not to call the victim and to proceed on the evidence of his wife alone.

The case was proved in the defendant's absence at the second listing for trial. He was arrested and awaited sentence at the time of writing.

**5.48.** The police are required to supply the CPS with a risk assessment in all domestic abuse cases. These were missing in a high percentage of the cases in our sample but were not requested within the action plan. We discuss risk assessments in paragraphs 5.55 to 5.56 and in Chapter 6. In the latter, we make a recommendation regarding the charging of cases without a risk assessment.

**5.49.** Some cases we examined had been the subject of multiple action plans which serve to delay charging decisions and can adversely affect the victim and



ultimately lead to victims disengaging from the process. Several Areas have introduced processes to improve action plans, for example by making it easier for the police officer to call the charging lawyer to discuss the actions.

**5.50.** One Area has introduced a requirement for the approval of a legal manager for a second or subsequent action plan containing requests not previously made, in an effort to prevent repeat action plans. This Area was ranked second of the 14 CPS Areas in the third quarter of 2022-23 for the proportion of domestic abuse cases resulting in an action plan.

**5.51.** Another Area has reviewed cases with multiple action plans to determine the cause and put in place remedial action by the use of staged action plans setting out which of the actions listed in the plan are essential for a charging decision. This is good practice.

#### **Good practice**

In one Area, prosecutors have been instructed to send staged action plans to police to make it clear what items are essential before a charging decision can be made. This resulted from a review of cases with multiple action plans, which showed that action plans were not staged, clear or proportionate. This measure is likely to result in more timely charging decisions being taken, with less delay for vulnerable victims.

#### **Reasons for advising no further action**

**5.52.** We examined 30 cases where the decision was to advise the police to take no further action. In most of those cases (21 cases, or 70.0%), there was sufficient information in the CPS charging advice to enable the police clearly to explain the reasoning to the victim. Providing quality information is important and necessary, not only so that the victim can understand how the decision has been reached but also so they can make an informed decision about whether or not to exercise their right to a review<sup>18</sup>.

#### **Application of domestic abuse policy and guidance**

**5.53.** We discuss in paragraphs 5.26 to 5.32 to what extent the CPS guidance concerning evidence-led prosecutions (ELPs) is applied. We also noted that in cases proceeding with the victim's support, the prosecutor often did not consider deploying evidence that would usually be relied upon in an ELP, such as 999 calls or body-worn video footage of the scene, to support the victim's account.

**5.54.** We observed other aspects of policy and guidance that were not routinely meeting with compliance. This included, notably, prosecutors not

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<sup>18</sup> *Victims' Right to Review Scheme*; CPS; December 2020.  
[www.cps.gov.uk/legal-guidance/victims-right-review-scheme](http://www.cps.gov.uk/legal-guidance/victims-right-review-scheme)

making a more thorough enquiry into the background of the case and parties and any history of domestic abuse, with a view to possible further charges such as stalking, harassment or controlling and coercive behaviour. This may have been in part because relevant information from the risk assessment was not made available by the police or requested by the CPS.

**5.55.** We refer in our discussion of the police and CPS case building in Chapter 6 to our finding that risk assessments (usually supplied in the form of a “DASH” or “DARA”<sup>19</sup> checklist or report) were not routinely provided. We noted that prosecutors often referred to the risk level that the police had attached to the case, but this information had come from the joint police-CPS evidence-gathering checklist<sup>20</sup> rather than from the risk assessment form where the latter was not supplied. In the majority of cases, the DASH checklist was not requested by prosecutors, although the CPS guidance says: “Prosecutors should request from the police a copy of the risk assessment for each case as a matter of routine.” As we discuss in Chapter 6, guidance for the initial assessment (or triage) of the contents of the police file does not cover the need for a risk assessment.

**5.56.** In ELP cases, the risk to the victim still needs to be considered and a risk assessment form prepared but many of the cases in our file sample which were charged as ELP had no explicit consideration of the risk to the victim. The CPS guidance emphasises this need: “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”.

**5.57.** We noted that the CPS charging advice often did not demonstrate that the joint evidence gathering checklists had been assessed, other than citing the risk level. Where there was a significant delay between the offence and the CPS authorising charge, it was also difficult to know whether the information they contained was still accurate, including the victim’s views about supporting a prosecution.

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<sup>19</sup> DASH stands for Domestic Abuse, Stalking and [so-called] Honour-based violence. The DASH risk identification, assessment and management model was implemented from March 2009. [www.dashriskchecklist.co.uk](http://www.dashriskchecklist.co.uk) DARA stands for Domestic Abuse Risk Assessment, another format some police forces use. [assets.college.police.uk/s3fs-public/2022-12/CoP-Domestic Abuse Risk Assessment.pdf](https://assets.college.police.uk/s3fs-public/2022-12/CoP-Domestic%20Abuse%20Risk%20Assessment.pdf)

<sup>20</sup> *Joint NPCC and CPS evidence gathering checklist*; CPS; March 2022. [www.cps.gov.uk/sites/default/files/documents/publications/Joint-Evidence-Checklist-updated-March-2022.docm](https://www.cps.gov.uk/sites/default/files/documents/publications/Joint-Evidence-Checklist-updated-March-2022.docm) (file download)

## **Specialist domestic abuse teams for pre-charge**

**5.58.** One of the six CPS Areas we visited had a specialist domestic abuse team dealing with magistrates' courts cases, managing the more complex contested cases after charge to conclusion, and prosecuting in the specialist domestic abuse courts. We saw evidence that these prosecutors had a positive impact on the standard of post-charge reviews, but the volume of domestic abuse casework is such that it would not be possible for the team to deal with all pre-charge domestic abuse cases.

## **6. Police and CPS operational case building**

## Police file quality

**6.1.** The National File Standard, contained in the sixth edition of the Director's Guidance on Charging (DG6), is a document that sets out the material and information that the police must send to the CPS at different stages of criminal cases and for different case types. It lists what is required when a case is submitted for a pre-charge decision, for an anticipated guilty plea case in the magistrates' courts, and for a more complex matter listed before the Crown Court. It seeks to achieve consistency and proportionality across all CPS Areas and police forces throughout England and Wales.

### Pre-charge file submissions

**6.2.** We examined 300 magistrates' court cases containing allegations of domestic abuse and recorded our findings in relation to the quality of the police file submission in their request for charging advice.

**6.3.** Compliance with the national file standard (NFS) is poor. We assessed 46 cases (15.3%) as fully meeting the NFS and 254 cases (84.7%) as not meeting it.

**6.4.** Most of the cases which did not comply with the NFS were missing the risk assessment document, which is mandatory for domestic abuse cases. It is usually supplied in the form of a DASH or DARA checklist or report. This lack accounted for 197 of the 254 cases (77.6%) recorded as not meeting the standard. A further 19 cases (7.5%) were missing both the risk assessment and the evidence checklist introduced jointly by the CPS and the National Police Chiefs' Council, and five cases (2.0%) had a risk assessment but not the checklist. The remaining 33 cases (13.0%) did not contain one or more of the other items required by the NFS, such as key witness statements or exhibits.

### Police file quality after charge

**6.5.** The post-charge file submission by the police was slightly worse than at the pre-charge stage. There were 267 applicable cases in our file sample, of which we assessed 40 files (15.0%) as fully meeting the expected standard, and 227 files (85.0%) as not meeting the standard. Again, the main omission in weaker cases was the risk assessment.

## CPS feedback on police file quality

**6.6.** The CPS case management system includes a facility to report on whether the police file submission complied with the National File Standard. This is referred to as the Director’s Guidance Assessment (DGA). File quality data is collated and considered at local joint operational improvement meetings (JOIMs) held between CPS local legal managers and their police counterparts with the aim of improving police file quality and CPS charging delivery, amongst other things.

**6.7.** We assessed the quality of CPS feedback to police on the quality of pre-charge and post-charge file submissions, and the table below sets out our findings. There is considerable room to improve the quality of feedback.

Question	Answer	All Cases
<b>Feedback on the pre-charge police file submission</b>		
If there were failings in the pre-charge police submission, this was identified and fed back to the police	Fully meeting the standard	5.5%
	Partially meeting the standard	26.4%
	Not meeting the standard	68.1%
<b>Feedback on the post-charge police file submission</b>		
If there were failings in the police file submission after charge, this was identified and fed back to the police	Fully meeting the standard	5.3%
	Partially meeting the standard	14.1%
	Not meeting the standard	80.6%

**6.8.** The CPS case management system allows for only one DGA assessment of compliance with DG6 on a file. It should be completed at the time that the full code test is applied. We found this is not being completed consistently. Also, the circumstance of completion only once per file means that any further failings with police file quality are not captured. This renders file quality data inaccurate.

Compliance issue
Prosecutors are not consistently completing the Director’s Guidance Assessment on the case management system (CMS) as a feedback mechanism to the police on file quality. Area managers should continue to encourage a greater level of compliance as well as consider how further opportunities to feedback on police file quality can be implemented through the system.

**6.9.** Data accuracy is also being hampered because there is widespread misunderstanding about the requirement for a risk assessment. When police files are received onto the case management system, there is an administrative triage to check for the presence of the required documents.

**6.10.** The latest available data from the CPS at the time of writing (the third quarter of 2022-23) shows that 62.7% of police file submissions for a domestic abuse charging decision were recorded as NFS-compliant at triage. This was across all casework teams (magistrates' courts, Crown Court and rape and serious sexual offences). Our data covers just magistrates' court cases but shows much lower compliance with NFS.

**6.11.** We conclude that the discrepancy is partly due to the risk assessment not being included in triage checklists, although some managers we spoke to thought it was. The case management system records reasons for triage failure, but this also does not include the option of a missing risk assessment. This may explain why so many cases in our file sample made it through administrative triage without the risk assessment.

<b>Compliance issue</b>
The CPS administrative triage process for police submissions for charging advice in domestic abuse cases is routinely failing to include a check for the risk assessment. This is a DG6 requirement and Area managers should remind staff of the requirement for a risk assessment to be included before the case is triage accepted.

**6.12.** Some prosecutors were also not aware the risk assessment was required so did not mark down the DGA when it was missing. The options available to a prosecutor for recording the reason for marking down a DGA also do not include a missing risk assessment.

**6.13.** Other prosecutors told us that they did not go back to the police to deal with NFS compliance if there are time pressures, such as the imminent expiry of a summary time limit. In those cases, they would try to deal with cases as expeditiously as possible. The CPS national domestic abuse lead told us that prosecutors are encouraged to reject anything that is not DG6 compliant and that missing risk assessments have been raised with the police at a national level. However, the national and some Area leads also told us that prosecutors often wanted to make progress on cases and would proceed without what they saw as a non-evidential document.

**6.14.** We consider the risk assessment an important part of making robust charging and review decisions that support victims. The risk assessment can contain some extremely useful information that could better inform CPS

decision-making and potentially refer to other offences such as harassment, stalking, and controlling and coercive behaviour. This may lead to additional reasonable lines of enquiry, additional charges, or a bad character application to strengthen the prosecution case.

### Recommendation

By December 2023, the CPS to have communicated the need for prosecutors to review the risk assessment in all domestic abuse cases before completing the pre-charge decision (unless there are specific factors in the case such that the decision to charge cannot be delayed) and that where the risk assessment has been omitted in the file provided, or is referenced simply by level (standard, medium or high), the full risk assessment is requested. This approach to be embedded by March 2024.

## Use of action plans and escalation

### Action plans

**6.15.** When giving charging advice, the prosecutor may ask the police to conduct additional enquiries or provide further information or documents. These requests should be proportionate and should be set out in an action plan with a realistic target date for completion. Poor CPS action plans do not help the police understand what is needed in a case and add delay and inefficiency to the system. Good quality action plans afford the CPS the opportunity to help the police build stronger cases and ensure that the prosecutor has all the information they need to progress the case at and beyond the first hearing.

**6.16.** In our file sample, we examined 278 cases with action plans and assessed 64 of them (23.0%) as proportionate and fully meeting the expected standard. We assessed 141 cases (50.7%) as partially meeting the standard and 73 cases (26.3%) as not meeting the standard. In the cases with weaker case analysis and strategy at charge, we noted that prosecutors were not proactively considering evidence-led prosecutions (ELPs). This resulted in action plans that were marked down because they did not contain necessary actions to support an ELP such as obtaining officers' body-worn video of the scene, the injuries and/or the victim's account, 999 calls, or CCTV. Risk assessments were missing in very many cases, but they were almost always not requested within an action plan.

**6.17.** Some cases we examined had been the subject of multiple action plans which serve to delay charging decisions; this can adversely affect the victim and ultimately lead to victims disengaging from the process.



### Compliance with action plans and feedback

**6.18.** The police provided a timely response to a charging action plan in 100 of the 226 applicable cases (44.2%) in our file sample. We assessed 75 cases (33.2%) as partially meeting the timeliness standard, meaning that there was timely compliance with some but not all actions set in the CPS advice or that there was minimal delay which had no material impact on the case or the victim. We assessed 51 cases (22.6%) as not meeting the standard. We noted in these cases that the police did not comply with any of the time limits set in the action plan, or that there were significant delays, with the potential for a material impact on the case or the victim.

**6.19.** Where the police response to the action plan was late, the CPS chased it promptly in 18 of the 122<sup>21</sup> applicable instances (14.8%). We assessed the CPS action to pursue a late response as partially meeting the expected standard in 34 cases (27.9%) and as not meeting it in 70 instances (57.4%). We noted that the weaker cases were often ones where the action plan had been set in an advice authorising charge, and that there was no action to follow up when the police did not supply the requested material.

**6.20.** There is a chaser task on the case action plan screen on the CPS case management system, but we saw few instances in the weaker cases of it being used. Setting a chaser when drafting the action plan would help ensure a more efficient and timely escalation to police when dates for responses are missed, but when speaking to prosecutors, we found that there were gaps in their knowledge regarding how to use the task.

Compliance issue
Prosecutors are not utilising the chaser task on the CPS case management system when setting an action plan for the police.

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<sup>21</sup> There were 126 cases with a late response, but in four cases, a very short delay by the police (which we assessed as partially meeting the timeliness standard) meant that their response arrived before the CPS had had a real opportunity to chase it.

## Escalation

**6.21.** The Areas we visited all had clear escalation policies, but there was inconsistent application. We saw in our file examination examples of action plans, or other requests to the police, being chased repeatedly rather than there being recourse to the escalation process. We also saw examples where escalation was not deployed until an extremely late stage, reducing the chances of a successful result from escalating. The evidence we received from focus groups of police domestic abuse leads supported this finding.

**6.22.** Some lawyers commented that they had not been given instructions on how to use the escalation procedure and/or did not feel properly supported by their manager in the use of escalation of late action plan responses.

### **Compliance issue**

Escalation policies are not being regularly or effectively utilised. Area managers should ensure that staff are familiar with their Area's escalation policies and that they are being utilised when necessary.

## **7. Post-charge case management and progression**

## Post-charge decision-making

**7.1.** CPS prosecutors must decide, at key stages after charge, whether the case should proceed. They make their decision based on the Code for Crown Prosecutors (the Code). This is a public document, issued by the Director of Public Prosecutions, which sets out the general principles which prosecutors should follow when they make decisions on cases.

### Complying with the Code

**7.2.** As part of our methodology, we assess Code compliance at and after charge<sup>22</sup>. We discuss in Chapter 5 compliance with the Code at charge. In this inspection, we examined 300 magistrates' court cases, of which 30 were decisions at charge to advise no further action. There were, as a result, 270 cases requiring the Code to be applied after charge. We concluded that in 260 of those 270 cases (96.3%) the decision to charge complied with the Code. There were ten cases with wholly unreasonable decisions after charge, six of which had already featured a wholly unreasonable decision at charge (we discuss these in paragraphs 5.7 to 5.8 and 5.13). Of the remaining four cases, with new WUDs, two featured wholly unreasonable decisions to proceed, and two were wholly unreasonable decisions to discontinue a case.

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#### Strength

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Prosecutors are making Code compliant decisions after charge in most cases (96.3%).

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**7.3.** Three of the new WUDs featured issues with summary time limits, an aspect of criminal law which we discuss in more detail in paragraphs 5.12 to 5.15. In two cases, the prosecutors decided after charge that the case should proceed in circumstances where the summary time limit had expired between the CPS giving charging advice and the police charging the suspect. In the third, the prosecutor mistook the position and decided that the time limit had expired when it had not. This resulted in a wholly unreasonable decision to discontinue the case. A misunderstanding of the law, this time in relation to *res gestae* evidence, also led to the fourth new wholly unreasonable decision, which was to discontinue the case.

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<sup>22</sup> We discuss at Chapter 5, paragraph 5.3 to 5.6, what compliance with the Code requires.

## Decisions to end the prosecution

**7.4.** In our file sample, we examined why the prosecution discontinued the case before the trial date or offered no evidence at trial. Most cases were discontinued owing to the victim withdrawing, whereas offering no evidence was most often because the defendant offered acceptable pleas to other offences. We agreed with most of the decisions on plea but found that the rationale for accepting them was often not recorded on the CPS file or hearing record sheet.

**7.5.** When considering the quality of instructions in the charging advice to assist the court prosecutor at the first hearing, we noted that acceptable pleas were often not included. We also noted that more needs to be done to ensure hard media (such as CCTV) is served in good time for the first hearing, as this may provide cogent evidence to support the prosecution. There are other factors that may impact when an acceptable plea is offered, but not covering pleas in the charging advice or serving essential evidence in advance reduces the likelihood that pleas can be properly discussed with the defence at the first hearing.

**7.6.** Decisions to end the prosecution were timely in 65 of the 97 applicable cases (67.0%). We assessed a further ten cases (10.3%) as partially meeting the timeliness standard, meaning that some delays occurred but there were no significant adverse results for victims, witnesses, or defendants. Unnecessary additional police work or court time was kept to a minimum. In the remaining 22 cases (22.7%), we assessed the timing of the decision as not meeting the required standard.

## Quality of the review after charge

**7.7.** Making a Code compliant decision without supporting analysis of the case material and a clear strategy including failure to address matters such as undermining material, special measures and applications, diminishes the value added by the CPS and results in a reactive, as opposed to a proactive, approach to the case. This can lead to key issues being missed, cracked and/or ineffective trials, duplication of effort, waste of resources and delays in decision-making and case progression that can impact on victims, witnesses and defendants especially where they are in custody.

**7.8.** A clear analysis of the evidence and other material in a case, and setting out a clear strategy for how the case will proceed, are fundamental to a good review after charge. They help to ensure efficiency and effectiveness as the case moves through the criminal justice system. The prosecutor's review should set out a clear and cogent analysis of the material, identifying how the evidential test is met, and setting out a clear case strategy. A case strategy should

encompass what the case is about or 'tell the story', and explain how potentially undermining material, such as material affecting the credibility of a victim or witness, can be addressed. Any such review should, of course, be proportionate to the complexity of the issues in the case.

**7.9.** In magistrates' courts cases, a review should be conducted before the first hearing in cases with a not guilty anticipated plea (NGAP). We refer to this as the initial review. There also needs to be a full review to establish compliance with the Code after a defendant has been charged whilst further key evidence is still outstanding, and the court are to be asked to remand them in custody (this is called the threshold test).

**7.10.** It is not uncommon for victims of domestic abuse to retract their evidence or withdraw support for the prosecution. Where this happens, it is essential that there is a full review. The case may be able to proceed on other evidence, such as 999 calls, officers' video footage of the original complaint and/or the scene, photos of injuries, or accounts from other witnesses by way of an evidence-led prosecution.

**7.11.** As cases progress, things other than a victim retraction can occur which materially impact on the prosecution case or represent a major change in the case strategy. If this happens, the Area should conduct a quality review dealing with the significant development, applying the Code for Crown Prosecutors as to whether there remains a realistic prospect of conviction and whether it remains in the public interest to prosecute. The review should also address how any new evidence (or other material) will be dealt with, and how the case strategy should be adapted. We call this a significant event review.

**7.12.** Failure to record reviews can create problems if and when another prosecutor picks up the case. Recording the rationale for decisions on the Code or other key aspects, such as accepting pleas, is important as without this detail the decision cannot be scrutinised. In addition, it can be difficult to explain outcomes to the victim where required, ultimately this can impact on public confidence in CPS decision-making.

## Post-charge reviews

### Initial reviews

#### Standard of reviews

**7.13.** There were 256 cases in our file sample requiring an initial review. We assessed those reviews as fully meeting the required standard in 42 cases (16.4%), as partially meeting it in 105 cases (41.0%) and as not meeting the standard in 109 cases (42.6%). In weaker cases, we noted similar issues to those at the charging stage, and that weaknesses in the pre-charge advice were often not remedied. The issues included:

- Not carrying out the review. This was the case in nearly a fifth of the cases requiring an initial review.
- Not applying the full Code test after a charging decision had been made on the threshold test.
- A review which copied and pasted the pre-charge review without reflecting anything that had changed.
- Inadequate consideration of whether (and how) the case could proceed as an evidence-led prosecution (ELP) if the victim withdrew their support or retracted their statement.
- Failure to comply with CPS guidance and policy, for example, not requesting a risk assessment when one had not been supplied at charge.

**7.14.** We noted that the only Area we visited that had a specialist team dealing with a proportion of domestic abuse cases after charge showed a higher standard of post-charge reviews, although there was still room for improvement. We assessed the reviews in this Area as fully meeting the required standard in 13 cases (29.5%), as partially meeting it in 15 cases (34.1%) and as not meeting the standard in 16 cases (36.4%).

**7.15.** Instances of stronger reviews after charge included cases where the prosecutor:

- Updated the charging advice and preparation for effective trial form and the bundle for the initial disclosure of the prosecution case.
- Gave proper consideration of the appropriate course of action where pleas or a basis of plea were offered.

- Took a robust approach to the case, reviewed unused material, made timely requests to the police for additional material and confirmed the strategy for an evidence-led prosecution.

### **Case study**

The victim and the defendant were in a volatile relationship. In the early hours of the day of the incident, they agreed to meet at the victim's hotel. They both took drugs, had consensual sex, and fell asleep. Later in the morning, the defendant sent the victim out to buy vodka. She dropped the bottle on the way back, and an argument ensued. The victim alleged that the defendant then assaulted her. She had a black eye and cuts and bruises. The victim shouted for help, but nobody came. The defendant left.

The victim's mother called the police three days later when she saw her daughter's injuries. The victim told her that the defendant was responsible. The victim then made a statement of complaint to the police.

In interview, the defendant denied assaulting the victim and made a counter-allegation of theft. He also said he had heard she had been assaulted by someone else. The defendant was charged with assault occasioning actual bodily harm.

The post-charge review added value by addressing the matters outstanding, including the victim's personal statement, special measures and whether a restraining order was appropriate. The review addressed the possibility of using res gestae and hearsay if there was to be an evidence-led prosecution and included a clear assessment of the body-worn video footage which captured the officers' initial contact with the victim several days after the alleged offence. The prosecutor completed the preparation for effective trial form, and gave instructions regarding special measures, pleas and unused material. The review also recorded why a bad character application was not feasible but also considered how previous matters recorded against the defendant could be admissible if he attacked the victim's character.

The victim attended the trial but refused to give evidence, and the prosecution offered no evidence. This was the correct decision as, whilst there had been consideration of an ELP, there was insufficient evidence given the time between the incident and the reporting, for there to be a realistic prospect of conviction.



### **Timeliness of initial reviews**

**7.16.** Of the 209 cases where initial reviews were carried out, the review was timely in over half (118 cases or 56.5%). We assessed 56 reviews (26.8%) as partially meeting the timeliness standard, meaning that the review was late but there was no material impact on the preparation for the first hearing. The remaining 35 cases (16.7%) were assessed as not meeting the required standard, which meant there had been an impact on the preparation for or effectiveness of the first hearing.

### **Reviews when the victim no longer supports the prosecution**

**7.17.** There were 56 cases in our file sample where, after charge, the victim withdrew their support for the prosecution or retracted their statement. We assessed the quality of the review as fully meeting the required standard in 19 of those cases (33.9%), as partially meeting it in 22 cases (39.3%) and as not meeting the standard in 15 cases (26.8%). We found that the rationale for some of the decisions was poorly expressed or missing.

**7.18.** We also noted that the prosecutor often did not have a report from the police (which is required by CPS policy and guidance) accompanying the notification that the victim was no longer supportive of the prosecution. The police supplied the report in 15 cases, but in the other 41, they did not. In 17 of these 41 cases (41.5%) the CPS asked for a report, but in the remaining cases, the CPS either did not ask for the report (17 cases or 41.5%) or asked for a report but did not chase the police when one was not sent and made the decision without receiving it (seven cases or 17.1%).

### Case study

The victim was in a relationship with the defendant for five months. There had been no reported previous instances of violence. On the day in question, the couple argued after the defendant accused the victim of being unfaithful. The victim pulled a pillow over her face to signal to him that she was not listening at which point the defendant pulled the pillow away, pulled her by the hair and punched her forcefully in the eye. She told him to leave but he refused, so she went to her neighbour, and called the police. When she returned home, the defendant had left. The police arrived a short time later and recorded the victim's initial account on their body-worn video cameras. The victim sustained a black eye, which was photographed. She experienced vision impairment so visited a hospital to be assessed.

In interview the defendant admitted he was there and that there had been an argument, but denied the physical assault. He said the victim had an eye infection which had caused inflammation.

The CPS advised charging the defendant with an assault occasioning actual bodily harm.

The post-charge review did not identify that the medical notes were not in statement form or exhibited. The review also did not address the evidential value of the 999 call or body-worn video. The latter was recorded some 30 minutes after the incident, so was potentially not sufficiently contemporaneous to be admitted as *res gestae*. There was no consideration of an application to admit bad character evidence, despite the defendant's history of domestic abuse towards previous partners.

Shortly before the trial the victim notified the witness care unit that she would not attend. There was no information provided or requested as to why, whether the victim would attend if summonsed, and the impact on her of adopting this course of action. The police did not take, and the CPS did not ask for, a retraction statement from the victim. The review at this stage said the case could proceed on the basis of the body-worn footage, but did not consider its admissibility or whether use could be made of the 999 call.

At trial, the defence persuaded the court not to admit the body-worn evidence and made a successful submission of no case to answer.

### Consideration of an evidence-led prosecution

**7.19.** Our file examination showed that the consideration of an ELP was much stronger (though still requiring improvement) when the victim had withdrawn their support than when it was still hypothetical. The table below sets out the comparative findings.

Question	Pre-charge	After charge
<b>Quality of the consideration of an evidence-led prosecution</b>		
The review was assessed as fully meeting the required standard	21.4%	54.0%
The review was assessed as partially meeting the required standard	25.9%	25.4%
The review was assessed as not meeting the required standard	52.7%	20.6%

## Other significant event reviews

**7.20.** Domestic abuse cases may call for a review after the initial review and in circumstances other than a victim withdrawal. Examples include a witness indicating they cannot or will not attend the trial, an offer from the defence of a plea or basis of plea, and the receipt of undermining material.

**7.21.** There were 79 such cases in our file sample, of which we assessed 22 cases (27.8%) as fully meeting the required standard, 20 cases (25.3%) as partially meeting the standard and 37 cases (46.8%) as not meeting the standard. The lack of review recorded to address the development and the impact it would have on the case, was the main reason for weaker ratings.

## Preparedness for hearings

**7.22.** As a general finding, we noted that, whilst the first hearing was usually effective, after that focus and activity fell away until a case approached trial, although the issues tackled close to the trial had often been evident from an earlier stage. We also found that cases where the defendant was remanded in custody for first hearing but was then granted bail were often not being reviewed until close to the trial date. Opportunities to build the case to ensure that the full Code test was met, and that police had complied with action plans, were lost as a result.

**7.23.** Greater focus is needed on case progression throughout the life of the case. This is particularly so at the earlier stages, when it may be possible to elicit acceptable pleas and avoid a case being set down for trial. However, we do appreciate, from speaking to prosecutors, the difficulty in doing this at a time where they feel overloaded with competing demands and there are pressures from the Covid-19 pandemic and its aftermath which are still influencing the effectiveness of the CPS.

## Preparation for the first hearing

**7.24.** There is potential to improve the service of evidence of hard media (such as CCTV, police officers' body-worn videos and recordings of 999 calls) in good time for the first hearing. There were 178 cases in our file sample with hard media, and we found that it was shared via a suitable platform with all parties prior to the first hearing in 81 cases (45.5%). We assessed service of hard media as partially meeting the expected standard in 21 cases (11.8%) and as not meeting the standard in 76 cases (42.7%).

**7.25.** In many of the weaker cases in our sample, the media had not been redacted in advance of the hearing, so it could not be served. In other instances, the link to the material was available but not included in the initial details of the prosecution case (IDPC) bundle for the defence.

**7.26.** Redaction of media may be necessary before it can be served to remove confidential information (such as a witness's address). CPS Direct do not advise on which redactions are required, so it is important that the Area does so. In Area, we found that the pre-charge lawyers often did not provide instructions to court advocates as to what media could be served unedited and what required redacting.

**7.27.** Hard media may contain cogent and compelling evidence in a case. We noted that the most common reason for the prosecution offering no evidence at trial was because the defendant had entered an acceptable plea to other offences. Failure to serve key evidence (such as hard media) on the defence in time for the defence to review it and take their client's instructions can hamper the timely entry of an appropriate plea at the first hearing. Furthermore, it was clear from our discussions during court observations with defence and court personnel that service of hard media was sometimes not carried out until very close to the trial, despite case management outside of court requiring it to be served, and that seeing the hard media often encouraged the defendant to plead guilty.

**7.28.** One of the Areas we visited had recently introduced an operational delivery team called the Direct Contact Team (DCT) to deal with communications and carry out case progression tasks, such as serving the IDPC on the court and defence. They are supported by a designated lawyer who takes on queries needing legal input before the first hearing, such as advising on any plea offer or whether hard media can be served following their review of it. Such a review would be needed if there were inadequate instructions in the pre-charge advice, where requested edits had been carried out by the police, or where the hard media came in as additional material following charge. It is a relatively new initiative but the Area reported benefits. The operational delivery

staff we interviewed told us that defence practitioners were keen to get access to hard media promptly so that they could obtain instructions and advise appropriately at an early stage. The DCT, including a support lawyer, is good practice.

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**Good practice**

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One Area has a Direct Contact Team that deals with communications and case progression tasks. The team is supported by a lawyer so that matters requiring legal input, such as acceptability of pleas or whether hard media can be served, are dealt with promptly.

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**7.29.** The same Area also has a chat channel in Microsoft Teams where the operational delivery staff can raise queries with the lawyers. This provides quick responses for individual questions and builds up a store of useful guidance on which the operational delivery staff can draw when they have a similar issue in future. This is good practice.

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**Good practice**

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An Area has set up a chat channel in Microsoft Teams for operational delivery staff to raise queries with their legal colleagues. This supports the prompt resolution of queries and provides useful guidance in case the same issue arises again.

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## Case progression

### Effectiveness of the first hearing

**7.30.** The effectiveness of the first hearing is a strength for the CPS. Of the 266 applicable cases in our sample, 239 cases (89.8%) were progressed effectively at the first hearing. We assessed 21 cases (7.9%) as partially meeting the expected standard for effective progression, and six cases (2.3%) as not meeting the standard. We assessed aspects such as whether progress was made at the first hearing by a plea being entered, whether applications capable of being made were made, if a not guilty plea was entered whether a trial date was set and, in the event of a guilty plea, if the prosecution had relevant information to enable the court to move to sentence. Whilst we found that most cases were effectively progressed at the first hearing, this does not detract from the identified improvements needed at the pre-charge and initial review stages to ensure strong cases are built to encourage more early guilty pleas and to ensure the effectiveness and efficiency of subsequent stages.

**7.31.** In the Area we visited with a specialist domestic abuse team, the same prosecutor reviews the not guilty anticipated plea (NGAP) cases then prosecutes them in the specialist domestic abuse court. In our file sample from this Area, even more of the cases were effective at the first hearing, with 97.8% of cases

assessed as fully meeting the expected standard. However, our file sample revealed that having a specialist team made little discernible impact on case progression after the NGAP hearing. This may be due to the low volume of cases the team are able to deal with in the context of the overall domestic abuse caseload.

### **Applications and ancillary matters**

**7.32.** In appropriate cases, applications to adduce a defendant's bad character, and/or to admit evidence under the hearsay provisions, can be used to strengthen the prosecution case. However, we found that the CPS were often missing opportunities to do so. We assessed 11 of the 71 relevant cases (15.5%) as fully meeting the required standard, 13 cases (18.3%) as partially meeting it and 47 cases (66.2%) not meeting it.

**7.33.** The weaker cases featured a lack of applications where one was clearly indicated, poorly drafted applications, and reliance on the fact of a previous conviction rather than the circumstances of it. We did see examples of good applications; in one such case, the prosecutor applied to adduce the defendant's convictions for assaulting a previous partner and a female friend to rebut his defence of self-defence and to demonstrate that he had a propensity to use violence towards women. The court granted the application, and details of the defendant's bad character were adduced at trial.

### **Requests to and new material from the police**

**7.34.** We assessed the cases in our file sample for how well the CPS dealt with new material sent to them by the police and whether requests to the police for additional material or enquiries were timely and escalated where necessary. Both are an important part of effective case progression. There is room to improve both aspects.

**7.35.** We found that new material received from the police was reviewed appropriately and promptly with timely and effective actions taken in response in half the 170 relevant cases (85 cases or 50.0%). We assessed the handling of new police information as partially meeting the expected standard in 32 cases (18.8%). In these cases, key material was dealt with promptly, but other less important items were tackled after some delay. We assessed the remaining 53 cases (31.2%) as not meeting the standard, meaning that even key material was neglected and/or responses were ineffective, with delays and an impact on the service to the defence, court and victims and witnesses.

**7.36.** We assessed requests to the police for additional items or editing of existing material as fully meeting the standard in 63 of the applicable 150 cases (42.0%). Cases were assessed as partially meeting the standard in a further 55 cases (36.7%). These included some requests that were made at a stage where

unreasonable pressure was put on the police to comply, or where a proposed discontinuance was used instead of established escalation procedures. The remaining 32 cases (21.3%) we assessed as not meeting the standard. In these cases, we saw instances of late and inappropriate requests, and of items being repeatedly chased without recourse to escalation.

### **Witness care communications**

**7.37.** Another important aspect of case progression is making sure that the prosecution can secure its best evidence by addressing correspondence regarding witness issues from the witness care unit (WCU) or independent domestic violence advisors (IDVAs) in a timely manner with effective actions. Failure to attend efficiently to important witness care communications may mean that opportunities to put in place supportive measures or to review the strength of the case and take appropriate action are missed, to the detriment of victims, witnesses, defendants, and the courts' valuable time.

**7.38.** In our file sample, there were 135 cases with relevant communications from the WCU or IDVAs. We assessed the response as fully meeting the expected standard in just over half (76 cases or 56.3%), and as partially meeting the standard in 28 cases (20.7%), with the remaining 31 cases (23.0%) assessed as not meeting the standard. In the weaker cases, we found that the victims and witnesses were left without a resolution for too long, and WCU staff or IDVAs had to chase the CPS for a reply on more than one occasion.

**7.39.** We noted that where communications came in closer to the trial date, they were likely to be tackled more effectively. Those coming in shortly after the plea hearing were actioned less promptly. The focus on the proximity of a trial date may be understandable but it can also lead to opportunities to put measures in place to support and reassure the victim or witness or otherwise to keep the prosecution on track being missed.

### **Witness summonses**

**7.40.** We considered the quality of decisions taken around the use of witness summons for victims or witnesses who were reluctant to attend court. We looked at whether there was proper consideration of whether a summons was appropriate, whether the decision made was correct, and, if the decision were to ask for a summons, whether the appropriate action was taken.

**7.41.** This aspect of case progression was a stronger one for the CPS. We found that there was proper consideration, with a correct decision and appropriate follow-up action, in almost three-quarters of the relevant cases (58 out of 79 cases, or 73.4%). In over half the relevant cases (44 out of 79 cases, or 55.7%), the outcome was that, after proper consideration, a decision was taken not to request a witness summons.



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## Strength

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Prosecutors are demonstrating a good application and understanding of the domestic abuse policy and guidance when it comes to deciding whether to summons a reluctant victim.

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### The role of paralegal officers in case progression

**7.42.** The CPS is piloting the use of paralegal officers (POs) for case progression in magistrates' courts teams, which will include domestic abuse casework. The pilot, part of the national response to the continuing pressures faced by Areas owing to the Covid-19 pandemic, was announced in March 2022. It began in four CPS Areas in July 2022. New POs have been recruited in pilot Areas, where they manage incoming correspondence and witness care queries, draft applications (such as for special measures or bad character), and monitor trial readiness, leaving prosecutors to focus on legal decision-making. The pilot Areas' POs start with some of the more straightforward tasks before moving on to more complex tasks as they build confidence.

**7.43.** A senior district crown prosecutor from one of the pilot Areas reported benefits including clearing backlogs in charging and reviews, significantly reducing the number of outstanding tasks on the case management system, and improving staff morale.

**7.44.** The initiative has the potential to improve efficiency in case progression, enable prosecutors to focus on legal tasks, and to offer opportunities for POs to broaden their skills and experience, and prepare them for further development. The availability of a PO to deal with witness care communications rather than the query waiting for a busy lawyer should mean that action can be taken sooner, and the case progressed more promptly, with a consequent improvement in the service to victims and witnesses. There is also the potential for new prosecutors to be supported in their learning by the longer-standing POs with more experience of some tasks, for example, drafting applications.

**7.45.** The files we examined predated the pilot, so we cannot comment on the impact in that respect. However, our interviews showed there had been a positive response. The initiative was widely welcomed by a range of CPS staff we spoke to, including the POs themselves, and in one of the pilot Areas we visited, it has substantially decreased the number of outstanding witness communication tasks. We concluded that the early signs indicate it is good practice and we await with interest the outcome of the CPS's evaluation of the pilot.



### Good practice

The paralegal officer pilot in magistrates' court teams has the potential to significantly improve the efficiency of case progression, including the reduction of outstanding witness care communication and other tasks. This will free up lawyers' time for work that requires legal experience, provide a better service to witness care units, victims and witnesses, and build skills and morale across magistrates' courts teams. Whilst our file examination predated the introduction of the pilot, the early signs from the other evidence we gathered are that it is delivering benefits.

## Disclosure of unused material

**7.46.** The prosecution has a duty to disclose to the defence any unused material which may undermine its case or assist the defence. In the magistrates' courts, this is usually achieved by service of initial disclosure with a streamlined disclosure certificate (SDC) setting out what unused material there is, and which, if any, items are disclosable. In the magistrates' courts, the defence may (but rarely do) serve a defence statement, where they do the prosecution must make continuing disclosure. A defence statement is mandatory in the Crown Court. Since continuing disclosure is rarely needed in the magistrates' courts, we focused our file examination on initial disclosure.

**7.47.** There is significant room to improve the prosecution's compliance with their duties of initial disclosure; timeliness is better.

**7.48.** There were 253 cases where initial disclosure should have been made. In 61 cases (24.1%) we assessed compliance with that duty as fully meeting the required standard, meaning that disclosure was done accurately, and the right items disclosed or withheld. We assessed timeliness separately. In a further 98 cases (38.7%) we assessed initial disclosure as partially meeting the expected standard, and in the remaining 94 cases (37.2%) as not meeting the standard.

**7.49.** The most common failing in weaker cases was not identifying items of unused material that were disclosable, often previous convictions of witnesses, or the police records relating to previous incidents between the victim and defendant. This was closely followed by failing to identify that obvious items of unused material (disclosable or not) were not listed on the schedule sent by the police. We also noted that wrong endorsements were used when recording decisions on the SDC, and in a few cases, disclosure was not carried out at all.

### **Compliance issue**

Area managers should make sure there is a renewed focus on prosecutors' compliance with their disclosure duties at post-charge stage. Where there are failings on the police side, they should encourage prosecutors to feedback the issues and escalate where appropriate.

### **Timeliness of initial disclosure**

**7.50.** We assessed timeliness in the 234 cases where initial disclosure was served, and found that 120 cases (51.3%) fully met the standard. Usually, this meant that initial disclosure was sent with the initial details of the prosecution case (IDPC) in good time for the first hearing. In 54 cases (23.1%), we assessed timeliness as partially meeting the standard, by which we meant that delay was minimal and had no significant impact on case progression. The remaining 60 cases (25.6%) were assessed as not meeting the standard, meaning that delays were significant.

### **Preparing the papers for trial**

**7.51.** In most of the cases in our file sample, the CPS prepared a bundle for trial which contained sufficient information for the advocate to progress the case. We assessed 148 out of the 175 trial cases in our sample (84.6%) as fully meeting the standard for this aspect of work. A further 19 cases (10.9%) were assessed as partially meeting the standard and the remaining eight cases (4.6%) as not meeting the standard.

## **8. Support and protection for victims**

## Risk

### Risk assessments

**8.1.** The police should consider the risks to victims and their family members by completing a risk assessment upon notification of an incident. Most police forces use the Domestic Abuse, Stalking and Honour-Based Violence (DASH) risk assessment or the Domestic Abuse Risk Assessment (DARA). Completion of the assessment allows the police to reach a decision on the level of risk. This underpins immediate safety planning measures to protect the victim and any children. The police would not ordinarily complete a risk assessment in cases where the suspect or victim is aged under 16, because the statutory definition of domestic abuse requires both the victim and suspect to be aged 16 or over.

**8.2.** Police and prosecutors should work closely to ensure that a victim's safety and welfare are addressed through informed risk assessments. This is reinforced by the requirement in the Director's Guidance on Charging, sixth edition (DG6) that the police provide the risk assessment to the prosecutor when seeking pre-charge advice.

**8.3.** In our sample of 300 domestic abuses cases in the magistrates' courts, we found that the police often stated the risk assessment level (standard, medium or high) but did not provide the completed DASH or DARA document. We discuss this, and the implications for case building and progression, in more detail in Chapter 6.

### Background report

**8.4.** If a victim has been engaged with a prosecution but then decides to withdraw their support, the police should take a statement from them to explain why they have reached that decision. The police are also required to prepare a background report for the CPS to accompany any withdrawal statement. The report should include the officer's views on the case with a general assessment of the victim's reasons for not being supportive, any identified risks to the safety of the victim (or any other person), and the likely impact on a victim of proceeding or not proceeding with the case.

**8.5.** The background report assists the prosecutor to review the case, and decide if there is still sufficient evidence and if it is still in the public interest to continue with the prosecution. It may help the prosecutor to decide whether further charges are appropriate (such as witness intimidation or harassment), whether the defendant has breached their bail conditions, whether it would be appropriate to seek a witness summons to compel the victim to attend court to

give evidence, and whether there is evidence to support a hearsay application, for example, due to the victim being in fear.

**8.6.** There were 41 cases in our file sample where the police had not provided a background report when required. In 17 of those cases (41.5%), the CPS requested the background report before deciding on the progress of the case and we assessed these cases as fully meeting the expected standard. In a further 17 cases (41.5%) the CPS did not ask for a report. These cases were assessed as not meeting the standard. In seven cases (17.1%) although the CPS did request a background report, the police did not provide one, and escalation was not used. We assessed these seven cases as partially meeting the standard.

**8.7.** This meant there were 24 cases in which decisions had been made on the progress of a case in the absence of a background report. Whilst we concluded that, on the face of it, the decisions taken were generally sound, it was difficult to fully assess if the correct decision had been made, given the lack of input, views, and further information from the officer in the case.

**8.8.** We also noted that the quality and detail of the background report varied between police forces. This was echoed in focus groups with prosecutors and when speaking to Area domestic abuse leads. We heard from focus groups of prosecutors in some Areas that they routinely send the police an extract from the CPS legal guidance explaining what information the background report needs to cover. This is good practice as it helps to ensure that officers do not miss any points that should be addressed and to reinforce officers' learning.

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**Good practice**

In some Areas, prosecutors send the police an extract of the CPS legal guidance setting out the information needed in the background report from the police when the victim withdraws their support for a prosecution.

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## Bail and remands in custody

### Pre-charge bail and remands

**8.9.** The prosecution has a responsibility to ensure the safety of victims and witnesses as far as possible by making appropriate applications to remand defendants in custody, or by seeking bail with suitable conditions attached.

**8.10.** When a suspect is arrested for an offence and the police decide they are not suitable to be bailed, they can request that the CPS make an immediate charging decision on the full code test or threshold test. In other cases, a suspect can be charged or bailed pending further enquiries and/or CPS charging advice, with or without conditions. The police also have the option to release a suspect under investigation pending further enquiries and/or the obtaining of CPS advice, but then there is no power to attach conditions. If a suspect is released under investigation (RUI) and a decision is then made to charge, they will be sent a postal requisition notifying them of the charge and their required attendance at court.

**8.11.** Whichever position applies, the prosecutor should record it in their review and deal with the implications or actions that flow from it.

**8.12.** We examined 300 magistrates' court domestic abuse cases, of which 30 were decisions to take no further action. The remaining 270 cases should have had a record in the CPS pre-charge review of the suspect's remand or bail status and the prosecutor's decision as to the approach to be taken at court, including whether an appeal against a grant of bail should be pursued. We found that there was significant room to improve this aspect of the lawyer's advice; in two-thirds of the cases (180 cases or 66.7%) we assessed this aspect as not meeting the expected standard. Prosecutors were not identifying the suspect's bail status in their review, and/or, given the lack of instructions to the court prosecutor, were not evidencing any consideration of whether bail conditions would be appropriate. We assessed a further 56 cases (20.7%) as fully meeting the standard, and the remaining 34 cases (12.6%) as partially meeting the standard.

**8.13.** In many of the cases assessed as fully meeting the standard, the suspect was in custody and the police were seeking a remand. In this scenario, prosecutors were more proactive in evidencing their consideration of the suspect's status and providing instructions to the court prosecutor on the propriety of, and grounds for, seeking a remand in custody, whether an appeal against a grant of bail would be appropriate and, if a remand application was not called for, what conditions the court should be invited to impose.

**8.14.** In several cases assessed as not meeting the standard, the police pre-charge request made it clear that the suspect was on police conditional bail, but the prosecutor failed to record this on their advice and did not provide instructions on whether an application was to be made to the court for the conditions to continue.

**8.15.** However, the most common situation that prevailed in cases we assessed as not meeting the standard was where the defendant was released under investigation. This was not surprising given that RUI was commonplace in the cases we assessed. When most of the cases in our file sample were dealt with, there was a 28-day time limit for bail before charge (which has since been extended to three months). We were told by focus groups of prosecutors and CPS domestic abuse leads (and saw from our file examination) that many domestic abuse cases take much longer than 28 days to reach the CPS for a charging decision. The time taken for police to investigate and submit cases for advice, and for advice to be given, meant that where a suspect was initially released on police conditional bail it became necessary to cancel that bail and change the suspect's status to "released under investigation."

**8.16.** Under the Bail Act 1976, a defendant must be granted bail without conditions if none of the exceptions to bail apply. The exceptions differ depending on the type of offence with which the defendant is charged but include substantial grounds for believing that the defendant will commit an offence by behaving in a way that would, or would be likely to, cause (or cause fear of) physical or mental injury to their spouse, partner or a family member. Further offences, particularly assaults, directed at a victim are likely to fall within that category. Conditions of bail may only be imposed where necessary to ensure that the exceptions to bail are addressed. If conditions are insufficient to address the exceptions to bail, then the prosecution should apply to remand in custody.

**8.17.** In one Area, prosecutors told us that if a suspect had been released under investigation, they would not consider the bail position or provide any instructions on this point in their pre-charge review as there was an expectation that the court would always grant unconditional bail. From our assessment of the files, it was apparent that many prosecutors in other Areas also took this stance. Where a suspect has been released under investigation for what could be months, and there have been no other offences committed or, for example, attempts to intimidate a victim or witness, this approach is not surprising. However, prosecutors should still adopt a thinking approach to protecting a victim in a domestic abuse case and not just maintain the status quo. The charging advice should address whether there has been any further contact between the suspect and victim (especially where some time has passed since

the first report to the police) and show that the prosecutor has considered the matter of bail and conditions.

**8.18.** As one of its benchmarks on quality, CPS guidance on bail states: “Opposing bail where it is appropriate to do so, taking account of the risk posed to victims, the public and the course of justice. It is vital that Prosecutors recommend the appropriate course of action to a Court in connection with bail ...”. Given this and the potential consequences for a victim’s safety of not seeking conditions, the CPS should take steps to improve performance on this aspect.

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**Compliance issue**

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The CPS should make sure there is a proper focus on the consideration of a suspect’s bail status in pre-charge reviews, including an adequate consideration of an application for conditional bail where a suspect has been released under investigation and is to appear for first hearing on a postal requisition.

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### Case study

The victim and suspect had been in a long-term relationship. They had two children together, aged nine and seven. The victim ended the relationship because of the suspect's controlling and violent behaviour. She subsequently obtained a non-molestation order against him after he continued to attend her address uninvited and followed her in the street.

The victim became involved in a relationship with another man and, on the date of the alleged offence, was at her home with him and her two children. The suspect attended the victim's address and forced his way in. He grabbed her boyfriend and attempted to throw him down the stairs. The victim intervened and was assaulted by the suspect, who grabbed her wrists, causing redness, and dragged her out of the way. He also trapped her foot in the front door as she tried to leave the premises and spat in her face.

The incident continued outside and was recorded on a neighbour's CCTV camera, which showed the suspect's aggressive behaviour and further assaults by him upon the victim and her boyfriend.

The suspect was arrested and interviewed. He replied no comment to all questions. He was later charged with two offences of assault by beating relating to the victim and her boyfriend.

The suspect had initially been released on police conditional bail which had expired by the time the police submitted the case for a charging decision. The prosecutor did not consider the suspect's bail position or provide any instructions to the court advocate about bail. The situation was compounded by the court advocate failing to record at first hearing any representations made by the prosecution in respect of bail. The hearing record sheet simply recorded that the suspect had been remanded on unconditional bail.

Given the nature and seriousness of the offences and the alleged history of domestic abuse, proper consideration should have been given to the bail position and whether conditions were required to protect the victim and her children from any future behaviour likely to cause physical or mental injury.

The defendant admitted the criminal damage at the first hearing, and the assault allegation proceeded to trial. On the day of trial, the defendant pleaded guilty on an accepted basis. He was fined. In view of the victim's withdrawal of support, no restraining order was made.

## Post-charge bail and remand considerations

**8.19.** We found that the CPS considered post-charge bail and remand more consistently. We assessed 182 of the 262 applicable cases (69.5%) as fully meeting the standard, 42 cases (16.0%) as partially meeting the standard and 38 cases (14.5%) as not meeting the standard.

**8.20.** We found that the CPS were making appropriate remand applications in cases where conditional bail would not have addressed the fears identified in the exceptions to bail. In cases where the prosecution applied for a remand in custody, the court agreed with the application. As a result, we did not see any cases where the prosecutor was required to appeal the grant of bail.

**8.21.** There were a few cases where, having been charged and held in custody for the first hearing, the prosecutor did not seek a remand and the defendant was granted conditional bail. This was because the defence had provided a suitable bail address for the defendant away from the victim, which was sufficient to address any fears in relation to witness interference and the commission of further offences.

**8.22.** Endorsements about bail and remand on the hearing record sheet (HRS) were good where the defendant had appeared in custody. They tended to be clear about the defendant's status, the application made and the outcome. This is important because the HRS is sent to the witness care unit, and it is from this information that they notify the victim of the bail or remand status.

**8.23.** Where the defendant appeared on police conditional bail for first hearing, the prosecutor usually applied for the conditions to continue, and on most occasions, the court granted the application. Sometimes, the defence would argue for unconditional bail if they had heard from the defendant that the victim was no longer supportive, but we saw examples of prosecutors robustly challenging this if the prosecutor did not have this information directly from the victim.

**8.24.** Legal reforms in 2017 introduced a presumption against pre-charge bail unless necessary and proportionate, and there were stringent timescales for the initial imposition and extension of pre-charge bail. This led to an increase in the number of suspects being released under investigation. Since the cases in our file sample were finalised, the law has been reformed. From 28 October 2022, the presumption against pre-charge bail was removed<sup>23</sup>. This is to encourage

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<sup>23</sup> *Police, Crime, Sentencing and Courts Act 2022: factsheets*; Home Office; August 2022.  
[www.gov.uk/government/publications/police-crime-sentencing-and-courts-bill-2021-factsheets](https://www.gov.uk/government/publications/police-crime-sentencing-and-courts-bill-2021-factsheets)

the use of pre-charge bail when necessary and proportionate to do so, based on the individual circumstances of the case and applicable risk factors. Initial time limits for pre-charge bail have also increased from 28 days to three months, and the regime for extensions has been simplified. The expectation is that more suspects will be on pre-charge bail than being released under investigation, which should provide greater assurance and safeguards to victims.

**8.25.** There is also a new duty to seek the views of the victim on proposed pre-charge bail conditions, which should ensure they are robust and that victims are involved in the process. The anticipated increase in the use of pre-charge bail is likely to make it easier for prosecutors to seek post-charge conditional bail when the defendant appears in court, providing greater protection for victims of domestic abuse.

## Special measures

**8.26.** Victims of domestic abuse often feel anxious about attending court and giving evidence and/or fear intimidation when at court. They may require assistance to allay their fears and give their best evidence. Where witnesses are vulnerable and/or intimidated, provisions can help them give their best evidence in court. These are called special measures. Victims of domestic abuse are automatically eligible for special measures on grounds of fear or distress about testifying. However, whether they are granted in a case will still depend on whether the court considers them likely to improve the quality of the witness's evidence, taking into account the witness's wishes and the ability of the parties to test the evidence effectively.

**8.27.** There are a range of special measures available, for example giving evidence from behind a screen or via a live link so that victims do not have to be in the same room as the defendant, or giving evidence in private (that is without the public being in court). A combination of special measures can also be requested.

**8.28.** If a victim has made a statement, the police officer should complete a manual of guidance form 2 (MG2) which sets out the measures that the police have discussed with the victim. Prosecutors should then use the information on the MG2 to make an application to the court so that the most appropriate measures can be secured.

## Pre-charge consideration of special measures

**8.29.** It is important that prosecutors consider at the earliest possible stage how to assist victims of domestic abuse to give their best evidence. Failing properly to consider special measures at the pre-charge stage risks delaying any request to the police for additional information and the application to the court. This in turn means the victim must wait longer to be reassured that they will have appropriate measures to support them at trial.

**8.30.** We found that prosecutors at the pre-charge review stage were not always addressing sufficiently well or proactively relevant applications to support victims, such as special measures applications. We assessed 115 out of 254 relevant cases (45.3%) as fully meeting the standard, 84 cases (33.1%) as partially meeting the standard and 55 cases (21.7%) as not meeting the standard. Whilst these responses also reflected applications and ancillary matters such as restraining orders and the VPS, issues with special measures featured heavily in most of the weaker assessments.

**8.31.** A common failing was not identifying that a victim was likely to require special measures and consequently not setting actions for the police to provide information to support an application. Another failing was, where the police had provided an inadequate MG2, not seeking further clarification as to the victims' views and what special measures were indicated.

**8.32.** In the cases we assessed as fully meeting the standard, we saw examples where the charging lawyer had carefully considered and explored the support a victim may need to give evidence in court. One such example was in a malicious communications case. The prosecutor had requested further information from the police about the victim's learning disabilities, which had been briefly referenced on an MG2. They also asked whether an intermediary had been considered. The prosecutor persisted in requesting this further information when the police initially failed to respond. On receipt of the required clarification and information, although an intermediary was not deemed to be necessary, other measures to assist the victim to give evidence were properly addressed and clear instructions were provided to the court prosecutor.

**8.33.** Prosecutors we spoke with had a good understanding of the importance of identifying and applying for special measures at an early stage in domestic abuse cases, particularly given high victim attrition rates. However, this level of understanding needs to be consistently applied and recorded in reviews so that everyone dealing with the case is clear what needs to be done and that early opportunities to progress special measures to assist a victim are not missed.

**8.34.** Prosecutors and Area domestic abuse leads told us about the inconsistent quality of MG2 forms that are received from the police. Our file examination findings supported this, although we noted that prosecutors often did not address deficiencies. There were 40 cases in our file sample where the police MG2 supplied was of poor quality. The CPS challenged appropriately and sought further information and clarification in 12 cases (30.0%). In three cases (7.5%) we assessed the CPS action as partially meeting the expected standard because the feedback to the police was not clear about what further information was needed to help make a successful application. We assessed the remaining 25 cases (62.5%) as not meeting the standard. In these cases, there was no challenge to the police regarding the inadequate MG2 and no further clarification was sought. This will inevitably impact on the quality of applications made.

**8.35.** In focus groups of prosecutors, we also heard that the police often made assumptions about what special measures a victim would want without discussing it with the victim. There was a clear concern amongst some prosecutors, defence advocates and District Judges we spoke to that many officers do not adequately understand special measures. During a focus group of police sergeants in a domestic abuse unit, we found a lack of understanding as to why prosecutors needed information about special measures before charge.

**8.36.** In some Areas, we heard of work to improve the quality of MG2s, such as dip sampling and feedback to the police in strategic meetings. We consider this to be an example of good practice and a useful way for the CPS to influence improvements in the police understanding of special measures, which will ultimately assist victims.

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**Good practice**

Dip-sampling of the quality of police forms setting out what special measures the victim or witnesses may require, with feedback to the police, enables the CPS to drive improvements that support victims.

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**8.37.** An important function of the pre-charge advice is to provide instructions to the court prosecutor for the first hearing. These should include whether a special measures application is appropriate and what measures should be sought. We discuss instructions to the court prosecutor in more detail in Chapter 5, but one of the issues we noted in weaker cases was not providing clear information about special measures.

## Post-charge consideration of special measures

**8.38.** Despite the lack of clear instructions at pre-charge review stage, we found that prosecutors were generally making oral applications for special measures at first hearing. Whilst this is positive, the lack of clear instructions and the weaknesses in MG2s meant that the measures sought were not always what the victim wanted or needed.

**8.39.** We considered, in the 178 relevant cases in our file sample, whether the appropriate application for special measures was made. We assessed 113 cases (63.5%) as fully meeting the standard, 43 cases (24.2%) as partially meeting the standard and 22 cases (12.4%) as not meeting the standard.

**8.40.** We saw several good examples of timely and appropriate special measures applications being made and granted to provide victims and witnesses with early reassurance and comfort.

### Case study

The victim ended her four-year relationship with the defendant. A dispute then arose over the defendant's contact with their son which culminated in the defendant sending the victim abusive text messages and persistently telephoning her with verbal abuse.

The victim reported the contact to the police. The defendant was invited in for a voluntary interview. He admitted the contact and his use of abusive language, but he did not believe he had done anything wrong. He was warned to stop.

His abusive and persistent contact with the victim continued after he had been warned. He was arrested. He again admitted the contact but did not believe his behaviour amounted to harassment.

The defendant was charged with harassment and pleaded not guilty. The police provided an MG2 indicating that the victim wanted to give evidence via a remote live link from a courthouse near to where she now resided with her mother. The court prosecutor made an oral application at the first hearing for the requested special measure. It was granted by the court and the decision was communicated promptly to the victim.

Subsequently, the victim's mother provided a witness statement. The defence also required her to give evidence at the trial. The prosecutor was proactive in serving a prompt written application to allow the mother to give her evidence via a live link from the same courthouse as the victim. There was no objection from the defence. The court granted the application, and the decision was communicated to the witness in a timely manner.

In advance of the trial date, the CPS emailed the victim's and mother's witness statements to the magistrates' court they were to give evidence from so that they could refresh their memory on the day of trial.

The victim and her mother attended court on the trial date ready to give their evidence via the remote live link, whereupon the defendant changed his plea to guilty. He was sentenced to a community order and a two-year restraining order.

**8.41.** Often, a victim may initially indicate that they do not need special measures, but change their mind closer to the trial date. Some of the weaker cases were where this occurred, but the CPS either did not apply for special measures or made the application very shortly before the trial date when they could have been made earlier and put an anxious victim's or witness's mind at ease. This is symptomatic of the delays we saw and were told of in actioning witness care communications. The paralegal pilot which is running in four Areas shows early signs of making inroads into these task backlogs.

**8.42.** Witness care units are expected to inform a victim as soon as possible what special measures the court has granted. Therefore, they rely on the CPS to update the case management system (CMS) with the court's decision so they can provide accurate information to the victim. We found in some cases that this was not happening promptly or at all, with witness care unit staff repeatedly having to chase the CPS to check the position.

**8.43.** Where court rulings on applications (such as special measures applications) have not been received, the CPS should follow up to ensure the relevant measures are in place and that the victim can be informed in good time. In 66 cases in our file sample, applications, including those for special measures, had been made to the court but the CPS were not informed of the outcome. In 39 of those cases (59.1%), we assessed the CPS as fully meeting the expected standard for checking the status of applications and recording the outcome so the decision could be communicated to the victim. We assessed a further 11 cases (16.7%) as partially meeting the standard, and the remaining 16 cases (24.2%) as not meeting the standard.

**8.44.** In our file examination question set, we did not specifically assess the CPS's performance in seeking an order to prevent a defendant from cross-examining a witness in person. However, we did see from the file sample and court observations that court prosecutors at the first hearing were asking the court to make such an order when a defendant was either unrepresented or the position regarding their legal representation was uncertain. Focus groups of prosecutors we spoke to were fully aware of this provision and the importance of making sure that an order was in place early on to support the victim and reduce their anxiety.



## Special measures meetings

**8.45.** There is provision for the CPS to hold a special measures meeting with the victim to introduce themselves and help the victim make a fully informed decision about what special measures might help them to give their best evidence at trial. They also help to build trust and confidence and can reassure a victim that their needs will be considered throughout.

**8.46.** The offer of a special measures meeting is a decision for the prosecutor but if a victim has requested a meeting, then one should ordinarily be held. There were no cases in our sample where the prosecutor had offered a special measures meeting or where one had taken place, despite victims requesting them in 18 cases. Prosecutors told us they lacked confidence in the quality of some MG2s, and this may lead them to pay little attention to this and other questions on the form. High workloads amongst prosecutors may also be a disincentive. However, when speaking to focus groups of prosecutors, we found a great passion and desire to support domestic abuse victims as much as possible, keep them engaged in the criminal justice system and get them the best outcome. Many were conscious of the very minimal interaction and direct communication they have with victims and that special measures meetings were a way of bridging this gap.

**8.47.** We reviewed the internal CPS legal guidance on special measures meetings which is currently available to prosecutors, but at the time of writing it states, “this section is currently under review”. There is no interim guidance available or a date when the guidance will be available. We anticipate that the current and on-going victim transformation work (discussed in further detail in Chapter 9) is likely to shape any forthcoming guidance.

## Pre-trial court visits

**8.48.** Under the Code of Practice for Victims of Crime<sup>24</sup> (the Victims’ Code), a victim has the right to have their needs assessed and for the witness care unit to offer them a referral to a witness support service that can arrange a pre-trial court visit. Pre-trial court visits enable victims and witnesses to familiarise themselves with the building, find out more about special measures, including seeing screens in place in the courtroom and/or the TV link, and give them the opportunity to ask the Witness Service any questions. Pre-trial court visits are intended to help victims and witnesses feel more confident and comfortable on the day of trial.

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<sup>24</sup> *The Code of Practice for Victims of Crime in England and Wales and supporting public information materials*; Ministry of Justice; April 2021. [www.gov.uk/government/publications/the-code-of-practice-for-victims-of-crime](http://www.gov.uk/government/publications/the-code-of-practice-for-victims-of-crime)



**8.49.** Compliance with this right was difficult to assess in our file sample. In 85 of the 197 applicable cases (43.1%) we could not establish from the information contained on the case management system (CMS) whether the victim had been offered a pre-trial court visit. In another 65 cases (33.0%) a pre-trial visit was offered, but we could not tell whether the victim had attended. The victim was offered and attended a pre-court visit in seven cases (3.6%), and declined the offer in 17 cases (8.6%). There was no offer made in 23 cases (11.7%).

**8.50.** Where a pre-trial court visit was offered, it was often contained in an introductory letter sent by the witness care unit once a trial date had been fixed. A phone number was included in the letter for the victim to call if they wanted to accept the offer of a pre-trial visit. As noted above, it was rare for there to be any record on CMS from which a prosecutor would know if the victim had accepted or rejected the offer.

**8.51.** We were told by a Witness Service manager of their concern about the low take-up by victims of pre-trial court visits. They felt victims were missing the offer as it was often included towards the end of a lengthy introductory letter with lots of information for a victim to take in. If the witness care unit officer did not then re-visit it with a victim, a vital opportunity to increase victim confidence was missed.

**8.52.** We saw a good example of the value of pre-trial court visits in one case of assault where the three victims had attended to see the court building in advance of the trial. During the visit, the witness service identified that one of the victims required an interpreter and, following liaison with the witness care unit, one was booked for trial. Arrangements were also made for the victims to enter and leave the court via a side entrance due to concerns they had raised. The victims had to attend for two trial dates because the first trial was adjourned. The fact that they remained supportive of a prosecution and attended for the trial twice may well have been due, at least in part, to the pre-trial court visit and the measures that had been put in place to help them feel more comfortable and supported.

**8.53.** Prosecutors should know whether a pre-trial court visit has been offered, whether it was taken up, and if anything arose from the visit. The CPS should work with the police and witness care units to ensure that a victim's right to a pre-trial court visit is met in domestic abuse cases and that there is clear communication and recording on CMS, including if the victim raised any concerns or queries that the prosecutor should be aware of. We consider this aspect could usefully be discussed with agencies through the Local Criminal Justice Board meetings.

## Protective Orders

### Restraining orders

**8.54.** Restraining orders are available on conviction or acquittal for any criminal offence. A restraining order on conviction can be made to protect a victim (or any other person) from behaviour which amounts to harassment, or which will cause fear of violence. A restraining order on acquittal can be made if the court considers it is necessary to protect a person from harassment by the defendant.

**8.55.** Pre-charge, prosecutors should consider whether a restraining order would be appropriate in the event of a conviction or acquittal. The police should provide the victim's views on a restraining order having discussed the suitability of any suggested conditions with them. The CPS should have this information for the first hearing, even when a not guilty plea is anticipated, so the court can deal appropriately with a defendant should they decide to plead guilty.

**8.56.** We found that in most cases the police, witness care unit or independent domestic violence advisor (IDVA) provided clear information to the CPS about restraining orders, with suggested workable and proportionate conditions if the victim wanted one. We assessed 188 of the 225 applicable cases (83.6%) as fully meeting the required standard for this aspect, 18 cases (8.0%) as partially meeting the standard and 19 cases (8.4%) as not meeting the standard. In most of the cases we assessed as partially meeting the standard, the police had provided information on the victim's views regarding whether they wanted a restraining order, but they had not proposed any conditions. Those we assessed as not meeting the standard usually had no information provided at any stage of the case regarding the victim's views on applying for a restraining order.

**8.57.** We also found that in a high proportion of cases, the information to apply for a restraining order was provided to the CPS in a timely manner. We assessed 182 out of 206 cases (88.3%) as fully meeting this standard. The information was provided in all these cases before the first hearing. We assessed 18 cases (8.7%) as partially meeting the standard because, although the information was provided after the first hearing, it was still sufficiently in advance of the trial or sentencing hearing to enable proper consideration of it by the CPS. The remaining six cases (2.9%) were assessed as not meeting the standard for timeliness because the information was still unavailable at the time of trial and/or sentence. In three of those cases, the prosecutor obtained details of suggested terms at the sentencing hearing (in one case via the IDVA who was present at court) and went on successfully to apply for a restraining order.

**8.58.** If the prosecutor does not have sufficient and/or timely information from the police to apply for a restraining order, they should challenge the police using action plans and escalation procedures if appropriate. We assessed the CPS as fully meeting this standard in 11 of the 47 applicable cases (23.4%), as partially meeting the standard in nine cases (19.1%) and as not meeting the standard in the remaining 27 cases (57.4%). In weaker cases, the CPS either did not ask the police for the information or did not escalate the request when it went unanswered.

**8.59.** The generally good standard of provision of information assisted prosecutors in making appropriate applications for restraining orders. We found that this happened in most cases, with 99 of the 122 relevant cases (81.1%) assessed as fully meeting the standard, nine cases (7.4%) assessed as partially meeting the standard and 14 cases (11.5%) as not meeting the standard. This is a strength for the CPS and their police partners.

**8.60.** Oral applications for restraining orders were frequently made with no draft order served on the defendant or court. Whilst this is contrary to the procedure set out in the Criminal Procedure Rules, there was no evidence to suggest that the defence or court took issue with the practice.

**8.61.** We saw some good examples of prosecutors robustly applying for restraining orders after the defendant had been acquitted at trial. There were no cases in our file sample where an inappropriate application for a restraining order was made on acquittal.

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**Strength**

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Restraining orders to protect victims of domestic abuse are being applied for by prosecutors in appropriate cases. This includes prosecutors making robust applications following a defendant being acquitted.

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### Case study

The victim ended her relationship with the defendant after three years, but he refused to accept that the relationship was over. The victim contacted the police after the defendant had followed her in his vehicle. The defendant was warned about his behaviour but did not comply with the warning. He continued to contact the victim via WhatsApp messages and attended her home address on several occasions.

The victim reported the matter to the police again and provided a written statement. The defendant was arrested and interviewed. He admitted that he had persistently contacted the victim and had attended her home address but denied that his behaviour amounted to harassment. He was charged with pursuing a course of conduct amounting to harassment.

The case proceeded to trial in the magistrates' court. The victim gave evidence, as did the defendant, who maintained that his behaviour did not amount to harassment. The magistrates in their findings concluded that although the defendant's behaviour was unattractive and unreasonable, it did not meet the standard for criminal liability and did not find the matter proved.

The prosecutor pursued an application for a non-conviction restraining order under section 5 of the Protection from Harassment Act 1997, inviting the court to find it was necessary to protect the victim from harassment. The prosecutor relied on the victim's personal statement, in which she referred to ongoing harassment from the defendant and the effect of his behaviour on her physical and mental health. The prosecutor also called evidence from the victim's mother who had witnessed incidents between the victim and the defendant.

The magistrates granted the application and imposed a restraining order preventing the defendant from having any contact directly or indirectly with the victim for a period of two years.

**8.62.** We heard from some District Judges and defence advocates that the information prosecutors rely on to apply for a restraining order is sometimes out of date. This leads to prosecutors making an application that does not accord with the victim's wishes. We were told of examples of couples having re-united by the time of sentence and the prosecutor being unaware and requesting a restraining order with a condition that the defendant not contact the victim. We saw an example of this during a court observation in one Area: the court prosecutor requested a restraining order to prevent the defendant from contacting the victim, but the couple had since reconciled and been married.

**8.63.** In some Areas, prosecutors told us that an IDVA will often contact them prior to, or at, the first hearing with more accurate and up-to-date information on

the victim's views about a restraining order and proposed conditions. This was supported by what we were told by some IDVAs. In Areas where IDVAs were used more proactively, and particularly where they had a presence at court, we noted there was less of an issue with prosecutors relying on out-of-date information in applying for a restraining order.

**8.64.** We have already noted that some domestic abuse allegations reach the CPS many months after the incident(s) took place and further time passes where cases are contested. In these cases, there is a real risk that the victim's circumstances may have changed, and with them, their preference for a restraining order and/or the suitable terms. Ensuring that the CPS has the most up-to-date and accurate information requires it to collaborate with partners to ensure that, in relevant cases, victims are asked to confirm this information. We make a recommendation covering this aspect here and in Chapter 9 where we discuss updated Victim Personal Statements.

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**Recommendation**

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By December 2023, the CPS to embed a process to ensure that in all magistrates' court domestic abuse cases involving a Newton hearing or trial, all up-to-date relevant information about victims, including information relevant to ancillary orders, is requested in a timely manner for the sentence hearing.

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## **9. Consultation and communication with victims**

## Victim transformation

**9.1.** The way in which the CPS communicates with victims is an important factor in making them feel supported through the criminal justice process and in reducing further trauma. We received feedback from third-sector organisations that there was a lack of clarity for victims about the criminal justice process and who is responsible for communicating with them and providing them with key information at various stages. Whilst most victims understand there are a number of different bodies involved in the criminal justice process, many expect and would welcome earlier communications from the CPS to help them feel better informed and supported.

**9.2.** The CPS has recognised they have not always got their communications with victims right, so recently commissioned independent research to help them understand exactly what a victim needs from them. That research chimed with what we had been told by third-sector organisations.

**9.3.** As a result of that research, the CPS has accepted<sup>25</sup> four recommendations which are informing their current work and will continue to shape their planning moving forward. These four recommendations are:

- The CPS will deliver an improved universal service offer to all victims of crime. The first direct contact the CPS has with a victim is usually when a prosecutor meets the victim on the day of trial or when they write to the victim to notify them they will be stopping or reducing a charge. The CPS will work with their criminal justice partners, identifying together how and where improvements can be delivered. They intend to create more opportunities for communicating with victims, answering victims' questions, and providing them with information about the prosecution process.
- The CPS will design an enhanced offer for victims with the greatest need. It has been recognised that some victims require more frequent and tailored communication from the CPS. The CPS will work with stakeholders that have expertise in supporting victims and understanding risk to identify groups of victims to whom this should apply.
- The CPS will pilot new ways of strengthening victim communication and engagement. Letters have historically been relied upon as a way for the CPS to communicate with victims. The CPS will test new and different ways of sharing information with victims and will keep their approach under review. They will consider how to incorporate greater choice for victims in how and

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<sup>25</sup> *Transforming our service to victims at the CPS*; CPS.

[www.cps.gov.uk/stories/transforming-our-service-victims-cps](http://www.cps.gov.uk/stories/transforming-our-service-victims-cps)

when they receive communications including face-to-face meetings, virtual meetings, letters and other digital methods. They will also consider how they can involve others in the communication such as support services or advocates.

- The CPS will build their organisational and leadership culture to improve their service and support to victims. The research highlighted a need for a greater understanding of trauma in CPS engagement. The research showed that victims felt their experience had not been understood or validated in communications with them. The transformation strategy recognised that a: “trauma-informed approach would change not only the tone and language used, but also the timing of CPS communication – which should be sensitive to a victim’s circumstances.”. The CPS intend to do more to equip their staff with the tools, training and confidence they need to engage with victims in the right way.

## Witness care communications

**9.4.** Witness care units (WCUs) are responsible for providing information and support to victims and witnesses from the point of charge to the end of a case. WCUs are now almost always staffed by the police. They are a central point of contact for victims and witnesses and are responsible for providing both the CPS and court with any relevant information relating to a victim or witness. In domestic abuse cases a witness care officer may also work with other services that can support victims, such as independent domestic violence advisors (IDVAs).

**9.5.** The responsibilities of a witness care officer include informing victims and witnesses of trial dates and monitoring their availability, conducting needs assessments to identify any support needed to help witnesses attend court and give their best evidence (including managing special measures requirements), and updating victims and witnesses of the outcome of any special measures applications and the trial outcome.

**9.6.** Examples of the types of communications from the WCU to the CPS include where:

- a victim has been warned to attend court but is unable to attend because of work or childcare commitments, medical issues or a booked holiday.
- a victim is reluctant to attend court owing to fear or apprehension of the defendant.



## The service from the CPS to victims of domestic abuse

- a victim does not want to support the prosecution and will not willingly attend court.
- a victim has a concern about special measures.
- a victim has a concern regarding their Victim Personal Statement (VPS).

**9.7.** Witness care units depend greatly on access to timely and effective information from the police, CPS and courts. Most WCUs have access to the CPS information via the witness management system (WMS), which is part of CPS's case management system (CMS).

**9.8.** Ineffective and delayed responses from the CPS to WCUs on any of the above issues mean that victims may be left without an answer or resolution for longer than is acceptable. They can also adversely impact the effectiveness of a trial or cause a late discontinuance of the case.

**9.9.** There is room to improve the CPS's handling of correspondence from the witness care units. We rated 76 of the 135 applicable cases (56.3%) as fully meeting the standard for timely and effective actions, 28 cases (20.7%) as partially meeting the standard and 31 cases (23.0%) as not meeting the standard.

**9.10.** The cases we assessed as fully meeting the standard did not present any particularly challenging features. Nevertheless, we noted a real commitment to finding solutions to specific witness issues that were handled efficiently and effectively. This included a case where the CPS arranged a live link within 24 hours of being notified that the victim, who had been supportive, was now considering withdrawing due to feeling anxious about giving evidence.

**9.11.** In the cases assessed as partially meeting the standard, we often found that the CPS were effective and timely in responding to one aspect of a WCU communication but ignored or overlooked other victim issues raised in the communication. In a case assessed as not meeting the standard, the victim had requested a remote live link to a court close to where he lived. This request had come to the CPS via the WCU and via the victim's Independent Domestic Violence Advisor. The CPS drafted an application, but not until two months later, and did not serve it on the court or defence. The WCU sent several requests for an update, but the CPS failed to respond until two days before the trial. The CPS conceded it was then too late to make the application and for the necessary arrangements to be put in place. The victim did not withdraw support but had to travel over 100 miles to give evidence.

**9.12.** Prosecutors talked to us about their lengthy task lists on the case management system and the competing demand of prioritising pre-charge

advice decisions and other reviews. Domestic abuse cases are not flagged on their task lists, and they accepted that, in these cases, witness care communications are not always dealt with as promptly as they would like. In Areas where the paralegal pilot is operating and in the Area that has set up the Direct Contact Team, it is envisaged that these structures will help to address the effectiveness and timeliness of dealing with witness care communications. Improvement is important so victims and witnesses can receive earlier resolution and notification on matters that directly impact them.

## Liaison with IDVAs

**9.13.** Independent Domestic Violence Advisors (IDVAs) provide professional support, advice and help to victims of domestic abuse. They advocate on a victim's behalf. An IDVA may initially be involved with addressing the safety of victims who are at high risk of harm.

**9.14.** Where prosecutors have a strong working relationship with an IDVA, this can assist in keeping a victim informed, engaged, and supported through the criminal justice process.

### Prosecutors' liaison with IDVAs

**9.15.** The CPS domestic abuse guidance states that prosecutors should work alongside IDVAs to support victims going through the prosecution process. Where this has taken place, we would expect to see reference to it on the case management system (CMS), for example, in review notes, emails loaded onto CMS or in records of phone calls. However, in 154 of the 270 charged cases (63.4%), there was no evidence on CMS to indicate whether an IDVA supported a victim at any point during the proceedings. In 35 cases (14.4%) there was clear evidence on the file that a victim had the support of an IDVA at some point and in 54 cases (22.2%) information on the file indicated that the victim did not want the support of an IDVA so there had been no IDVA involvement. Our findings show that there is no systematic and consistent way of recording IDVA engagement. As a result, we could not determine whether prosecutors were not working with IDVAs appropriately, or whether they were working with IDVAs and it was a recording issue.

**9.16.** In almost half of the cases where we could see the victim had the support of an IDVA (17 out of 35 cases or 48.6%), we could not discover whether the prosecutor had engaged with them, directly or indirectly. We rated ten cases (28.6%) as fully meeting the standard, meaning that the prosecutor had engaged directly with the IDVA and exchanged information. This engagement was usually at court, recorded on the hearing record sheet, and concerned liaison with an IDVA regarding defence bail variation applications or a

victim's views on a restraining order or special measures. We rated another three cases (8.6%) as partially meeting the standard as there was indirect contact where direct contact would have been more effective. We assessed the final five cases (14.3%) as not meeting the standard because there was no communication with the IDVA where it was called for.

**9.17.** In one case we noted particularly good communication via regular emails between the prosecutor and IDVA. This included discussions about a defence bail application and the risk to the victim when they sought to retract. The prosecutor told the IDVA promptly when the decision to end the case was made so that the IDVA could address safety issues with the victim given the defendant's imminent release from custody.

## **Court IDVAs**

**9.18.** A court IDVA provides support for domestic abuse victims through the court system, and may be co-located within the court building or spend a lot of their time within the courts. A court IDVA is normally a specifically commissioned resource, and the provision of this service varies from Area to Area, as we discovered in our court observations.

**9.19.** We attended some courts, including those operating as a specialist domestic abuse court (SDAC), where there was no court IDVA provision at all. In other courts, prosecutors told us that they were able to contact an IDVA by telephone if required. In those SDACs where a court IDVA was physically present in court, we saw examples of good communication between the court prosecutor and IDVA. This included a case where the defendant was charged with stalking without violence and the defence offered a plea to harassment. The prosecutor obtained a legal manager's approval to accept the plea if the victim was content with it. The court prosecutor spoke with the IDVA who in turn contacted the victim by telephone. The court IDVA reported back to the prosecutor that the victim was content to accept the plea. They also updated the prosecutor about an additional condition the victim wanted on the restraining order application. The prosecutor duly applied for the restraining order with this condition and the magistrates granted the application.

**9.20.** In the Area we visited with a specialist domestic abuse magistrates' courts team, the prosecutors in the team regularly attend the SDACs. The court IDVA spoke very highly of their relationship with the prosecutors and the Area domestic abuse lead. The IDVAs have direct contact numbers for the specialist domestic abuse prosecutors so they can have regular contact with them at and outside court. In addition, the Area sends the IDVAs the court rota every week, so they know which prosecutor is to be the advocate in the SDACs and any domestic abuse trial courts that week. The IDVAs have access to the police

information management system which prosecutors cannot access. This means that if an IDVA notices there is a domestic abuse case that has not been listed in the SDAC, they will contact the Area. The prosecution will then contact court listing to ask for the case to be moved into the SDAC.

## Speaking to witnesses at court

**9.21.** The CPS has a responsibility in the Victims' Code to help witnesses understand what will happen when they attend court for a trial. This is referred to as the "speaking to witnesses at court (STWAC) initiative"<sup>26</sup>. The CPS STWAC guidance emphasises the need to make sure that witnesses are properly assisted and supported. The guidance also reminds prosecutors of their important role in reducing a witness's apprehension about going into court, familiarising them with the processes and procedures which may seem intimidating and unknown, and managing their expectations as to what will happen while they are at court.

**9.22.** The trial advocate should make an entry on the hearing record sheet (HRS) that they have complied with the requirements of the STWAC initiative and record anything of note.

**9.23.** We found that there was inconsistent compliance with STWAC obligations in our file sample. We assessed 74 of the 147 applicable cases (50.3%) as fully meeting the standard, 34 cases (23.1%) as partially meeting the standard and 39 cases (26.5%) as not meeting the standard. In the weaker cases, there was often no record or an inadequate record of the consultation with victims and witnesses.

**9.24.** In many Areas, agents prosecute domestic abuse trials and are responsible for having and recording the STWAC conversations. In one of the Areas visited, we were given an agent pack and were told about the training provided to the agents the Area use regularly. The results for STWAC compliance in this Area were significantly higher than in other Areas. This training pack and model demonstrate good practice and are discussed further in Chapter 10.

**9.25.** We saw some good examples of compliance with STWAC which positively impacted the quality of the victim's evidence in court and the perception of the service they received from the CPS. One such example was a case where the victim had initially asked to give evidence via a live link at court. The live link application had been made and granted at the first hearing. When

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<sup>26</sup> *Speaking to witnesses at court*, CPS; March 2018.  
[www.cps.gov.uk/legal-guidance/speaking-witnesses-court](http://www.cps.gov.uk/legal-guidance/speaking-witnesses-court)

the victim attended court and spoke to the trial prosecutor who explained more about the special measures available, she decided she wanted to give evidence from within the courtroom without a screen or live link. The hearing record sheet noted that she gave clear, strong evidence. At the end of the prosecution case, the defence advocate applied for the court to use their discretion to exclude the victim from watching the rest of the trial. The prosecutor opposed the application, the magistrates refused the defence request, and the victim was able to sit in court and hear the rest of the case. The victim had told the police that she did not want a restraining order but decided, after speaking to the trial prosecutor, that she did want the defendant to be prevented from contacting her. A successful application was made after the defendant was convicted.

**9.26.** In another Area, we were told by a focus group of prosecutors that magistrates are not always accommodating in providing them sufficient time to speak with victims and witnesses, especially if there are several trials listed in the court. Managers appeared to be aware of this issue, but it was less clear what action was being taken to address it.

**9.27.** Despite the results of our file examination, we found that the partner agencies and the third sector were positive about compliance with the STWAC protocol. They spoke of prosecution advocates having good discussions with domestic abuse victims at court. We also saw examples of this during our court observations of both agents and in-house prosecutors. This tends to suggest that the required conversations are taking place but the recording of them is inconsistent.

**9.28.** Some concerns were raised with us that communication at the door of the court can feel too late for victims of domestic abuse. Third-sector agencies told us that if the first meeting between the victim and prosecutor took place earlier in the criminal justice process the victim would feel much better supported and their experience would be improved. Some victims had described the CPS as an unknown entity and if their case did not reach trial, they never met a prosecutor. This left some victims feeling unsupported by the CPS and without a point of contact. Earlier contact with victims forms part of the CPS's victim transformation programme.

## **Victim Personal Statements**

**9.29.** Victims are entitled, if they wish, to provide a Victim Personal Statement (VPS). The VPS sets out the impact that the offending has had on them, and helps inform the court's decision on sentencing. The police should tell the CPS how the victim wishes their VPS to be presented to the court, and the CPS should seek to give effect to the victim's preference. For example, the victim may want to read their VPS in court, they may want the prosecution advocate to

read it for them or they may prefer the District Judge or magistrates to read it themselves. The hearing record sheet completed by the prosecution advocate should indicate whether the victim's wishes were met at the sentencing hearing.

**9.30.** In our file sample, we assessed the CPS as fully meeting its obligations regarding the VPS in 115 of the 226 applicable cases (50.9%). We assessed 66 cases (29.2%) as partially meeting the standard because either the victim's preferences were not conveyed to the CPS and the CPS did not chase the police for that information, or the victim's views were known but the HRS did not record how the VPS was presented to the court. We assessed the remaining 45 cases (20.0%) as not meeting the standard. Most often, this was because no VPS was provided by the police, and one had not been requested by the CPS.

**9.31.** In most of the cases we assessed as fully meeting the standard, the VPS and victims' preferences had been provided before the CPS made the charging decision. Where neither was provided at the pre-charge stage, there was rarely action thereafter to rectify this.

**9.32.** We found that prosecutors rarely requested an updated VPS for the sentencing hearing in appropriate cases. This is important because considerable time may have passed between the victim making their statement when reporting the offence and the case being finalised at court. We were told, and agree, that an updated VPS would allow a victim to present a more rounded picture of the impact on them, and one which is based on a fuller appreciation of the longer-term effects. It would enable the court to take these into account when making their decision on sentence. We make a recommendation in paragraph 8.64 regarding providing up-to-date information about the victim to the sentencing court.

## Victim Communication and Liaison scheme letters

**9.33.** The prosecution has a duty to write to a victim and explain a decision to drop or substantially reduce a charge. These are called Victim Communication and Liaison scheme (VCL) letters. VCL letters should also inform the victim of their statutory rights under the Victims' Right to Review (VRR) scheme, which enables eligible victims to ask the prosecution to reconsider a decision to drop or substantially alter a case.

**9.34.** In domestic abuse cases, a victim is deemed to be a victim of a serious crime and the VCL letter should be sent within one working day. The quick notification of decisions in domestic abuse cases is particularly important due to the implications that the decision may have for a victim's safety. This may be



particularly the case if the decision means a defendant's bail conditions end or they will no longer be kept in custody. In such a scenario, the CPS often arrange for the police to notify the victim of the decision in addition to sending a letter.

**9.35.** At the pre-charge stage, it is the police's responsibility to tell the victim of a decision not to prosecute. Under the VRR scheme, victims who have suffered physical, mental or emotional harm, or economic loss, are entitled to ask for a review of a decision not to prosecute. It is important that the prosecutor in their charging advice provides sufficient and clear reasoning for any decision not to prosecute, to allow the officer to explain that decision to the victim and for the victim to decide whether they want to seek a review of that decision. In 21 of the applicable 30 cases (70.0%) where there was a decision to take no further action at the pre-charge stage, we found that the prosecutor had provided sufficient information for the police to explain the decision to the victim.

**9.36.** All written communications with victims should use plain English, be translated where necessary, be grammatically correct and avoid the use of legal jargon. They should include a clear, understandable and accurate explanation of the decision or action taken. Empathy should be expressed where appropriate and the victim should be directed to sources of support and other help.

**9.37.** The timeliness of Victim Communication Letters shows room for improvement. We were told that the focus has been on improving the quality of the letters which has impacted on timeliness.

**9.38.** In our file sample, there were 92 cases where a VCL letter was required. In 68 of those (73.9%), VCL letters were sent, leaving 24 cases (26.1%) where letters were not sent when they should have been.

**9.39.** Of the 68 letters sent, we assessed 31 (33.7%) as fully meeting the standard for timeliness. That means it was sent within one working day of a decision to drop or substantially reduce a charge. We assessed 13 letters (14.1%) as partially meeting the standard, meaning that although they were late, they were no more than 48 hours over the target. The remaining 48 letters (52.2%) were assessed as not meeting the standard either because the delay in sending the letter went beyond two working days (24 cases or 26.1%) or because there was no letter sent (24 cases or 26.1%).

**9.40.** Several instances where victim letters were not sent related to decisions made at court when the victim was present. Although the prosecution advocate had often noted on the hearing record sheet (HRS) that the decision had been communicated to the victim in person, CPS guidance requires that a letter should still be sent unless the victim expressly says they do not want one. In one case, the prosecution advocate expressly stated on the HRS that the victim still

required a letter following their conversation at court and had drafted a paragraph to be inserted into the victim letter which explained the decision that had been made. However, no VCL letter was subsequently drafted or sent to that victim.

**9.41.** We assessed 30 of the 68 letters sent (44.1%) as fully meeting the standard for quality, 24 letters (35.3%) as partially meeting the standard and 14 letters (20.6%) as not meeting the standard. We saw some good quality VCL letters that showed empathy and care, and had clear explanations for why the case had to be stopped or a charge reduced.

### **Case study**

The victim and defendant were brothers. The defendant had autism and learning difficulties. He was alleged to have assaulted the victim by hitting him over the head with a broom causing a cut to the scalp. The defendant was arrested and raised self-defence in interview. He was charged with assault occasioning actual bodily harm.

After charge, the victim provided a retraction statement. He stated that he believed the injury was caused accidentally. He also said that he had only provided a statement of complaint because he thought it would lead to a mental health assessment for the defendant and get him the help he required. A background report accompanied the retraction statement.

The prosecutor took the decision to stop the case and wrote to the victim to explain their reasons.

The letter was clear and accurate about why the case had to end. It was empathetic and personalised to the victim's circumstances. The prosecutor referred to information contained within the victim's retraction statement and also reflected additional information they had received from the witness care officer about how the case had affected the victim's health and ability to concentrate on his studies. The bespoke, personal touch continued with "On a final note, I note from your correspondence that your brother is receiving treatment and that your mother is receiving treatment following a cancer diagnosis. I would like to take this opportunity to express my sympathies and wish you and your family the best moving forward".

The letter also signposted the victim to various support services.

**9.42.** The weaker letters lacked empathy or clarity, or contained jargon or inaccurate or insufficient information. One example was a letter that misled the victim as to why the decision was made to stop a charge of assault. The letter



said it was owing to the victim's decision not to support the case, but the case was charged after the victim had withdrawn their support and was to have proceeded as an evidence-led prosecution based on the evidence of an independent witness. It was when the independent witness, not the victim, withdrew their support that the case was stopped.

**9.43.** The quality of victim communication letters in this domestic abuse inspection showed an improvement over the quality of the letters assessed for the recent Area Inspection Programme (where we inspected all 14 CPS Areas), and the Victim Liaison Unit Inspection in 2018<sup>27</sup> and follow-up inspection in 2020<sup>28</sup>. This suggests that the work Areas have undertaken, including delivering training on drafting VCL letters and taking feedback on quality from Local Scrutiny Involvement Panels, is delivering improvement. More work is needed to ensure that the quality of letters continues to improve.

**9.44.** Third-sector agencies and the Domestic Abuse Commissioner are firmly of the view that victim communications must be more consistent, and more informed by the impact of trauma. They spoke about feedback they had received from victims to whom VCL letters felt like a 'copy and paste job' with no sense of personal tailoring to the victim's circumstance. Some victims described receiving unempathetic letters with tones of victim blaming. Our file sample included examples of letters that lacked understanding of the victim's position or the impact of domestic abuse, or which could have been taken as blaming the victim for deciding to withdraw their support for a prosecution. We were told that these types of issues affected victims' experience of the CPS and left them feeling dehumanised. We make a recommendation regarding trauma training in Chapter 10.

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<sup>27</sup> *Victim Liaison Units: letters sent to the public by the CPS*; HMCPSI; November 2018.

[www.justiceinspectorates.gov.uk/hmcpsi/inspections/victim-liaison-units-letters-sent-to-the-public-by-the-cps-nov-18/](http://www.justiceinspectorates.gov.uk/hmcpsi/inspections/victim-liaison-units-letters-sent-to-the-public-by-the-cps-nov-18/)

<sup>28</sup> *Victim Communication and Liaison Scheme: letters to victims*; HMCPSI; October 2020.

[www.justiceinspectorates.gov.uk/hmcpsi/inspections/victim-communication-and-liaison-scheme-letters-to-victims/](http://www.justiceinspectorates.gov.uk/hmcpsi/inspections/victim-communication-and-liaison-scheme-letters-to-victims/)

# 10. Training

## National training

**10.1.** The CPS has a national induction training programme for all new lawyers and legal trainees. This includes a module on domestic abuse prosecutions, which is aimed at helping prosecutors to deal with applications that may be relevant to domestic abuse, such as the admissibility of *res gestae* evidence. However, the CPS recognised that the induction module needed to be supplemented with additional training on matters specific to domestic abuse casework.

**10.2.** The CPS Central Legal Training Team (CLTT) developed a refresher training package on domestic abuse casework, which was rolled out to all Areas in November 2022. The rollout post-dated the finalisation of the cases we reviewed, so any impact would not have been captured in the findings of our file examination. The refresher training is designed for a range of legal staff and is delivered jointly by CLTT tutors and domestic abuse specialists in the Area. The package covers a range of issues relevant to domestic abuse casework, including the legislative framework and recent changes, the impact of abuse on victims, case analysis and strategy, assumptions and misconceptions, and case management issues such as applications to strengthen cases and acceptable pleas.

**10.3.** The refresher training includes accounts from victims of their experience of abuse, but the package and the case study it uses do not specifically deal with the impact of trauma on victims. It also does not deal with how trauma should be considered in case analysis and case building. We consider this is an important aspect of domestic abuse casework and one that merits additional training activity in the same way training is already being delivered to prosecutors dealing with rape and serious sexual offences. We were supported in this by the feedback we received from third-sector organisations. As we discuss in Chapter 9, third-sector organisations are also concerned that communications with victims do not take sufficient account of the impact of trauma.

**10.4.** The domestic abuse policy has been adapted to include reference to the trauma faced by victims and the impact that this may have on them. This approach needs to be extended to the training, and though the policy is clear, this should be carefully communicated to prosecutors.

**10.5.** The third-sector organisations we spoke to felt strongly that trauma training should form part of wider training on violence against women and girls. They considered that the training should be developed in conjunction with, and delivered face-to-face by, people working with survivors of domestic abuse. The

training should help prosecutors understand the range of issues faced by victims beyond the criminal prosecution, such as financial and housing difficulties or family court proceedings, and their impact on how the victim engages with and experiences the criminal prosecution. Third-sector organisations also expressed the benefits of continuous learning in improving casework. They told us that training should reflect the experiences of victims from marginalised groups such as the disabled or those dealing with communication barriers.

#### Recommendation

By December 2023 the CPS to develop a consistent approach to trauma training across violence against women and girls (VAWG) casework that reflects engagement with specialist VAWG organisations which focuses on how understanding trauma can improve casework and the service to victims of domestic abuse.

**10.6.** There has been national training on prosecuting allegations of strangulation and suffocation. This was delivered online to coincide with the introduction of the legislation creating the new offences. We were told that this training was well received, and prosecutors said they found it useful. The number of cases prosecutors charged shortly after its implementation provides an indication of its effectiveness. We were told by the CPS national domestic abuse lead and CPS policy leads that although the CPS need to carry out a review for cases charged under the new legislation, the early signs are that by providing key information through an online training podcast and publicising it in advance, it has embedded with prosecutors at an early stage. Synchronising the timing of training with legal changes is good practice which should continue.

#### Good practice

National online training for the new offences of suffocation and strangulation was timed to coincide with the relevant legislation coming into force.

**10.7.** The CPS is aware that there is further work to do on devising and delivering training on other aspects, including coercive and controlling behaviour and stalking and harassment. Much of the development and upskilling activity for these topics is currently being undertaken in Areas.

**10.8.** CLTT has already been commissioned to devise and deliver some training modules for more challenging topics such as stalking and harassment, and forced marriage. The further work also includes a more detailed module on coercive and controlling behaviour. However, CLTT were not clear whether they would become mandated modules for all prosecutors.

## Local training

**10.9.** Some of the Areas we visited as part of this inspection had delivered training to their prosecutors on aspects of domestic abuse casework. Areas had identified the need to improve the skills and knowledge of their teams on, for example, evidence-led prosecutions, stalking and harassment, or charging standards, and had devised bespoke sessions to tackle the gaps. We were told by legal managers that bespoke training had generally been well-received.

**10.10.** As well as local training material, many CPS Areas circulate regular newsletters or briefings that contain updates on casework matters including domestic abuse. We also saw examples of useful guides and practical advice such as a two-page advocacy toolkit for what to do when a victim did not attend the trial or attended but refused to give evidence. This included practical advice and links to the relevant caselaw. Another example was a factsheet for hearsay evidence, covering what it is, the gateways for admissibility and the notice requirements.

**10.11.** We consider that the CLTT could usefully act as a repository for materials such as these which have been prepared and delivered locally, so as to make them available to other Areas and to share good practice.

## On the job learning

**10.12.** When visiting Areas, we saw significant commitment and enthusiasm in the staff working on domestic abuse cases. We were frequently told, however, that many prosecutors were inexperienced, often with less than two years in post. The increase in hybrid working has reduced opportunities for informal sharing of expertise. We were told that whilst prosecutors could discuss cases with the Area domestic abuse lead or their line manager, they felt that having the ability to discuss cases more informally but more regularly would assist their learning and development.

**10.13.** To boost the sharing of skills, some Areas have created Microsoft Teams chat channels so less experienced prosecutors can seek guidance from and ask questions of their more experienced colleagues. This is a useful innovation and one that domestic abuse leads could oversee to support their less experienced colleagues.

## Training for court

**10.14.** CPS prosecutors have clear guidance available to them on speaking to witnesses (including victims) at court. We assessed compliance with this initiative as generally good, with over three-quarters of cases in our file sample assessed as fully or partially meeting the required standard. Where we assessed cases as partially meeting the standard, it was often because the record was not sufficiently detailed rather than because the conversations had not taken place.

**10.15.** In many Areas, trials are conducted by agent lawyers instructed by the CPS on its behalf. Agents are usually given standard instructions, which include information on relevant CPS policy and guidance, and initiatives relating to victim and witness care.

**10.16.** In one of the Areas we visited, agents receive a comprehensive pack of materials to support them, including specialist guidance on aspects of domestic abuse casework, including special measures, the role of independent domestic abuse advisors in supporting victims, and evidence-led prosecutions, including the use of *res gestae*. The same Area also holds regular meetings with agents to deliver training and updates and to give and receive feedback. This is good practice and appears to be delivering better outcomes. The Area concerned had a significantly higher rate of compliance for the speaking to witnesses at court initiative than the other Areas we visited, and stronger outcomes for other aspects of victim support at court.

### Good practice

An Area we visited provides a comprehensive guidance pack for agents and holds regular meetings with them to provide training and updates on developments and to give and receive feedback.

## Joint training

**10.17.** We were told about instances where CPS Areas had delivered training to other agencies. Examples we saw in the document supplied or were told of in interviews included:

- Delivering presentations to external violence against women and girls conferences.
- Participating in domestic abuse training for magistrates.
- Delivering training to local barristers in independent practice on the domestic abuse best practice protocol.
- Providing training to police forces on evidence-led prosecutions. Prosecutors reported an improvement in the quality of police files following this event.

**10.18.** There were also examples of other agencies being invited to deliver training or development events to CPS Areas and of joint training activities. Instances we received information about included:

- Training materials devised jointly by the police and CPS for delivery to police officers involved in domestic abuse casework. This followed on from the dip-sampling work carried out.
- Work with the police to create an aide memoire to assist police and CPS staff with various scenarios and calculations after the increase to the statutory time limits for domestic abuse common assault allegations.
- A joint training event for police and prosecutors on reasonable lines of enquiry and evidence-led prosecutions.
- An NHS-funded joint half-day event on suffocation and strangulation offences held on Zoom. It involved various agencies including the CPS, police, various health professionals, the judiciary, social workers and probation personnel.
- Involvement of the police at an Area away-day to deliver a presentation on domestic abuse cases leading to homicides.
- Attendance of independent domestic abuse advisors at an Area training day to provide insight into their role.
- Awareness-raising sessions delivered to an Area by third-sector organisations working with perpetrators of domestic abuse or victims of so-called honour-based violence or coercive and controlling behaviour.

**10.19.** At the national level, CLTT engaged with the office of the Domestic Abuse Commissioner when developing the domestic abuse refresher training and used data provided by a third-sector domestic abuse organisation. The trainers' pack for the refresher training also included contact information for third-party sector support services for victims of domestic abuse.



## **11. Quality assurance**

## Individual Quality Assessments

**11.1.** The CPS has a national system of quality assurance of casework, called Individual Quality Assessments (IQAs), whereby a manager checks a certain number of cases per prosecutor each year.

**11.2.** There is no mandated minimum for the proportion of casework types such as domestic abuse or hate crimes. Areas are free to focus their IQAs on their greatest risks or concerns. Usually, this results in at least some of the IQAs focusing on aspects such as the disclosure of unused material. Shortly after the introduction of new offences of strangulation and suffocation, an Area we visited mandated that any cases alleging either should be subject to an IQA.

**11.3.** Even where IQAs are not specifically targeted on domestic abuse, the volume of such cases in Areas' magistrates' courts teams is such that they are inevitably captured in the general selection of cases. One Area monitors this by tracking the number of IQAs completed in domestic abuse cases across all three casework teams.

**11.4.** However, given the issues we identified in our file examination, the importance of this casework, and the significant proportion it makes up of magistrates' courts casework, we conclude that the arrangements need to be more structured and formal. We recommend that the CPS mandate at least one domestic abuse case per magistrates' courts prosecutor dealing with such work per year. This reflects the differences in percentages of domestic abuse casework in Areas as a proportion of their overall magistrates' court caseload.

**11.5.** Data for the second quarter of 2022-23 showed that domestic abuse cases made up 12.2% of the rolling year to date caseload in magistrates' courts.

### Recommendation

From July 2023, the CPS to ensure that a minimum of one IQA per year is conducted on a domestic abuse case for prosecutors dealing with magistrates' court domestic abuse cases.

**11.6.** Many of the legal managers we spoke to had identified issues in domestic abuse cases from the IQAs they conducted, particularly the need for better case analysis and better consideration of evidence-led prosecutions (ELP). Some managers and domestic abuse leads had noted from their Area's IQAs and other quality assurance that less experienced prosecutors seemed averse to going behind the offences the police suggested when seeking a charging decision and did not consider other offences sufficiently. We noted in our file examination that the choice of charge was generally very good, but that

there were missed opportunities to consider whether previous incidents between the parties disclosed other offences, such as controlling and coercive behaviour, or could be used as bad character evidence.

**11.7.** The results of an IQA are fed back to the individual concerned. Areas use IQAs to identify training needs, aspects for improvement and good practice. One Area used case studies identified from IQAs to support the learning at a workshop.

**11.8.** Areas often share the findings or themes from IQAs in staff team meetings, management meetings for the magistrates' court teams, and at casework quality committees (which some Areas call casework quality boards). Other avenues we saw used for sharing the learning included legal development sessions and newsletters. Areas were able to point to some improvements as a result. For example, in one Area, prosecutors were complying more often with the policy requiring a legal manager to approve acceptance of a plea to harassment when the original charge was stalking. The cases in our file examination sample may have post-dated some of the activity, but evidence of improvement was not always apparent.

**11.9.** Some Areas were using findings from IQA and dip-samples to measure progress on the delivery of their domestic abuse action plan. The one Area we visited that had a specialist domestic abuse team in the magistrates' courts also had a domestic abuse performance meeting. At this meeting, updates from the domestic abuse action plan and national meetings were shared. Another Area discussed IQA outcomes and feedback from other sources at their violence against women and girls (VAWG) governance board.

**11.10.** Several Areas had delivered bespoke training to prosecutors on ELP as a result of their findings from IQAs and other quality assurance, such as dip-sampling. One Area had then gone on to deliver training to police officers on ELP, and prosecutors reported improved file submissions as a result.

**11.11.** In another Area, a legal manager from the Central Legal Training Team assessed domestic abuse performance and IQAs before and after the delivery of ELP training and found there had been an improvement in case strategy.

## **IQA guidance**

**11.12.** The guidance issued for managers carrying out IQAs does not incorporate issues specific to domestic abuse casework, such as ELPs, the impact of abuse on victims, or evaluating previous incidents for evidence of bad character or other offences. Whilst this should be captured in the managers' assessments of domestic abuse casework quality, adding it explicitly to the guidance would drive consistency of the approach to improving the quality of domestic abuse casework.

## **Other mechanisms for quality assurance and feedback**

### **Quality assurance**

**11.13.** CPS Areas conduct a range of quality assurance activities over and above the regular IQAs. Examples we saw in the documents provided (and about which we were told in the Areas we visited) included:

- Dip-sampling of domestic abuse cases. In one Area, the dip-sample targeted cases where the victim had withdrawn because of delays in the case coming to trial. They identified measures to address this, including tackling police file quality and tasking prosecutors to be robust when faced with applications to adjourn a domestic abuse trial.
- Reviews of adverse case reports. Some of this work considered all cases that had led to an unsuccessful outcome, but several Areas focused on cases where the outcome had resulted after the victim had withdrawn their support for a prosecution or had not attended court.
- Peer review of cases by other prosecutors. One such exercise in an Area we visited identified issues in case progression and victim communication, and led to the delivery of workshops with case studies to demonstrate the impact of not getting it right.
- Quality assurance of victim communication letters, including in one Area a review group, with a summary of feedback provided so that prosecutors can be given feedback in their regular one-to-one meetings with their manager.
- Analysis and identification of lessons to be learned from victims' requests under the victim's right to review scheme or from complaints.

**11.14.** The findings from dip-sampling and other quality assurance frequently supported the findings from our file examination, particularly around the quality of case strategy and analysis and the lack of sufficient consideration of whether and how the case could proceed if the victim withdrew their support. Other issues emerging from quality assurance work included whether prosecutors addressed if a witness summons should be sought where the victim unexpectedly failed to attend court and not adequately considering other offences, such as controlling and coercive behaviour. It is clear that there is more to do to ensure that quality assurance work adds value and delivers casework improvements.

### **Local scrutiny and improvement panels**

**11.15.** Most of the Areas we visited had VAWG local scrutiny and improvement panels (LSIPs) which look at a range of aspects of domestic abuse casework, including performance data and outcomes, law or policy developments. The panels usually examine specific cases and/or examples of letters to victims. Many engage a range of stakeholders as well as the police and CPS, such as health, mental health and children's services, local authorities, domestic abuse charities, third sector support organisations, independent domestic violence advisors and the offices of Police and Crime Commissioners.

**11.16.** In several Areas, there are also specific domestic abuse scrutiny panels, which are also multi-agency. One of the Areas maintains a tracker of feedback to be given to individual members of staff from the panel's meetings, and other Areas feed back into casework quality boards, team meetings, and domestic abuse governance boards or teams.

**11.17.** Two of the Areas we visited hold scrutiny panels to consider out of court disposals, such as cautions and conditional cautions. One police force in another Area holds domestic scrutiny panels which focus on a particular theme each time. Previous topics have included cases with multiple incidents and decisions around bail and custody.

### **Other feedback**

**11.18.** In one Area, the CPS and police have a joint working group to review action plans and determine whether they are proportionate and contain the right actions. The working group is not limited to but includes domestic abuse cases and endeavours to ensure that tasks set for the police are sufficient to build the case for a successful prosecution rather than covering every possible avenue of enquiry.

**11.19.** All the Areas we visited carry out joint quality assurance work with the police, which we discuss in Chapter 12.

## **12. Partnership working**

## Partnership working with the police

**12.1.** It was clear from documents provided to us and our interviews with CPS managers and police that there is extensive engagement at a local and national level to improve casework quality and the outcome for victims in domestic abuse cases. We noted, for example, several Areas had joint domestic abuse action plans with the police. However, it was often difficult to see evidence of improvement resulting at an operational level. We were told in some Areas that the constant change and turnover of police personnel often made it difficult to get any traction on areas that needed improvement.

**12.2.** The Chief Crown Prosecutor for each CPS Area will engage with the Chief Constables in their Area at local criminal justice board meetings. These meetings provide an opportunity to discuss casework quality and encourage improvements on issues specific to each police force and joint initiatives of the criminal justice system. Such meetings invariably include issues relating to domestic abuse casework.

**12.3.** Every CPS Area holds joint operational improvement meetings (JOIMs) with each of their local police forces. These are operational meetings for legal managers and their operational police counterparts to forge positive working relationships, increase efficiency and effectiveness of case building and progression, and drive improvement. Performance data, good practice and key casework quality issues are discussed. However, we heard there is not yet a joint data set as the CPS and police find it difficult to agree the data that they hold and share. This makes it difficult to reach a joint view of the issues and the need for improvement in all cases, including domestic abuse. We understand from our interviews with CPS Area domestic abuse lead managers and the CPS national domestic abuse lead that this is a national issue compounded by police forces using different software systems. There is also a lack of understanding of what the data means. We were told that the CPS and police are now working at a national level to develop an agreed data set.

**12.4.** In one Area, we were told that the discussions at JOIM had been effective in securing a positive change where the police bail defendants to an SDAC within 14 days (or as close to 14 days as possible) rather than the usual 28 days. The Area hopes that this will reduce victim attrition by cases being listed more quickly.

**12.5.** In some Areas the CPS and police dip sample domestic abuse cases where a decision has been made to take no further action and hold regular scrutiny panels to discuss them. Feedback is provided to police supervisors from this work. In some instances, police have re-opened investigations into cases

where they had previously decided to take no further action. The panels are a good way to improve and enhance consistency in decisions so the public can have confidence in decisions where no further action has been taken. We also saw feedback and evidence of other learning points noted from the panels. For example, in one Area a learning point arose around the police's understanding of res gestae principles. This led to a CPS Area domestic abuse lead producing a video to assist front-line officers in the consideration of res gestae, and evidence-led principles.

**12.6.** We were told that the police and CPS are working together to develop a programme of joint activity for domestic abuse casework. This builds on the success of a joint approach to rape and serious sexual offence casework. We welcome this partnership working with a focus on driving consistent and clear benefits.

## Partnership working with other stakeholders

**12.7.** We found evidence of regular meetings between the CPS, police and other criminal justice partner stakeholders. Some were specifically domestic abuse focused forums, steering groups or meetings and others were not, but they did have domestic abuse as a standing agenda item. Whilst the volume of these meetings across Areas demonstrates a great commitment by the CPS and stakeholders to prioritise domestic abuse casework, there was sometimes a lack of clarity around how they all fitted together.

**12.8.** Many of the Areas have specific violence against women and girls (VAWG) local scrutiny and involvement panels (LSIPs) to discuss local issues around aspects of domestic abuse casework, and they often include the examination of specific cases and/or examples of victim communication letters. The LSIPs are instrumental in identifying areas where CPS has done well or could improve. In addition to the CPS and police, they involve the engagement of a wide range of stakeholders such as domestic abuse charities, third-sector support agencies, independent domestic violence advisors (IDVAs), local authorities and the office of Police and Crime Commissioners.

**12.9.** One Area we visited holds an IDVA forum in advance of their VAWG LSIP meetings. The Area told us they find these useful in discussing CPS policy and guidance from the viewpoint of victims and witnesses, discussing local issues such as the listing of domestic abuse cases in their SDACs, discussing issues regarding special measures and challenges faced by domestic abuse victims in the criminal justice system and society generally. The IDVA forum appears to be a good way for two-way communication in understanding the local



issues faced by domestic abuse victims, and to help improve how the issues are handled through the prosecution process.

**12.10.** The CPS runs a regular external consultation group (ECG) on VAWG. Members of the group include the voluntary sector, victim advocacy groups, Domestic Abuse Commissioner's office, academics with relevant expertise and other national criminal justice partner stakeholders. The members scrutinise CPS policies and practices and act as a critical friend to what is working well and where improvements could be made. The CPS national domestic abuse lead told us that the ECG has been extremely useful for checking and challenging new CPS domestic abuse guidance, particularly the overhaul of how the CPS presents guidance and training on assumptions and misconceptions in domestic abuse cases.

**12.11.** We heard from the CPS national domestic abuse lead and domestic abuse policy leads that they have increasing contact with the Domestic Abuse Commissioner's office. In our interviews, both the CPS and the Domestic Abuse Commissioner described it as a productive relationship.

**12.12.** The Domestic Abuse Commissioner chairs the non-fatal strangulation implementation group which involves volunteers with an expert interest in the issue. We were told by the Domestic Abuse Commissioner that the CPS worked with the group by providing them with the CPS guidance update on this new offence before public consultation so that they could feed back on it. She praised how receptive the CPS were of the group's feedback.

**12.13.** We saw many examples of the CPS actively working with criminal justice partners, including the police and third-sector support services, by creating and delivering presentations on various domestic abuse topics such as controlling and coercive behaviour, evidence-led principles, and new legislation brought in by the Domestic Abuse Act 2021. We talk more about joint training in paragraphs 10.18 to 10.20.

**12.14.** In some Areas, senior legal managers have attended events with magistrates to advise them on the CPS approach to evidence-led prosecutions. We were told this has helped raise awareness amongst magistrates that prosecutors are expected to consider evidence-led prosecutions in every case, and of the authorities that prosecutors will rely on.

## Specialist Domestic Abuse Courts

**12.15.** We discuss the introduction of specialist domestic abuse courts (SDACs) in paragraphs 3.18 to 3.20 and the launch of the best practice framework in paragraphs 3.21 to 3.26. We selected CPS Areas to visit where SDACs were operative and where they were not. This was to try to determine if there were benefits in terms of efficiency, and service and support received by victims from SDACs.

**12.16.** In Areas where there was an SDAC operating we assessed whether the cases in our file sample were listed in it. We assessed that in 46 out of 201 relevant cases (22.9%), the first and any subsequent hearings were in an SDAC. In 51 cases (25.4%), although the first hearing was in an SDAC, any subsequent hearings were not. There were three cases (1.5%) where the first hearing was not in an SDAC, but a subsequent hearing of the case was. In the remaining 101 cases, either the case was not heard in an SDAC, or we could not establish what the position was.

**12.17.** We have been unable to evidence from our file examination or court observations that SDACs are consistently achieving better results for domestic abuse victims. This is because we found the best practice framework is inconsistently applied. Whilst some courts were designated as SDACs, they did not deliver the key components. The key issue we found in some of the SDACs we visited was no evidence of any IDVA presence, whether in person or contactable by telephone. Understandably the Covid-19 pandemic had an impact on the physical presence of IDVAs in courts, but we heard that some SDACs were still operating without IDVA support. Funding of IDVAs is not consistent and this inevitably impacts on capacity. One of the four key components according to the best practice framework is IDVA support. It is likely that forthcoming statutory guidance will set out that victims have the right to be supported by Independent Domestic Violence Advisors (IDVAs) through the criminal justice system as discussed at paragraph 3.28.

**12.18.** In some courts designated as SDACs, we found that non-domestic abuse related cases were listed, whilst some domestic abuse cases were listed in non-SDACs. We were told that this was often due to police error in bailing or summoning a defendant to attend on a non-SDAC date. Although we saw evidence of the CPS raising these issues in domestic abuse cross-agency forums and/or local court user group meetings, some CPS Areas have had more traction in resolving the issue than others.

**12.19.** We also observed cases where the defendant appeared in custody in the main remand court charged with a domestic abuse offence when an SDAC was sitting in the same court building. In one court we visited, we observed the

District Judge sitting in the SDAC being proactive in ensuring that those remand cases were moved into his court, but this was not always replicated in other Areas we visited.

**12.20.** We noted from documents provided and our own observations that in some of the SDACs there is a concern over the lack of domestic abuse cases listed. Case numbers do appear to be low. This has resulted in a very real threat to SDACs continuing in some Areas as they are not considered viable.

**12.21.** The lack of understanding of the best practice framework and its inconsistent application means that the service provided to victims can often depend on which part of the country they are in.

**12.22.** We encountered a mixed response from CPS Area domestic abuse leads, prosecutors and stakeholders regarding whether they think that SDACs improve the service for domestic abuse victims. Clustering of domestic abuse not guilty anticipated plea and guilty anticipated plea hearing courts would allow for a specialist bench of magistrates or a District Judge, and consistency of prosecutor and IDVA presence. These are key components of the best practice framework and would improve how domestic abuse cases are progressed in the criminal justice system. We encourage the CPS to work with stakeholders at local criminal justice boards to secure these changes, where required. The CPS should ensure that there is consistency of prosecutor where clustering is in place.

# **Annex A**

## **Inspection framework**

## Inspection question

How effective and efficient is the Crown Prosecution Service (CPS) in building strong cases that support and protect victims of domestic abuse?

## Inspection criteria

1. Are domestic abuse cases receiving proper care and consideration when the CPS is reviewing cases pre-charge?
  - a. Are effective decisions being made pre-charge, including the selection of charges?
  - b. Do reviews include a clear prosecution case analysis and trial strategy, including consideration of an evidence-led prosecution?
  - c. Are action plans used effectively and proportionately to build strong cases?
  - d. Do pre-charge reviews demonstrate an application of the domestic abuse policy and guidance?
2. Is the CPS working collaboratively with the police in cases of domestic abuse by timely communication and liaison, building evidentially strong cases and ensuring victims have the support and information required?
  - a. Do post-charge reviews demonstrate a continued application of the domestic abuse policy and guidance?
  - b. Do post-charge reviews properly reflect any changes to trial strategy, particularly in cases where a victim has retracted / withdrawn their support for a prosecution since the decision to charge?
  - c. Are reviews and decisions taken in a timely manner?
  - d. Are appropriate ancillary applications such as bad character and hearsay being utilised to strengthen and support case strategies?
  - e. Are risk assessments requested and considered when a victim retracts or has indicated a desire to retract?
3. Does the CPS handle domestic abuse prosecutions proactively and efficiently following a suspect being charged?

## The service from the CPS to victims of domestic abuse

- a. Are prosecutors assessing the standard of the police file submitted to them for a charging decision, and challenging where it does not comply with national file standards?
  - b. Are prosecutors assessing the standard of the police file submitted to them after charge, and challenging where it does not comply with national file standards?
  - c. Are prosecutors chasing responses from police when an action plan date has been missed?
  - d. Are appropriate escalation procedures in place and properly utilised?
  - e. Are prosecutors responding to further material and information from the police in a timely and effective manner, particularly when it relates to victim issues?
  - f. Are prosecutors challenging weak completion of the form supplying information for special measures applications (the MG2 form)?
4. Is the CPS effectively considering measures both pre and post charge to assist domestic abuse victims in getting the right support at court and to enable them to give their best evidence?
- a. At pre-charge review stage, are prosecutors considering what special measures could assist victims and requesting further information from the police if required so that applications can be advanced at an early stage?
  - b. At post-charge review stage, are prosecutors identifying the need for special measures and making quality and timely applications?
  - c. Is there evidence of special measures meetings being offered and held in appropriate cases?
5. Does the CPS make appropriate applications in respect of protective orders and bail/remand so that victims of domestic abuse are being properly protected?
- a. Are the police/independent domestic violence advisors (IDVAs)/witness care providing CPS with sufficient and timely information as to the victim's views on obtaining a restraining order?
  - b. Are prosecutors making timely enquiries for this information if it has not been provided?

## The service from the CPS to victims of domestic abuse

- c. Are prosecutors making applications for restraining orders in appropriate cases (both on conviction and acquittal)?
  - d. Are prosecutors at the pre-charge review stage actively considering the suspect's bail status and providing clear instructions on what should be applied for post charge?
  - e. Are prosecutors making the right decision as to a defendant's bail/remand status as cases progress through the court, taking into account the protection of the victim and any potential impact a defendant's bail status may have on the later application and granting of a restraining order?
6. Are victims of domestic abuse consulted and communicated with at appropriate stages of their case?
- a. Is there consultation with a victim (either directly or via the police, independent domestic violence advisor (IDVA) and/or witness support) who has retracted or indicates a desire to retract, with viable options considered and discussed before a decision is taken on what will happen next in the case?
  - b. Is there consultation with a victim (direct or via police or an IDVA) when there has been an offer of plea or basis of plea?
  - c. Is there consultation with a victim (direct or via police or an IDVA) when the CPS are considering terminating one or more charges, or the case?
  - d. Are prosecutors complying with the speaking to witnesses at court (STWAC) initiative?
  - e. Is the victim communication and liaison scheme being complied with in terms of both timeliness of communications and quality of such communications?
  - f. Is there evidence that prosecutors and/or police liaise directly with IDVAs to support victims going through the prosecution process?
  - g. Are the police making prosecutors aware of the victim's views on making a victim personal statement (VPS) and their preference for its presentation at court, and providing the VPS in a timely manner?
  - h. Are prosecutors making timely enquiries for the VPS if it has not been provided?

## The service from the CPS to victims of domestic abuse

- i. Are prosecutors recording the way in which a VPS is presented at the sentencing hearing?
7. Is the CPS working well with criminal justice partners at operational and strategic levels to resolve barriers to effective casework and to improve domestic abuse victims' experience?
  - a. What joint action plans, initiatives and meetings exist in Areas to improve the service that CPS can deliver to domestic abuse victims?
  - b. How is data used amongst the criminal justice partners to influence changes and improvements in domestic abuse casework?
  - c. In Areas that operate Specialist Domestic Abuse Courts (SDACs) are there any benefits in terms of the service and support received by victims, efficiency, and conviction rates?
  - d. How is listing of domestic abuse cases managed in non-SDAC Areas?
  - e. Is there any good practice in Areas' operational and/or strategic work that could be shared nationally to improve the overall service provided to victims of domestic abuse?
  - f. Are pre-trial court visits being offered and conducted in appropriate cases?
8. Can domestic abuse victims be confident that the CPS provides sufficient training and support to prosecutors?
  - a. What CPS training is delivered to prosecutors in relation to domestic abuse prosecutions?
  - b. Do prosecutors receive specific training on evidence-led prosecutions, stalking and harassment and controlling and coercive behaviour?
  - c. Is there any joint training on domestic abuse delivered to prosecutors, for example from the police, IDVAs/other third sector victim support agencies and so on to assist in case building and the prosecution of such cases?
  - d. Does the CPS use specialist domestic abuse prosecutors to handle domestic abuse prosecutions? If so, what additional training/experience have these prosecutors had over other prosecutors?



9. Are the Individual Quality Assessments (IQAs) effective in the CPS determining the quality of domestic abuse casework and are they used to improve cases for all victims?
  - a. Does the CPS set a minimum number of domestic abuse IQAs for magistrates' court teams?
  - b. How does the CPS use IQAs in improving the quality of domestic abuse casework?
  - c. How are any themes or lessons to be learnt (good or bad) from IQAs communicated to the wider prosecution casework team?
10. Does the CPS use other quality assurance and feedback mechanisms (such as adverse case reports, dip-sampling, and engagement with community groups and local scrutiny and improvement panels (LSIPs)) to improve the service provided to victims of domestic abuse?
  - a. Is there a robust quality assurance mechanism that is consistently applied?
  - b. How does the CPS use feedback from LSIPs to improve the quality of domestic abuse casework?

# **Annex B**

## **File examination data**

This table excludes 'not applicable' results.

No.	Question	Answers	Result
<b>Pre-charge decision</b>			
1	The CPS decision to charge was compliant with the Code Test.	Fully meeting Not meeting	97.3% 2.7%
2	The CPS decision to charge was timely.	Fully meeting Partially meeting Not meeting	67.0% 25.7% 7.3%
3	The most appropriate charges were selected on the information available to the prosecutor at the time.	Fully meeting Partially meeting Not meeting	82.8% 13.0% 4.2%
4	The CPS charging advice (on the form MG3) included proper case analysis and case strategy.	Fully meeting Partially meeting Not meeting	12.3% 42.7% 45.0%
5	The CPS MG3 included adequate consideration of evidence-led prosecution.	Fully meeting Partially meeting Not meeting	21.4% 25.9% 52.7%
6	The CPS MG3 dealt appropriately with unused material.	Fully meeting Partially meeting Not meeting	22.6% 38.9% 38.5%
7	The CPS MG3 referred to relevant applications and ancillary matters.	Fully meeting Partially meeting Not meeting	34.6% 36.0% 29.4%
8	The CPS MG3 actively considered at the pre-charge stage relevant applications and ancillary matters to support victims and witnesses.	Fully meeting Partially meeting Not meeting	45.3% 33.1% 21.7%
9	The CPS MG3 actively considered the approach to be taken post-charge to bail and/or custody for the suspect.	Fully meeting Partially meeting Not meeting	20.7% 12.6% 66.7%
10	There were appropriate instructions and guidance to the court prosecutor contained in either the MG3 or the preparation for effective trial form created with the MG3.	Fully meeting Partially meeting Not meeting	20.7% 58.5% 20.7%
11	The action plan was proportionate and met a satisfactory standard.	Fully meeting Partially meeting Not meeting	23.0% 50.7% 26.3%
12	Police compliance with pre-charge action plans was timely.	Fully meeting Partially meeting Not meeting	44.2% 33.2% 22.6%

The service from the CPS to victims of domestic abuse

No.	Question	Answers	Result
13	The CPS followed up a response to late action plan compliance.	Fully meeting Partially meeting Not meeting	14.8% 27.9% 57.4%
14	If the CPS decision was to advise no further action in respect of a qualifying offence, there was sufficient information in the CPS MG3 to enable the police to clearly explain the reasoning to the victim for the purpose of the victim's right to review.	Yes No	70.0% 30.0%
<b>Police file submission</b>			
15	The police pre-charge file submission complied with the National File Standards or Directors Guidance Charging Assessment.	Fully meeting Not meeting	15.3% 84.7%
16	If the answer to Q15 was "not meeting", what items were missing.	Missing joint CPS and NPCC evidence checklist only Missing risk assessment form and NPCC evidence checklist Missing risk assessment form only Other items missing	2.0% 7.5% 77.6% 13.0%
17	If there were failings in the pre-charge submission, this was identified and fed back to the police.	Fully meeting Partially meeting Not meeting	5.5% 26.4% 68.1%
18	The police file submission post-charge complied with the National File Standards or Directors Guidance Charging Assessment.	Fully meeting Not meeting	15.0% 85.0%
19	Police file submission was timely.	Fully meeting Not meeting	86.5% 13.5%
20	If there were failings in the post-charge submission, this was identified and fed back to the police.	Fully meeting Partially meeting Not meeting	5.3% 14.1% 80.6%

No.	Question	Answers	Result
<b>Post-charge reviews and decisions</b>			
21	All review decisions after charge applied the Code correctly.	Fully meeting Not meeting	96.3% 3.7%
22	The case received a proper and proportionate initial review.	Fully meeting Partially meeting Not meeting	16.4% 41.0% 42.6%
23	The initial review was carried out in a timely manner.	Fully meeting Partially meeting Not meeting	56.5% 26.8% 16.7%
24	In all cases where a victim has provided a withdrawal statement or communicates an intent to withdraw their support for a prosecution, and there was no accompanying report from the police, the CPS requested one before deciding on the progress of the case.	Fully meeting Partially meeting Not meeting	41.5% 17.1% 41.5%
25	In all cases where a victim has provided a withdrawal statement or communicates an intent to withdraw, there was a high-quality review to address this development including how to progress the case.	Fully meeting Partially meeting Not meeting	33.9% 39.3% 26.8%
26	Any reviews addressing significant developments which represent a major change in case strategy (and which are additional to those in question 22 and 25) were of high quality and dealt appropriately with the significant development(s) in the case.	Fully meeting Partially meeting Not meeting	27.8% 25.3% 46.8%

The service from the CPS to victims of domestic abuse

No.	Question	Answers	Result
27	Was a witness summons/warrant requested for any witness.	No, and insufficient or no consideration given to applying for one.	19.0%
		No, when it should have been.	2.5%
		No (after consideration) and it was correct not to	55.7%
		Other	5.1%
		Yes, and it was appropriate to compel the witness.	7.6%
		Yes	2.5%
		Yes, but it was not appropriate to compel the witness	7.6%
28	Any hard media was shared via Egress, evidence.com (or other similar platform) with all parties prior to the not guilty anticipated plea (NGAP) hearing.	Fully meeting	45.5%
		Partially meeting	11.8%
		Not meeting	42.7%
29	The case was effectively progressed at the NGAP hearing.	Fully meeting	89.8%
		Partially meeting	7.9%
		Not meeting	2.3%
30	Appropriate applications (e.g., bad character evidence, hearsay) were used effectively to strengthen the prosecution case.	Fully meeting	15.5%
		Partially meeting	18.3%
		Not meeting	66.2%
31	The CPS made appropriate decisions about custody and bail post-charge.	Fully meeting	69.5%
		Partially meeting	16.0%
		Not meeting	14.5%
32	New material received from the police was reviewed appropriately and sufficiently promptly with timely and effective actions taken in response.	Fully meeting	50.0%
		Partially meeting	18.8%
		Not meeting	31.2%
33	Requests to the police for additional material or editing of material were timely and escalated where appropriate.	Fully meeting	42.0%
		Partially meeting	36.7%
		Not meeting	21.3%

No.	Question	Answers	Result
34	Any decision to discontinue was due to:	Defendant offered acceptable pleas to other offences. New material became available which made the charge/s unsustainable. Other Victim retracted and not appropriate to seek to compel them to attend court	8.2% 6.8% 27.4% 57.5%
35	Any decision to offer no evidence was due to:	Defendant offered acceptable pleas to other offences. Other Victim did attend for trial but refused to give evidence. Victim unexpectedly failed to attend for trial and an adjournment was requested but not granted by the court	62.5% 29.2% 4.2% 4.2%
36	Where the decision was taken to discontinue, withdraw or offer no evidence the prosecutor or advocate properly considered evidence-led prosecution.	Fully meeting Partially meeting Not meeting	54.0% 25.4% 20.6%
37	Any decision to discontinue was made and put into effect in a timely manner.	Fully meeting Partially meeting Not meeting	67.0% 10.3% 22.7%
38	Any pleas accepted were appropriate, with a clear basis of plea.	Fully meeting Partially meeting Not meeting	36.4% 51.5% 12.1%

No.	Question	Answers	Result
<b>Victim case progression</b>			
39	The CPS consulted victims where appropriate.	Fully meeting Partially meeting Not meeting	70.6% 22.2% 7.2%
40	Inadequate or poor quality special measures forms (MG2s) completed and submitted by the police were challenged and further information and clarification sought where appropriate.	Fully meeting Partially meeting Not meeting	30.0% 7.5% 62.5%
41	Post-charge, the CPS took steps to achieve best evidence by making appropriate applications for special measures (including drafting where a written application is required).	Fully meeting Partially meeting Not meeting	63.5% 24.2% 12.4%
42	Steps were taken to secure best evidence by addressing correspondence around witness issues from the witness care unit (WCU) or independent domestic violence advisors (IDVAs) in a timely and effective manner with effective actions.	Fully meeting Partially meeting Not meeting	56.3% 20.7% 23.0%
43	The CPS communicated with the Court administration, witness care officers, witness service, police and IDVAs to ensure that the appropriate orders were in place and had been granted in good time prior to trial.	Fully meeting Partially meeting Not meeting	59.1% 16.7% 24.2%
44	The victim was offered a special measures meeting.	No they were not offered a meeting	100%
45	The victim was offered a pre-trial court visit.	Yes and they did not attend No Not known Yes and they attended Yes but not known if they attended	8.6% 11.7% 43.1% 3.6% 33.0%
46	An IDVA supported the victim during the proceedings.	Yes No Not known	14.4% 22.2% 63.4%



The service from the CPS to victims of domestic abuse

No.	Question	Answers	Result
47	Where it was apparent that the victim had the support and services of an IDVA, the CPS engaged, where appropriate with them.	Fully meeting Partially meeting Not meeting Not known	28.6% 8.6% 14.3% 48.6%
48	The case was heard in a specialist domestic abuse court (SDAC).	No No for the first magistrates' court hearing but yes for subsequent hearings Not known Yes for the first and subsequent magistrates' court hearings Yes for the first magistrates' court hearing but not subsequent hearings	36.8% 1.5% 13.4% 22.9% 25.4%
<b>Disclosure of unused material</b>			
49	The prosecutor complied with the duty of disclosure, including the correct endorsement of the schedules (but not including timeliness of disclosure).	Fully meeting Partially meeting Not meeting	24.1% 38.7% 37.2%

No.	Question	Answers	Result
50	If partially meeting or not meeting to Q49, the most significant failing was:	<p>Did not carry out initial disclosure at all 9.9%</p> <p>Did not endorse any decisions on the non-sensitive material schedule (MG6C) 2.6%</p> <p>Did not identify reasonable lines of enquiry 4.2%</p> <p>Failed to endorse or sign a blank sensitive material schedule (MG6D) 1.0%</p> <p>Failed to identify that other obvious items of unused material were not scheduled 24.0%</p> <p>Other 10.4%</p> <p>Said disclosable unused material was not disclosable 25.0%</p> <p>Said non-disclosable unused material was disclosable 4.7%</p> <p>Set out the wrong test for disclosure (e.g. courtesy disclosure) 0.5%</p> <p>Used the wrong endorsements 17.7%</p>	
51	The CPS complied with its duty of disclosure in a timely manner.	<p>Fully meeting 51.3%</p> <p>Partially meeting 23.1%</p> <p>Not meeting 25.6%</p>	

No.	Question	Answers	Result
<b>Victim – Trial/Sentence/Post-sentence</b>			
52	The CPS prepared a bundle for trial which contained sufficient information including appropriate instructions for trial.	Fully meeting Partially meeting Not meeting	84.6% 10.9% 4.6%
53	The CPS complied with its obligations in accordance with the speaking to witnesses at court (STWAC) scheme.	Fully meeting Partially meeting Not meeting	50.3% 23.1% 26.5%
54	Information was provided to the CPS (either via the police, IDVA or witness care unit) regarding the victim's views on applying for a restraining order.	Fully meeting Partially meeting Not meeting	83.6% 8.0% 8.4%
55	The information to apply for a restraining order was provided in a timely manner.	Fully meeting Partially meeting Not meeting	88.3% 8.7% 2.9%
56	If the information was not timely and/or sufficient, the information was requested/escalated by the CPS.	Fully meeting Partially meeting Not meeting	23.4% 19.1% 57.4%
57	The CPS sought appropriate orders at the conclusion of the case to protect the victim.	Fully meeting Partially meeting Not meeting	81.1% 7.4% 11.5%
58	The CPS complied with its obligations regarding victim personal statements (VPS).	Fully meeting the standard No VPS or information on the victim's views, and not chased. Victim's views not complied with VPS available and victim's views known but no record of how VPS presented to court. VPS obtained but victim's views not requested, chased or escalated	50.9% 17.3% 2.7% 8.4% 20.8%

The service from the CPS to victims of domestic abuse

No.	Question	Answers	Result
59	There was a timely Victim Communication and Liaison scheme (VCL) letter when required.	Fully meeting	33.7%
		Partially meeting	14.1%
		Not meeting	52.2%
60	The VCL letter was of a high standard.	Fully meeting	44.1%
		Partially meeting	35.3%
		Not meeting	20.6%

# **Annex C**

## **File examination questions**

No.	Question	Possible answers
<b>Pre-charge decision</b>		
1	The CPS decision to charge was compliant with the Code Test.	Fully meeting Not meeting
2	The CPS decision to charge was timely.	Fully meeting Partially meeting Not meeting
3	The most appropriate charges were selected on the information available to the prosecutor at the time.	Fully meeting Partially meeting Not meeting NA
4	The CPS charging advice (form MG3) included proper case analysis and case strategy.	Fully meeting Partially meeting Not meeting
5	The CPS MG3 included adequate consideration of evidence-led prosecution.	Fully meeting Partially meeting Not meeting NA
6	The CPS MG3 dealt appropriately with unused material.	Fully meeting Partially meeting Not meeting NA
7	The CPS MG3 referred to relevant applications and ancillary matters.	Fully meeting Partially meeting Not meeting NA
8	The CPS MG3 actively considered at the pre-charge stage relevant applications and ancillary matters to support victims and witnesses.	Fully meeting Partially meeting Not meeting NA
9	The CPS MG3 actively considered the approach to be taken post-charge to bail and/or custody for the suspect.	Fully meeting Partially meeting Not meeting NA
10	There were appropriate instructions and guidance to the court prosecutor contained in either the MG3 or the preparation for effective trial form created with the MG3.	Fully meeting Partially meeting Not meeting NA
11	The action plan was proportionate and met a satisfactory standard.	Fully meeting Partially meeting Not meeting NA

No.	Question	Possible answers
12	Police compliance with pre-charge action plans was timely.	Fully meeting Partially meeting Not meeting NA
13	The CPS followed up a response to late action plan compliance.	Fully meeting Partially meeting Not meeting NA
14	If the CPS decision was to advise no further action in respect of a qualifying offence, there was sufficient information in the CPS MG3 to enable the police to clearly explain the reasoning to the victim for the purpose of the victim's right to review.	Yes No NA
<b>Police file submission</b>		
15	The police pre-charge file submission complied with the National File Standards or Directors Guidance Charging Assessment.	Fully meeting Not meeting
16	If the answer was not met to question 15, what items were missing.	Missing risk assessment form only  Missing joint CPS and NPCC evidence checklist only.  Missing risk assessment form and NPCC evidence checklist.  Other items missing.  NA
17	If there were failings in the pre-charge submission, this was identified and fed back to the police.	Fully meeting Partially meeting Not meeting NA
18	The police file submission post-charge complied with the National File Standards or Directors Guidance Charging Assessment.	Fully meeting Partially meeting Not meeting NA

No.	Question	Possible answers
19	Police file submission was timely.	Fully meeting Partially meeting Not meeting NA
20	If there were failings in the post-charge submission, this was identified and fed back to the police.	Fully meeting Partially meeting Not meeting NA
<b>Post-charge reviews and decisions</b>		
21	All review decisions after charge applied the Code correctly.	Fully meeting Not meeting NA
22	The case received a proper and proportionate initial review.	Fully meeting Partially meeting Not meeting NA
23	The initial review was carried out in a timely manner.	Fully meeting Partially meeting Not meeting NA
24	In all cases where a victim has provided a withdrawal statement or communicates an intent to withdraw their support for a prosecution, and there was no accompanying report from the police, the CPS requested one before deciding on the progress of the case.	Fully meeting Partially meeting Not meeting NA
25	In all cases where a victim has provided a withdrawal statement or communicates an intent to withdraw, there was a high-quality review to address this development including how to progress the case.	Fully meeting Partially meeting Not meeting NA
26	Any reviews addressing significant developments which represent a major change in case strategy (and which are additional to those in question 22 and 25) were of high quality and dealt appropriately with the significant development(s) in the case.	Fully meeting Partially meeting Not meeting NA



27	Was a witness summons/warrant requested for any witness.	Yes, a summons was requested, and it was appropriate to compel witness to attend.
		Yes, a witness summons was requested but it was not appropriate to compel the witness.
		No, a witness summons was not requested when it should have been.
		No, after consideration, a witness summons was not requested, and it was correct not to do so.
		Yes, a witness summons was requested, the witness did not attend, and a witness warrant was issued.
		Yes, a witness summons was requested, the witness did not attend, and a witness warrant was not issued.
		No a witness summons was not requested and insufficient or no consideration was given to applying for one.

No.	Question	Possible answers
		Other NA
28	Any hard media was shared via Egress, evidence.com (or other similar platform) with all parties prior to the not guilty anticipated plea (NGAP) hearing.	Fully meeting Partially meeting Not meeting NA
29	The case was effectively progressed at the NGAP hearing.	Fully meeting Partially meeting Not meeting NA
30	Appropriate applications (e.g., bad character evidence, hearsay) were used effectively to strengthen the prosecution case.	Fully meeting Partially meeting Not meeting NA
31	The CPS made appropriate decisions about custody and bail post-charge.	Fully meeting Partially meeting Not meeting NA
32	New material received from the police was reviewed appropriately and sufficiently promptly with timely and effective actions taken in response.	Fully meeting Partially meeting Not meeting NA
33	Requests to the police for additional material or editing of material were timely and escalated where appropriate.	Fully meeting Partially meeting Not meeting NA
34	Any decision to discontinue was due to:	Victim retracted and not appropriate to seek to compel them to attend court  Defendant offered acceptable pleas to other offences  New material became available which made the charge/s unsustainable  Other NA

No.	Question	Possible answers
35	Any decision to offer no evidence was due to:	<p>Victim unexpectedly did not attend for trial and prosecutor decided it was not appropriate to seek an adjournment, witness summons or proceed without the victim</p> <p>Victim unexpectedly fails to attend for trial and an adjournment was requested but not granted by the court</p> <p>Victim did attend for trial but refused to give evidence</p> <p>Victim did not attend on a witness summons and it was not appropriate to seek a witness warrant</p> <p>Defendant offered acceptable pleas to other offences</p> <p>CPS not ready to proceed for other reasons and adjournment refused</p> <p>Other</p> <p>NA</p>
36	Where the decision was taken to discontinue, withdraw or offer no evidence the prosecutor or advocate properly considered evidence-led prosecution.	<p>Fully meeting</p> <p>Partially meeting</p> <p>Not meeting</p> <p>NA</p>

No.	Question	Possible answers
37	Any decision to discontinue was made and put into effect in a timely manner.	Fully meeting Partially meeting Not meeting NA
38	Any pleas accepted were appropriate, with a clear basis of plea.	Fully meeting Partially meeting Not meeting NA

#### Victim case progression

39	The CPS consulted victims where appropriate.	Fully meeting Partially meeting Not meeting NA
40	Inadequate or poor quality special measures forms (MG2s) completed and submitted by the police, were challenged and further information and clarification sought where appropriate.	Fully meeting Partially meeting Not meeting NA
41	Post-charge, the CPS took steps to achieve best evidence by making appropriate applications for special measures (including drafting where a written application is required).	Fully meeting Partially meeting Not meeting NA
42	Steps were taken to secure best evidence by addressing correspondence around witness issues from the witness care unit (WCU) or independent domestic violence advisors (IDVAs) in a timely and effective manner with effective actions.	Fully meeting Partially meeting Not meeting Not known NA
43	The CPS communicated with the Court administration, witness care officers, witness service, police and IDVAs to ensure that the appropriate orders were in place and had been granted in good time prior to trial.	Fully meeting Partially meeting Not meeting NA

No.	Question	Possible answers
44	The victim was offered a special measures meeting.	<p>Yes, they were offered a meeting and it took place</p> <p>Yes, they were offered a meeting and it did not take place</p> <p>No, they were not offered a meeting</p> <p>NA</p>
45	The victim was offered a pre-trial court visit.	<p>Yes, and they attended</p> <p>Yes, and they did not attend</p> <p>No</p> <p>Not known</p> <p>NA</p>
46	An IDVA supported the victim during the proceedings.	<p>Yes</p> <p>No</p> <p>Not known</p> <p>NA</p>
47	Where it was apparent that the victim had the support and services of an IDVA, the CPS engaged, where appropriate with them.	<p>Fully meeting</p> <p>Partially meeting</p> <p>Not meeting</p> <p>Not known</p> <p>NA</p>

No.	Question	Possible answers
48	The case was heard in a specialist domestic abuse court (SDAC).	<p>Yes, for the first magistrates' court hearing and subsequent hearings</p> <p>Yes for the first magistrates' court hearing but not subsequent hearings</p> <p>No</p> <p>Not known</p> <p>NA</p>
<b>Disclosure of unused material</b>		
49	The prosecutor complied with the duty of disclosure, including the correct endorsement of the schedules (but not including timeliness of disclosure).	<p>Fully meeting</p> <p>Partially meeting</p> <p>Not meeting</p> <p>NA</p>

50	If PM or NM, the most significant failing was:	<p>Did not carry out initial disclosure at all</p> <p>Did not endorse any decisions on the non-sensitive material schedule (MG6C)</p> <p>Said disclosable unused material was not disclosable</p> <p>Said non-disclosable unused material was disclosable</p> <p>Set out the wrong test for disclosure (e.g., courtesy disclosure)</p> <p>Used the wrong endorsements (D, CND etc.)</p> <p>Failed to identify that other obvious items of unused material were not scheduled</p> <p>Failed to endorse or sign a blank sensitive material schedule (MG6D)</p> <p>Did not endorse any decisions on a non-blank MG6D</p> <p>Did not identify reasonable lines of enquiry</p>
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No.	Question	Possible answers
		Did not carry out continuous disclosure  Other  NA
51	The CPS complied with its duty of disclosure in a timely manner.	Fully meeting Partially meeting Not meeting NA
<b>Victim – Trial/Sentence/Post-sentence</b>		
52	The CPS prepared a bundle for trial which contained sufficient information including appropriate instructions for trial.	Fully meeting Partially meeting Not meeting NA
53	The CPS complied with its obligations in accordance with the speaking to witnesses at court (STWAC) scheme.	Fully meeting Partially meeting Not meeting NA
54	Information was provided to the CPS (either via the police, IDVA or witness care unit) regarding the victim's views on applying for a restraining order.	Fully meeting Partially meeting Not meeting NA
55	The information to apply for a restraining order was provided in a timely manner.	Fully meeting Partially meeting Not meeting NA
56	If the information was not timely and/or sufficient, the information was requested/escalated by the CPS.	Fully meeting Partially meeting Not meeting NA
57	The CPS sought appropriate orders at the conclusion of the case to protect the victim.	Fully meeting Partially meeting Not meeting NA



No.	Question	Possible answers
58	The CPS complied with its obligations regarding victim personal statements (VPS).	<p>Fully meeting</p> <p>Partially meeting: VPS obtained but views about reading to the court not requested and chased and or escalated.</p> <p>Partially meeting: VPS available and victim's views on presentation known but no record of how VPS presented to court.</p> <p>Not meeting: the victim's views were not complied with.</p> <p>Not meeting: No VPS and no information on the victim's views on providing one and it had not been chased.</p>
59	There was a timely Victim Communication and Liaison scheme (VCL) letter when required.	<p>Fully meeting</p> <p>Partially meeting</p> <p>Not meeting</p> <p>NA</p>
60	The VCL letter was of a high standard.	<p>Fully meeting</p> <p>Partially meeting</p> <p>Not meeting</p> <p>NA</p>

# **Annex D**

## **Glossary**

### **Agent**

A lawyer from outside the CPS who is employed when required to prosecute cases at court on behalf of the CPS. They cannot make decisions about cases under the Code for Crown Prosecutors and must take instructions from the CPS.

### **Ancillary order**

Orders that the Judge or magistrates may impose on a defendant as well as imposing a sentence, such as a compensation order requiring a defendant to pay a sum of money to the victim or a restraining order preventing the defendant from contacting the victim.

### **Bad character**

Evidence of previous bad behaviour, including convictions for earlier criminal offences. Normally, bad character cannot be included as part of the evidence in a criminal trial. To be allowed, either the prosecution and defence must agree it can be used, or an application must be made to the court, based on specific reasons set out by law.

### **Basis of plea**

Sets out the basis upon which a defendant pleads guilty to an offence.

### **Case management system (CMS)**

The IT system used by the CPS for case management.

### **Charging decision**

A decision by the CPS (or the police in certain circumstances) whether there is sufficient evidence, and whether it is in the public interest, to charge a suspect with a particular offence. The process is governed by the Director's Guidance on Charging.

### **Chief Crown Prosecutor (CCP)**

Each of the 14 CPS Areas has a CCP who runs the Area with the Area Business Manager. The CCP is responsible for the legal aspects in the Area, such as the quality of legal decision-making, case progression, and working with stakeholders, communities, and the public to deliver quality casework.

### **Code for Crown Prosecutors (the Code)**

A public document, issued by the Director of Public Prosecutions, that sets out the general principles CPS lawyers should follow when they make charging decisions. Cases should proceed to charge only if there is sufficient evidence against a defendant to provide a realistic prospect of conviction and it is in the public interest to prosecute.

### **CPS Direct (CPSD)**

A service operated by CPS lawyers which provides charging decisions. It deals with many priority cases and much of its work is out of hours, enabling the CPS to provide charging decisions 24 hours a day, 365 days a year.

### **Cracked trial**

A case which ends on the day of trial either because of a guilty plea by the defendant or because the prosecution decides to stop the case.

### **Criminal Procedure Rules (CPR)**

Rules which give criminal courts powers to manage criminal cases waiting to be heard effectively. The main aim of the CPR is to progress cases fairly and quickly.

### **Defendant**

Someone accused of and charged with a criminal offence.

### **Defence statement**

A written statement setting out the nature of the defendant's defence. Service of the defence statement is part of the process of preparing for trial, and is meant to help the prosecution understand the defence case better so they can decide if there is any more unused material than ought to be disclosed (see Disclosure).

### **Deputy Chief Crown Prosecutor (DCCP)**

Second-in-command in a CPS Area, after the Chief Crown Prosecutor, for legal aspects of managing the Area.

### **Director's Guidance on Charging**

Guidance issued by the Director of Public Prosecutions in relation to charging decisions. It sets out guidance for the police and CPS about how to prepare a file so that it is ready for charging, who can make the charging decision, and what factors should influence the decision. It also sets out the requirements for a suspect whom the police will ask the court to keep in custody to be charged before all the evidence is available, which is called the threshold test. The latest edition (the sixth, also called "DG6") came into effect on 31 December 2020.

### **Disclosure/unused material**

The police have a duty to record, retain and review material collected during an investigation which is relevant but is not being used as prosecution evidence, and to reveal it to the prosecutor. The prosecutor has a duty to provide the defence with copies of, or access to, all material that is capable of undermining the prosecution case and/or assisting the defendant's case.

### **Discontinuance**

Where the prosecution stops the case because there is insufficient evidence to carry on, or it is not in the public interest to do so.

### **District Crown Prosecutor (DCP)**

A lawyer who leads and manages the day-to-day activities of prosecutors and advocates.

### **Domestic abuse**

Any incident or pattern of incidents of controlling, coercive or threatening behaviour, violence or abuse between those aged 16 or over who are, or have been, intimate partners or family members, regardless of gender or sexuality.

### **Effective trial**

Where a case proceeds to a full trial on the date that it is meant to.

### **Full Code test**

A method by which a prosecutor decides whether or not to bring a prosecution, based on the Code for Crown Prosecutors. A prosecution must only start or continue when the case has passed both stages of the full Code test: the evidential stage, followed by the public interest stage. The full Code test should be applied when all outstanding reasonable lines of inquiry have been pursued – or before the investigation being completed, if the prosecutor is satisfied that any further evidence or material is unlikely to affect the application of the full Code test, whether in favour of or against a prosecution.

### **Guilty anticipated plea (GAP)**

Where the defendant is expected to admit the offence at court, based on an assessment of the available evidence and any admissions made during interview.

### **Hearing record sheet (HRS)**

A CPS electronic record of what has happened in the case during the course of a court hearing, and any actions that need to be carried out afterwards.

### **Her Majesty's Courts and Tribunals Service (HMCTS)**

An organisation responsible for the administration of criminal, civil and family courts and tribunals in England and Wales.

### **Individual quality assessment (IQA)**

An assessment of a piece of work done by a CPS member of staff – usually a prosecutor, but some Areas also carry out IQAs for some operational delivery staff. The assessment is carried out by a manager, and feedback on the

assessment given to the member of staff. Areas also use IQAs to identify areas for improvement and training needs across a team or the whole Area.

### **Ineffective trial**

A case that does not proceed to trial on the date that it is meant to. This can be owing to a variety of possible reasons, including non-attendance of witnesses, non-compliance with a court order by the prosecution or defence, or lack of court time.

### **Initial details of the prosecution case (IDPC)**

The material to be provided before the first hearing at the magistrates' courts to enable the defendant and the court to take an informed view on plea, where the case should be heard, case management and sentencing. The IDPC must include a summary of the circumstances of the offence and the defendant's charge sheet. Where the defendant is expected to plead not guilty, key statements and exhibits (such as CCTV evidence) must be included.

### **Intermediary**

A professional who facilitates communication between, on the one hand, a victim or witness, and on the other hand, the police, prosecution, defence, and/or court. Their role is to make sure the witness understands what they are being asked, can give an answer, and can have that answer understood. To do this, they will assess what is needed, provide a detailed report on how to achieve that, and aid the witness in court. An intermediary may be available at trial, subject to the court agreeing it is appropriate, for defence or prosecution witnesses who are eligible for special measures on the grounds of age or incapacity, or for vulnerable defendants.

### **Local Criminal Justice Boards (LCJBs)**

Groups made up of representatives of the CPS, police, HMCTS and others, whose purpose is to work in partnership to improve the efficiency and effectiveness of the criminal justice system and to improve the experience of the victims and witnesses. LCJBs were originally set up in all 43 police force areas by central government and received central funding. They now operate as voluntary partnerships in most counties in England.

### **Local Scrutiny Involvement Panels (LSIPs)**

Groups made up of representatives of the local community and voluntary sector, especially those representing minority, marginalised or at-risk groups. They meet regularly with their local CPS Area to discuss issues of local concern and provide feedback on the service the Area provides, with a view to improving the delivery of justice at a local level and to better supporting victims and witnesses.

**Manual of Guidance Form 3 (MG3)**

One of a number of template forms contained in a manual of guidance for the police and CPS on putting together prosecution files. The MG3 is where the police summarise the evidence and other information when asking the CPS to decide whether a suspect should be charged with a criminal offence, and the CPS then records its decision.

**National File Standard (NFS)**

A national system that sets out how the police should prepare criminal case files. It allows investigators to build only as much of the file as is needed at any given stage – whether that is for advice from the CPS, the first appearance at court or the trial. The latest version was published in December 2020.

**No Further Action (NFA)**

When a criminal allegation has been reported to the police, the police may decide at any stage during an investigation that there is insufficient evidence to proceed, so they will take no further action. Alternatively, they may refer a case to the CPS who may advise the police that no further action should be taken, either because there is not enough evidence or because a prosecution is not in the public interest.

**Not guilty anticipated plea (NGAP)**

Where the defendant is expected to plead not guilty at court, based on an assessment of the available evidence and any defence(s) put forward during interview.

**Offer no evidence (ONE)**

Where the prosecution stops the case, after the defendant has pleaded not guilty, by offering no evidence. A finding of not guilty is then recorded by the court.

**Paralegal officer**

A CPS employee who provides support and casework assistance to CPS lawyers and attends court to take notes of hearings and assist advocates.

**Postal requisition**

A legal document notifying a person that they are to be prosecuted for a criminal offence, and are required to attend the magistrates' courts to answer the allegation.

### **Restraining order**

A type of court order made as part of the sentencing procedure to protect the person(s) named in it from harassment or conduct that will put them in fear of violence. They are often made in cases involving domestic abuse, harassment, stalking or sexual assault. The order is intended to be preventative and protective, and usually includes restrictions on contact by the defendant towards the victim; it may also include an exclusion zone around the victim's home or workplace. A restraining order can also be made after a defendant has been acquitted if the court thinks it is necessary to protect the person from harassment.

### **Review**

The process whereby a CPS prosecutor determines that a case received from the police satisfies, or continues to satisfy, the legal test for prosecution in the Code for Crown Prosecutors. This is one of the most important functions of the CPS.

### **Speaking to witnesses at court (STWAC)**

An initiative stating that prosecutors should speak to witnesses at or before court to make sure they are properly assisted and know what to expect before they give their evidence.

### **Special measures**

The Youth Justice and Criminal Evidence Act 1999 provides for a range of special measures to enable vulnerable or intimidated witnesses in a criminal trial to give their most accurate and complete account of what happened. Measures include giving evidence via a live TV link to the court, giving evidence from behind screens in the courtroom and using intermediaries. A special measures application is made to the court within set time limits and can be made by the prosecution or defence.

### **Threshold test**

See Director's Guidance on Charging.

### **Triage**

Triage is a check carried out by a member of the CPS staff, usually an administrator, to make sure that what the police have sent to the CPS includes the right documents and other items. It is a check for the required documents, not the quality of their contents.



### **Unsuccessful outcome**

A prosecution which does not result in a conviction is recorded in CPS data as an unsuccessful outcome. If the outcome is unsuccessful because the prosecution has been dropped (discontinued, withdrawn or no evidence offered) or the court has ordered that it cannot proceed, it is also known as an adverse outcome. Acquittals are not adverse outcomes.

### **Victim Communication and Liaison scheme (VCL)**

A CPS scheme to inform victims of crime of a decision to stop, or alter substantially, any of the charges in a case. Vulnerable or intimidated victims must be notified within one working day and all other victims within five working days. In certain cases, victims will be offered a meeting to explain the decision and/or the right to ask for the decision to be reviewed.

### **Victim Liaison Unit (VLU)**

The team of CPS staff in an Area responsible for communicating with victims under the Victim Communication and Liaison scheme and the Victims' Right to Review, and for responding to complaints and overseeing the service to bereaved families.

### **Victim Personal Statement (VPS)**

When a victim explains to the court how a crime has affected them. If a defendant is found guilty, the court will take the VPS into account, along with all the other evidence, when deciding on an appropriate sentence.

### **Victims' Code**

Sets out a victim's rights and the minimum standards of service that organisations must provide to victims of crime. Its aim is to improve victims' experience of the criminal justice system by providing them with the support and information they need. It was published in October 2013 and last updated on 21 April 2021.

### **Victims' Right to Review scheme (VRR)**

This scheme provides victims of crime with a specifically designed process to exercise their right to review certain CPS decisions not to start a prosecution, or to stop a prosecution. If a new decision is required, it may be appropriate to institute or reinstitute criminal proceedings. The right to request a review of a decision not to prosecute under the VRR scheme applies to decisions that have the effect of being final made by any crown prosecutor, regardless of their grade or position in the organisation. It is important to note that the "right" referred to in the context of the VRR scheme is the right to request a review of a final decision. It is not a guarantee that proceedings will be instituted or reinstated.

### **Violence against women and girls (VAWG)**

A category of offending that covers a wide range of criminal conduct, including domestic abuse, controlling and coercive behaviour, sexual offences, harassment, forced marriage, so-called honour-based violence, and slavery and trafficking. VAWG includes boys and men as victims but reflects the gendered nature of the majority of VAWG offending.

### **Vulnerable and/or intimidated witnesses**

Those witnesses who require particular help to give evidence in court, such as children, victims of sexual offences and the most serious crimes, persistently targeted victims, and those with communication difficulties.

### **Witness care unit (WCU)**

A unit responsible for managing the care of victims and prosecution witnesses from when a case is charged to the conclusion of the case. It is staffed by witness care officers and other support workers whose role is to keep witnesses informed about the progress of their case. Almost all WCUs are staffed and managed by the police.

### **Witness summons**

A legal document compelling a reluctant or unwilling witness to attend court.

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