

# Domestic **Violence**



CROWN  
PROSECUTION  
SERVICE

## **Policy for Prosecuting Cases of Domestic Violence**

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## 1. INTRODUCTION

- 1.1 This document explains the way we, the Crown Prosecution Service (CPS), deal with cases involving domestic violence.
- 1.2 We regard domestic violence as particularly serious. Its domestic nature is an aggravating, rather than a mitigating, factor because of the abuse of trust. Victims know and often live with or have lived with their abuser. Moreover, there is often a continuing threat to the victim's safety and, in the worst cases, the victim's life and the lives of others (including children) may be at risk.
- 1.3 When we are deciding whether to prosecute, the safety of the victim, children and any other person at risk will be a priority for us.
- 1.4 People have the right to feel safe and be safe in their personal relationships. We know that domestic violence can have a devastating effect not only upon the victim but also upon families and especially upon children who witness and suffer directly the consequences of that violence.
- 1.5 Stopping domestic violence and bringing perpetrators to justice must therefore be a priority for the CPS. We are determined to play our part by prosecuting cases effectively and working within a multi-agency approach. We recognise that criminal proceedings are just one element of this approach and that criminal and civil law may need to be used

in conjunction. Where there are concurrent criminal and civil proceedings, we will work to ensure that the courts can make consistent orders that prioritise the safety of victims and children. We also acknowledge that some victims may not wish the criminal route to be engaged at all, preferring to make use of civil remedies or other safety and support mechanisms.

- 1.6** We will continue to work and train with the police, other colleagues in the criminal justice system and with voluntary and community groups, both locally and nationally, to help us improve our understanding of domestic violence and make appropriate casework decisions.
- 1.7** We realise that victims of domestic violence — particularly those who may have suffered over a considerable time — have difficult decisions to make that will affect their lives and the lives of those close to them.
- 1.8** We acknowledge that barriers exist, which mean that some people are less likely to report offences.
- 1.9** Victims who are or have been in a relationship with their abuser may blame themselves or feel that agencies may blame them, as well as facing wider difficulties such as disruption to the lives of their children and families.
- 1.10** People from black and minority ethnic communities may have experienced racism. They may fear that

they will not be believed, or that they will not be treated properly. As a result they may be reluctant to report offences or support a prosecution. Cultural and religious beliefs may also have the same effect.

- 1.11** In cases involving domestic violence in same sex relationships, victims may fear homophobic reactions from the criminal justice system, as well as being “outed” by the process.
- 1.12** Disabled people and some elderly victims of domestic violence may fear reporting offences, particularly if the abuser is also a carer.
- 1.13** We work with a number of national and local organisations that offer support to victims throughout the process of reporting crime to giving evidence in court.
- 1.14** Special measures can be used to help a victim or witness give evidence (see Paragraph 9 on p.19). We will consider every case carefully and sensitively. Our decisions will be objective but made within a framework that promotes safety and support for victims and keeps them informed.
- 1.15** We know that domestic violence is likely to become more frequent and more serious the longer it continues and can result in death. Because of this, we will sometimes take proceedings even if a victim asks us not to do so. In these cases, we will make the fullest enquiries through the police, to ensure that our decision to prosecute is made against a

background of all available information and with the safety of the victim and any children at the forefront of our minds.

## 2. WHAT IS DOMESTIC VIOLENCE?

2.1 There is no specific statutory offence of domestic violence. “Domestic violence” is a general term to describe a range of behaviour often used by one person to control and dominate another with whom they have, or have had, a close or family relationship. It is often a series of abusive incidents, whether physical or not, that has a cumulative effect on the victim. Domestic violence occurs irrespective of background and circumstance, sexuality, age, disability and gender, but the overwhelming majority of victims are female and abusers male.

2.2 The Government definition of domestic violence was agreed in 2004 and is:

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

An *adult* is any person aged 18 years and over and *family members* are defined as mother, father, son, daughter, brother, sister and grandparents, whether directly related, in-laws or step-family. The definition is supported by an explanatory text that makes it

clear that domestic violence includes female genital mutilation, forced marriage and so-called “honour crimes”.

- 2.3 This definition replaces the various definitions used by Government departments and agencies and was needed to improve joint working practices and monitoring.
- 2.4 Because victims’ and children’s safety issues and defendant accountability are so important to us, we will also apply our domestic violence policy when dealing with criminal offences that occur in a domestic context involving victims and abusers whatever their age.
- 2.5 Some examples of behaviour that might amount to a criminal offence are given at Annex A.

### 3. THE ROLE OF THE CPS

- 3.1 The Crown Prosecution Service is the principal public prosecuting authority for England and Wales and is headed by the Director of Public Prosecutions. The Attorney General is accountable to Parliament for the Service. The Crown Prosecution Service is a national organisation consisting of 42 Areas. Each Area is headed by a Chief Crown Prosecutor and corresponds to a single police force area, with one for London. It was set up in 1986 to prosecute cases investigated by the police. Although the Crown Prosecution Service works closely with

the police, it is independent of them. The independence of Crown Prosecutors is of fundamental constitutional importance. Casework decisions taken with fairness, impartiality and integrity help deliver justice for victims, witnesses, defendants and the public. The Crown Prosecution Service co-operates with the investigating and prosecuting agencies of other jurisdictions.

- 3.2 Although we take into account victims' views, we are not their legal representative and are not permitted to examine their evidence with them. Our role is to prosecute on behalf of the public.
- 3.3 The police are responsible for investigating allegations of domestic violence and gathering the evidence. Recent changes in the law mean that we are now responsible for deciding the charge in all but the most minor offences. This will mean that prosecutors are involved at an early stage in advising on cases of domestic violence.
- 3.4 The decision to prosecute a case is our responsibility, not that of the victim or the police. Where we make a decision not to charge, or decide to drop or substantially amend a charge, we will inform the victim in writing of the decision and the reasons for it. However, where matters have been dealt with very quickly, we may not always be able to give the explanation before the case is finished. In certain cases, our letter will also offer a meeting with the prosecutor where a fuller explanation may be provided. A copy of our *"How prosecution decisions*

*are reached in cases of domestic violence*” can be obtained from CPS Communications Branch.

- 3.5** As we are committed to improving the way we deal with cases of domestic violence, we have established a network of domestic violence co-ordinators, one in each CPS Area, to help us implement our policy, address problems, identify and share good practice. Each Area also ensures that it has prosecutors with expertise in domestic violence issues who have local responsibility for passing on policy and information, providing assistance to colleagues and contributing to local multi-agency meetings.

## **4. THE CODE FOR CROWN PROSECUTORS**

- 4.1** The Code for Crown Prosecutors gives guidance on how we make decisions about whether or not to prosecute. It is a public document. We review cases referred to us by the police in line with the Tests set out in The Code. We make charging decisions in accordance with the Full Code Test, other than in the limited circumstances where the narrower Threshold Test applies.

### **4.2 *The Full Code Test***

The Full Code Test has two stages. The first stage is consideration of the evidence. If the case does not pass the evidential stage it must not go ahead no

matter how important or serious it may be. If the case does pass the evidential stage, we proceed to the second stage and decide if a prosecution is needed in the public interest.

### The first stage — the evidential stage

- 4.3 We must be satisfied that there is enough evidence to provide a *“realistic prospect of conviction”* against each defendant on each charge. This means that a jury or a bench of magistrates or a judge hearing the case alone, properly directed in accordance with the law, is more likely than not to convict the defendant of the charge alleged.

### The second stage — the public interest stage

- 4.4 If the case does pass the evidential test, we must then decide whether a prosecution is needed in the public interest. A prosecution will usually take place unless *“there are public interest factors tending against prosecution which clearly outweigh those tending in favour”*.
- 4.5 When considering the public interest test, one of the factors we should always take into account is *“the consequences for the victim of whether or not to prosecute, and any views expressed by the victim or the victim’s family”*.
- 4.6 The public interest test is explained in further detail at Paragraph 6 on p.15.

## ***The Threshold Test***

- 4.7** The Threshold Test requires us to decide whether there is at least a reasonable suspicion that the suspect has committed an offence, and if there is, whether it is in the public interest to charge the suspect. This Test is applied to those cases in which it would not be appropriate to release a suspect on bail after charge, but the evidence to apply the Full Code Test is not yet available. The Full Code Test must be applied as soon as reasonably practicable. All cases of domestic violence are to be referred to us by the police unless there is no evidence on which a reasonable suspicion could be based.

## **The burden and standard of proof**

- 4.8** The Tests that we use to decide whether or not to prosecute are different from the one applied by the court before it may convict a defendant. For there to be a conviction in the criminal court, we have to prove the case so that the court is sure of guilt.
- 4.9** This is a very high standard of proof and there are many reasons why a defendant may not be convicted. Witnesses should not assume that a defendant has been acquitted because their evidence has not been believed.

## 5. IS THERE ENOUGH EVIDENCE TO PROSECUTE?

- 5.1 We will work closely with the police to make sure that all available evidence from all sources has been gathered and brought to our attention. Effective gathering of evidence by the police may include, for example, 999 tapes, CCTV footage, forensic evidence, and police observations at the scene, e.g. furniture overturned and injuries sustained. We will consider the evidence carefully and make our decisions as quickly as possible. We will also try to make sure that cases progress through the court without avoidable delay.
- 5.2 Domestic violence often takes place in private and, at times, the victim may be the only witness. This can mean that unless the defendant pleads guilty or there is strong supporting evidence, it will usually be necessary for the victim to give evidence in court. We recognise that many victims of domestic violence will find this very difficult and may need practical and emotional support and specialist domestic violence advocacy services. Emotional and practical help for all victims of crime is also available from Victim Support and the Witness Service. Contact details for these support agencies are given at Annex C.
- 5.3 We know that some complaints of domestic violence are not made straight away for fear of reprisals, intimidation or a number of other factors. Again, specialist domestic violence support services will be able to offer help and advice to victims who are unsure about what action to take.

**5.4** We will not assume that bringing the victim to court to give evidence is the only way to prove a case. We will actively consider what other evidence may be available. It is possible, for example, that a friend, neighbour or child may have been present either in the same room or elsewhere in the premises and may be able to give evidence.

**What happens when the victim withdraws support for the prosecution or no longer wishes to give evidence?**

**5.5** Sometimes victims will ask the police not to proceed any further with the case and say that they no longer wish to give evidence. This does *not* mean that the case will automatically be stopped. As a general rule, we will prosecute cases where there is sufficient evidence and it is in the public interest to do so.

**5.6** When this happens we have to find out why before we can decide what action to take. This may involve delaying the court proceedings to investigate the facts and decide the best course of action.

**5.7** We will take the following steps:

- we will ensure that a prosecutor experienced in domestic violence matters supervises the case;
- if the information about the victim's decision has come from the defendant, we will ask the police to make further enquiries;

- if the victim confirms that the information is true, we will ask the police to take a written statement from the victim explaining the reasons for withdrawing support, saying whether the original statement was true and whether the victim has been put under pressure to withdraw support and providing any other relevant information;
- we will ask the police to give their views about the evidence in the case and how they think the victim might react to being required to attend court;
- we will ask the police to carry out a full assessment of the risks to the victim, any child and any other vulnerable person's safety, and to include details of what support is available to the victim and has been offered.

**5.8** If we suspect that the victim has been pressured or frightened into withdrawing the complaint, we will ask the police to investigate further. The investigation may reveal new offences, for example, harassment or witness intimidation, or that bail conditions may have been breached.

**5.9** If the victim's evidence after withdrawing the complaint is not the same as the earlier evidence, the police will ask the victim to explain why it has changed and, if necessary, investigate the background further.

- 5.10** If the victim confirms that the complaint is true but still wants to withdraw, we will consider first whether it is possible to continue without the victim's evidence (the evidential test) and then, if it is possible, whether we should continue with the case against the victim's wishes (the public interest test).
- 5.11** We will explore these options fully before we decide whether or not to proceed with the prosecution.
- 5.12** The safety of the victim, children or any other potentially vulnerable person will be a prime consideration in reaching our decision.

### **What happens when a decision is taken to continue with a prosecution against the victim's wishes?**

- 5.13** Generally, the more serious the offence (because of, for example, the presence of children, or the level of violence used or the real and continuing threat to the victim or others) the more likely we are to prosecute in the public interest, even if the victims say that they do not wish us to do so.
- 5.14** If we think that the case should continue and that it would be necessary to rely on the victim's evidence to prove the case, we have to decide:
- whether we could apply to the court to use the victim's statement as evidence without the victim having to give evidence in court;
  - if we can proceed with the prosecution by

helping the victim to attend court by the use of special measures (see page 19 to explain how they could assist the victim to give evidence);  
or

- whether we should compel the victim to give evidence in person in court.

- 5.15** Under current legislation, we can require husbands or wives to give evidence about an assault or threat of injury by their spouse. We can also compel unmarried partners or family members to give evidence about any offence.
- 5.16** In cases where it is necessary to call victims against their wishes, an experienced prosecutor will only make that decision after consultation with the police and with the safety of the victim and any child or vulnerable person as a prime consideration. In cases involving same sex relationships, where relevant we will also consider the consequences of potentially “outing” the victim by the court process.
- 5.17** The law allows us to use the victim’s statement in court without calling the victim, but only in very limited circumstances, for example, where the victim cannot be found. The court ultimately makes the decision whether to allow such a statement to be used in this manner and only if it is convinced that it is in the public interest to do so. If the victim is the only witness to the offence it may be very difficult to satisfy the court that justice is being served when the defence cannot cross-examine the only witness against them.

## 6. IS IT IN THE PUBLIC INTEREST TO PROSECUTE?

- 6.1** We always think very carefully about the interests of the victim when we decide where the public interest lies. But we prosecute cases on behalf of the public at large and not just in the interests of any particular individual.
- 6.2** There can be difficulties in striking this balance. The views and interests of the victim are important but they cannot be the final word on the subject of a prosecution. The acts of an individual have to be put in the context of the wider society and balanced against the risks to other individuals.
- 6.3** The safety of children is important. If there are children living in a household in which there is abuse, we will want to know about the effect it has on them. We will ask the police if they have shared any concerns with other agencies, or if other agencies have shared concerns, especially where family proceedings are taking place.
- 6.4** If the victim withdraws support for the prosecution but we have enough evidence to proceed, we have to decide whether to prosecute. We will always consider the safety of the victim and any children at this stage. Some examples of what helps us to decide are:
- the seriousness of the offence;
  - the victim's injuries – whether physical or psychological;

- if the defendant used a weapon;
- if the defendant has made any threats before or after the attack;
- if the defendant planned the attack;
- if there are any children living in the household;
- if the offence was committed in the presence of, or near, a child;
- the chances of the defendant offending again;
- the continuing threat to the health and safety of the victim or anyone else who is, or may become, involved;
- the current state of the victim's relationship with the defendant;
- the history of the relationship, particularly if there has been any violence in the past;
- the defendant's criminal history, particularly any previous violence.

**6.5** In cases of domestic violence, if the evidential test is passed and the victim is willing to give evidence, we will almost always prosecute, even if, for example, the injury was minor or the parties reconciled.

**6.6** We will ask the police to provide information about family circumstances and the likely effect of prosecuting on the victim and children. Where social services, housing or specialist domestic violence support agencies are, or have been, involved, they may be able to help by providing the police with this type of information.

## 7. DECIDING THE CHARGES AND ACCEPTING PLEAS

- 7.1 The charges in domestic violence cases should reflect the seriousness of what took place, any element of pre-meditation or persistence in the defendant's behaviour, the provable intent of the defendant, and the severity of any injury suffered by the victim. The charges must help us to present the case clearly and simply and they must give the court power to impose a suitable sentence.
- 7.2 The CPS and police have agreed what are called "charging standards" for certain types of offences including assaults. These are guidelines that help us to make consistent decisions about the right charges. We use them when reviewing all cases including domestic violence cases.
- 7.3 In some cases we may consider accepting a guilty plea from the defendant to a different charge. This might arise, for example, if a defendant pleads guilty to some but not all of the charges or because new evidence comes to light.
- 7.4 If a defendant offers to plead guilty to a different and possibly less serious charge, we will only accept the plea if we think the court is able to pass a sentence that reflects the seriousness of the offence.
- 7.5 When considering whether to accept a plea, we will, whenever possible, consult victims so that the position can be explained and their views and

interests taken into account in reaching our decision.

- 7.6 We are committed to keeping victims informed and taking their interests into account when considering whether to accept a plea.

## 8. AVOIDING DELAY

- 8.1 The longer the delay, the longer the victim will be at risk and under pressure. We will make sure that cases of domestic violence are not delayed without very good reason and we will do our best to ensure that the victim is kept informed, either by ourselves or through the police or support agencies, of the reason for any delay in the proceedings.
- 8.2 We are currently working with our criminal justice partners to increase efficiency in progressing cases. We are also developing Witness Care Units, jointly with the police, to improve the service that victims and witnesses receive from us. One potential benefit from these initiatives is that trials are more likely to go ahead on the first date fixed by the court without the need for adjournments. A copy of our *“No Witness, No Justice: The National Victim and Witness Care Programme”* is available from [witnesses@cps.gsi.gov.uk](mailto:witnesses@cps.gsi.gov.uk)

## 9. HELPING VICTIMS AND WITNESSES GIVE EVIDENCE

### *Special Measures (Youth Justice and Criminal Evidence Act 1999)*

- 9.1 In some cases the court may agree to allow a witness to give evidence with the help of “special measures”. Special measures are available in both Crown and Magistrates’ Courts, and are being implemented in a rolling programme. They are available to help the following witnesses:
- children under 17 years;
  - adults (17 and over for the purposes of this legislation) who may be considered vulnerable because of incapacity, such as a physical or mental disorder;
  - witnesses whose evidence is likely to be affected because they are intimidated (e.g. afraid or distressed about giving evidence).
- 9.2 Special measures that the court could allow include:
- the use of screens in the courtroom to shield a victim or other witness from the defendant;
  - giving evidence away from the courtroom through a live television link;
  - clearing the public gallery in sexual offence

cases or cases involving intimidation;

- the use of communication aids, for example, an alphabet board or hearing loop;
- giving evidence through an intermediary<sup>1</sup> (currently being piloted and likely to be in force in 2005-6);
- giving video recorded evidence.

**9.3** We have to ask the court to allow special measures and the granting of the request is not automatic as the court makes the final decision. Victims of sexual crimes, however, are presumed to be eligible for special measures if they want them and they satisfy the statutory criteria. The situation is different for children (aged under 17) in that they will normally have to give their evidence by recorded video evidence and television link.

**9.4** The court has to take into account certain things, for example, adult witnesses' views, when deciding whether to allow special measures. The court needs to be satisfied that the quality of the evidence that the witness is going to give is likely to be diminished without the special measures that are requested.

**9.5** In deciding whether the quality of the evidence is

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<sup>1</sup> Someone, usually a specially trained and registered speech therapist, who helps witnesses communicate with the court if, for example, they have a speech impediment.

likely to be diminished, the court will consider, among other things:

- the social and cultural background and ethnic origins of the witness;
- the religious beliefs of the witness;
- any behaviour towards the witness by the defendant or the defendant's family or associates.

This list is not complete and the court can take account of anything else that is brought to its attention.

**9.6** It is important that we have all the available information that could help us apply for special measures for a witness. Normally it will be the police who will pass on the information to us either directly from the victim or through an advocate. In addition, staff in the new Witness Care Units will make early contact with witnesses and information may be provided directly to them.

**9.7** Ideally, early decisions should be taken about special measures to assist victims and witnesses; however, circumstances may change and it is possible to apply at any stage of the proceedings. We will ensure that victims and witnesses are made aware that they can change their minds about special measures. In some cases, victims say that they do not require special measures, but may later realise that they do and can be afraid to say so.

- 9.8** Where we decide to make an application for special measures, we will ask the police to find out if the witness would like to meet the prosecutor. The purpose of meetings is to build trust and confidence and to enable us to reassure witnesses that their needs will be taken into account. We will offer such meetings if we have decided not to apply for special measures so that we can explain that decision.
- 9.9** Further information about meetings with vulnerable or intimidated witnesses is contained in two leaflets "*Your meeting with the CPS*" and "*About your meeting with the CPS*". We have also published, together with the police, practice guidance entitled "*Early Special Measures Meetings between the Police and the CPS and Meetings between the CPS and Vulnerable or Intimidated Witnesses*". Copies of all these documents can be obtained from CPS Communications Branch or [www.cps.gov.uk](http://www.cps.gov.uk)

### ***Reporting Restrictions (Youth Justice and Criminal Evidence Act 1999, section 46)***

- 9.10** In some cases, the law allows us to apply for an order preventing the reporting of certain details of witnesses in the media that may lead to their identification.
- 9.11** The court must follow a specified procedure when considering such an application and must determine whether a witness is eligible and whether the reporting restriction will be likely to improve the quality of the witness's evidence or the level of the witness's cooperation.

**9.12** When deciding whether a witness is eligible, the court will look at whether the quality of the witness's evidence or the level of cooperation will be diminished because of fear or distress associated with being identified by members of the public as a witness in the proceedings and must take into account in particular:

- the nature and alleged circumstances of the offence to which the proceedings relate;
- the witness's age;
- if relevant, the social and cultural background and ethnic origins of the witness, the domestic and employment circumstances, and any religious beliefs or political opinions;
- any behaviour towards the witness on the part of the defendant, members of his or her family or associates, or any other person who is likely to be a defendant or witness in the proceedings.

**9.13** Once these factors are determined, the court will consider:

- whether it would be in the interests of justice to make an order;
- the public interest in avoiding a substantial and potentially unreasonable restriction on the reporting of proceedings.

**9.14** Where an order is made (the defence and/or the media are entitled to object to any application we make), the effect will be that no matter relating to the witness during his or her lifetime shall be included in any publication if it is likely to identify him or her as a witness in the proceedings.

### ***Victim Personal Statements***

**9.15** All victims of crime should be offered an opportunity by the police to make a Victim Personal Statement in which they can explain the impact that the crime has had on their lives. Concerns about children, safety, intimidation, bail, support (or absence of support) for the prosecution and requests for help from any of the support agencies can also be raised. Some victims have concerns over sentencing and therefore could include a request that a particular sentence be chosen or another avoided. In this way, the courts can better understand not only the crime but also the context in which it occurred. These personal statements can be taken into account by the courts in bail and sentencing hearings.

### ***Support for victims and witnesses at court***

**9.16** Specialist domestic violence support organisations exist throughout the country. Contact details for some can be found at Annex C.

- 9.17** Magistrates' and Crown Courts have a Witness Service, which is provided by Victim Support and, in some areas, the NSPCC provides a Young Witness Service. These Witness Services may be able to arrange pre-court familiarisation visits if needed and are able to explain what might happen at court. They work alongside the CPS/police Witness Care Units and any local specialist domestic service providers. They are not, however, permitted to discuss the details of the case.
- 9.18** When a witness attends court, the prosecutor presenting the case and/or the CPS caseworker will introduce themselves and answer any general questions that a witness may have. They will not be permitted to discuss the detail of the case with the witness.
- 9.19** Sometimes, the person prosecuting may be a barrister (also known as counsel) or a solicitor (also known as an agent) who is not a member of the CPS but who has been employed by us to present the case in court. We require every barrister or solicitor we employ to be familiar with our policies and procedures and to act in accordance with them.
- 9.20** A witness who has made a written statement will be allowed to read that statement to refresh his or her memory before giving evidence. Where the evidence has been recorded on video and is to be used as evidence-in-chief, arrangements will be made for the witness to refresh his or her memory by watching the video recording before the hearing.

- 9.21** We will make sure that appropriate arrangements are made to have an interpreter available for a prosecution witness when one is needed for the court proceedings.
- 9.22** We will pay reasonable expenses to a witness for attending court.
- 9.23** If witnesses are kept waiting, we will make sure that they are told the reasons for the delay and the estimated time when they will be required to give evidence.
- 9.24** Wherever possible, we will try and make sure that separate waiting facilities are made available for prosecution witnesses.
- 9.25** Witness Care Units will make contact with all victims and witnesses and work alongside any specialist support agencies already involved. Dedicated officers will act as a single point of contact from the point of charging the defendant with a criminal offence. They will carry out a needs assessment for each witness. They will keep victims and witnesses informed about a case's progress by the witness's preferred means of contact. This includes the outcome of the case.

## 10. BAIL

- 10.1** Sometimes before and always after a defendant is charged with an offence (where there has been an arrest), the police will decide whether to release the person on bail. This may be back to the police station or to attend the next available court hearing, usually within two to five days of charge. The decision is whether to release on bail or to keep the person in custody. Once the accused appears before the court, the magistrates or District Judge will make the decision about bail after hearing from the prosecution and defence. We can appeal, in certain circumstances, against a decision to grant bail.
- 10.2** To protect victims, children and other witnesses from the risk of danger, threats, pressure or other acts by the defendant that might obstruct the course of justice, we may ask the court to impose conditions of bail, or remand the defendant in custody. The court can only agree if we can show that there are substantial grounds for withholding bail.
- 10.3** Conditions that the court can impose include requirements not to make contact with any named person or to keep away from certain areas. In making decisions about the application we will make to the court, we will take account of information provided to us by the police about the fears of a victim or witness about harassment or repeat offending. In the future it may be possible to “tag” defendants to monitor their movements. Some examples of common bail conditions and what

happens if bail conditions are breached are set out in Annex B.

- 10.4** We will work with the police, courts and support agencies to make sure that the victim or witness is promptly informed of any change to the bail conditions or custody status of the defendant.
  
- 10.5** If the defendant breaches bail conditions, the police can arrest the defendant and the court can remand the defendant in custody. New offences may have been committed in addition to the conditions being breached and any new offence will be reviewed to decide whether it should be prosecuted.
  
- 10.6** Where there is a condition not to contact the victim, it does not matter if the victim has agreed to or initiated any contact with the defendant. It is the defendant who is subject to the bail conditions. The defendant is responsible for complying with any conditions imposed by the police or the court until released from those conditions by the police or court (see Annex B).

## 11. SENTENCING

- 11.1** When a defendant pleads guilty or is found guilty, the court has to decide on the sentence to impose and can choose from a broad range of penalties. Magistrates' sentencing guidelines state that an abuse of trust in a domestic setting is an aggravating factor in assaults, and where there are "vulnerable" victims, this is also an aggravating feature. The penalties may be in the form of rehabilitative orders (sometimes including programmes for perpetrators), community penalties, fines, "bind overs" or custody. Restraining orders are currently available in some types of cases and their use will be extended when new provisions in the Domestic Violence, Crime and Victims Act 2004 are implemented.
- 11.2** We will make sure that the court has all the information it needs to sentence appropriately, including any relevant information contained in a Victim Personal Statement.
- 11.3** We will correct any misleading information given by the defence and consider carefully any sentence that is passed to make sure that it reflects the crime.
- 11.4** We will give the court information to help it to decide whether to make any orders it has power to make in addition to the main sentence. This includes making orders in appropriate cases for compensation for loss, injury or damage, making a restraining order or an anti-social behaviour order.

## 12. CONCLUSION

- 12.1** We are determined to play our part in stopping domestic violence and in bringing offenders to justice. We are committed to improving the way cases of domestic violence are dealt with in the criminal justice system and we want victims and witnesses to have confidence in the way in which we review and progress our cases.
- 12.2** We recognise and welcome the invaluable advice, emotional support and practical help and information that may be offered to victims and witnesses by specialist domestic violence support agencies. This support has been shown to help them stay confident and able to continue with the case.
- 12.3** We hope that this document will help victims of domestic violence to understand the work of the CPS, how we make our decisions and the different stages of the prosecution process.
- 12.4** We will continue to work with the police and colleagues in the criminal justice system and the voluntary and community sector at national and local levels to help us develop best practice.
- 12.5** We will monitor the way we deal with cases of domestic violence and publish this information.
- 12.6** We will review this policy statement regularly so that it reflects current law and social perspectives.

**12.7** We welcome any comments and observations that help us to do this.

## ANNEX A

**Here are some examples of types of behaviour that can occur in cases of domestic violence and which MIGHT**

<b>EXAMPLES OF BEHAVIOUR</b>
Pressuring a victim/witness to “drop the case” or not to give evidence.
Physical violence, with or without weapons, including punching, slapping, pushing, kicking, headbutting and hair-pulling.
Violence resulting in death.
Violence resulting in miscarriage.
Choking, strangling, suffocating.
Spitting at a person.
Threatening with an article used as a weapon e.g. a knife, tool, telephone, chair.
Throwing articles e.g. crockery, even if they miss their target.
Tying someone up.
Threatening to kill someone.
Threats to cause injury.
Threats seriously to damage or undermine social status.
Damaging or destroying property or threatening to damage or destroy property.
Harming or threatening to harm a pet.
Locking someone in a room or house or preventing them from leaving.
Preventing someone from visiting relatives or friends.

**amount to a criminal offence. Whether any particular behaviour does amount to a criminal offence will always depend on the circumstances of the particular case. These examples should therefore be treated only as guidelines.**

<b>POSSIBLE OFFENCES</b>
Witness intimidation, obstructing the course of justice, conspiracy to pervert the course of justice.
Common assault, actual/grievous bodily harm, wounding, attempted murder.
Murder, manslaughter.
Child destruction, procuring a miscarriage or abortion.
Common assault, actual/grievous bodily harm, attempting to choke, strangle or suffocate.
Common assault.
Threats to kill, common assault, affray, threatening behaviour.
Common assault, actual/grievous bodily harm, wounding, criminal damage, affray, threatening behaviour.
Common assault, actual bodily harm, false imprisonment.
Threats to kill, harassment.
Common assault, affray, threatening behaviour*.
Harassment, blackmail.
Criminal damage, threatening to cause criminal damage, harassment.
Criminal damage, threatening to cause criminal damage, cruelty to animals, harassment.
False imprisonment, harassment.
False imprisonment, kidnapping, harassment.

## EXAMPLES OF BEHAVIOUR

Preventing someone from seeking aid e.g. medical attention.

Preventing someone from dressing as they choose or forcing them to wear particular make-up, jewellery and hairstyles.

Racial abuse.

“Outing” e.g. sexual orientation or HIV status.

Enforced financial dependence or unreasonably depriving someone of money.

Dowry abuse.

Unreasonable financial demands.

Forced marriage.

Enforced sexual activity.

Persistent verbal abuse e.g. constant unreasonable criticism.

Offensive/obscene/menacing telephone calls, text messages or letters.

Excessive contact e.g. numerous telephone calls to check someone’s whereabouts.

Secret or enforced administration of drugs.

Neglecting, abandoning or ill-treating a child.

So-called “honour crimes”.

Female circumcision.

Forced entry into a house.

\* If the threatening or disorderly words/behaviour are used in a dwelling house, the offence can only be committed if the other person is not inside that or another dwelling.

## POSSIBLE OFFENCES

False imprisonment, actual bodily harm.

Actual bodily harm\*\*, harassment.

Racially aggravated threatening behaviour\*, disorderly conduct\* or harassment.

Harassment, actual bodily harm\*\*, blackmail.

Harassment.

Blackmail, harassment, common assault, actual/grievous bodily harm.

Blackmail, harassment.

Kidnap, blackmail, false imprisonment, common assault, actual/grievous bodily harm, rape, indecent assault.

Rape, indecent assault, harassment.

Harassment, actual bodily harm\*\*.

Improper use of public telecommunication systems, malicious communications, actual/grievous bodily harm, harassment.

Harassment, false imprisonment.

Common assault, actual bodily harm, grievous bodily harm, administering poison.

Child cruelty.

Murder, aiding and abetting suicide.

Female genital mutilation.

Using violence to secure entry.

\*\* Actual physical or mental harm must be proved to have resulted from the behaviour.

## ANNEX B

### BAIL

A court can remand a defendant in custody or grant bail, with or without conditions attached. Before the first court hearing, the police can also retain a defendant in custody or grant bail, with or without conditions attached, but their powers to do so are more limited than the court's.

Conditions can only be imposed to ensure that the defendant attends the next court hearing, commits no new offences in the meantime, and does not interfere with any witnesses or obstruct the course of justice.

#### Examples of bail conditions imposed by courts

A court can impose any condition that seems appropriate in the circumstances of the particular case. Here are some examples of typical bail conditions imposed by courts:

- **The defendant must not contact, either directly or indirectly, a named person or persons.**  
This means no contact whatsoever, including by telephone, fax or letter or through another person e.g. the defendant cannot get a relative to make contact on his behalf.
- **The defendant must not go to a named place, for example the victim's place of work, shopping area or children's school.**  
This is usually a specific address, but may also be a street, a town, an area or even a whole county. Sometimes the court will say that the defendant must

not go within a specified distance of a place e.g. within half a mile of Victoria Road. Sometimes, for practical reasons, there are exceptions attached to the condition, for example:

- **The defendant must not go to a named place except:**
  - to attend court;
  - to see a solicitor by prior arrangement;
  - once to collect personal belongings at an appointed time and accompanied by a police officer or other specified person;
  - to see the children, under supervision, at a specified time (the Family Court will usually be involved in assessing and making such arrangements).
  
- **The defendant must reside at a named address.**

This means live and sleep each night there.
  
- **The defendant must report to a named police station on a given day or days at a given time.**

For example, every weekday morning between 8.30am and 10am.
  
- **The defendant must abide by a curfew between certain specified hours.**

This means remain indoors, for example, from 9pm until 8am.
  
- **The defendant must provide a security to the court.**

If it is thought that the defendant might not attend the

next court hearing, the court can order that a set sum of money be paid into the court. If the defendant does fail to attend the next hearing the money can be forfeited.

- **The defendant must provide a surety.**

A friend or relative must agree to ensure that the defendant attends court, or the friend or relative could lose a specified sum of money.

### **Breaching bail conditions**

If the defendant breaches bail conditions, the police can arrest the defendant and the court can remand the defendant in custody.

Sometimes, despite bail conditions that say, for example, a defendant cannot contact the victim or return home, the victim contacts the defendant or invites or allows the defendant to return home.

There are all kinds of reasons why victims sometimes do this, but if the defendant responds in such a way as to continue the contact, then the defendant is breaching bail conditions because the police or the court have not released the defendant from the conditions of bail they imposed.

It does not matter that the victim has agreed to or initiated the contact; **the victim is not subject to the bail conditions, the defendant is**. The defendant is responsible for complying with any conditions imposed by the police

or the court until released from those conditions by the police or court.

In addition to the breach of bail, new offences may also have been committed for which the defendant may be prosecuted.

## ANNEX C

Listed below are contact details for some of the organisations that provide help or information to victims of domestic violence. They should be able to give contact details for local organisations.

### **24 hour Domestic Violence Helpline**

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

**The 24 hour freephone number is: 0808 2000 247**

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### **Broken Rainbow & hold tight tight hold**

Broken Rainbow assists lesbians, gay men, bisexual and transgender (LGBT) people in Britain who are affected by homophobic, transphobic and same sex domestic violence.

**Broken Rainbow Hotline Number: 07812 644 914**

**E-mail address: [lgbtDV@btopenworld.com](mailto:lgbtDV@btopenworld.com)**

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### **Cardiff Women's Safety Unit (CWSU)**

CWSU provides a central point of access for women and their children experiencing domestic violence in the Cardiff area.

**Tel: 029 20 825111**

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### **ChildLine**

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

**Tel: 0800 1111**

### **Devon Men's Advice Line and Enquiries (M.A.L.E.)**

A confidential service supported by a charity with over 12 years' experience specialising in domestic violence.

#### **Men's Advice Line and Enquiries**

**PO Box 285, Exeter EX4 3ZT**

**Tel: 0845 064 6800**

**E-mail: [devonmale@ahimsa.org.uk](mailto:devonmale@ahimsa.org.uk)**

**[www.ahimsa.org.uk](http://www.ahimsa.org.uk)**

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### **Elder Abuse**

To prevent abuse in old age by raising awareness, education, promoting research and the collection and dissemination of information.

**Astral House, 1268 London Road, London SW16 4ER**

**Tel: 020 8765 7000**

**Fax: 020 8679 4074**

**E-mail: [enquiries@elderabuse.org.uk](mailto:enquiries@elderabuse.org.uk)**

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### **Greater London Domestic Violence Project**

Aims to increase safety for survivors of domestic violence, and to hold abusers accountable for their behaviour. The team works to ensure that good practice in domestic violence work is transferred across London, bring together key agencies to develop London-wide policies, raise awareness about domestic violence and increase the effectiveness of inter-agency work.

**Joanne Creighton (Information Manager)**

**Tel: 020 7983 4976**

**E-mail: [joanne.creighton@london.gov.uk](mailto:joanne.creighton@london.gov.uk)**

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### **HALT Domestic Violence**

HALT Domestic Violence (help, advice and law team) is a Leeds based charity providing practical legal help, support and advocacy to women experiencing domestic violence, regarding

their rights and choices in both the civil and criminal justice systems.

**HALT, PO Box 332,  
Leeds  
LS1 3RD  
Public Advice line: 0113 243 2632  
Administration: 0113 244 2578  
E-mail: [halt@ukgateway.net](mailto:halt@ukgateway.net)  
[www.halt.org.uk](http://www.halt.org.uk)**

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### **IMKAAN**

IMKAAN is a national policy training and research initiative, dedicated to providing support and advocacy to the specialist refuge sector, supporting Asian woman and children experiencing violence.

**76 Brewer Street,  
London,  
W1F 9TX  
Tel: 020 7434 9945**

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### **National Child Protection Helpline**

Helpline for people concerned about a child at risk of abuse, including children themselves. Offers counselling, information and advice about the care of children, legal issues, sexual, physical or emotional abuse, neglect etc.

**42 Curtain Road  
London  
EC24 3NH  
Tel: 0800 800 500**

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### **National Association of Gypsy Women**

Support group for Gypsy women and Travellers experiencing domestic violence.

**National Association of Gypsy Women, CVS Building, Church Row, Darlington DL1 5QD**

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### **Refuge**

Refuge is the national charity for women and children who experience domestic violence. It is the UK's largest single provider of specialist accommodation and support to women and children escaping domestic violence.

**Refuge, 2-8 Maltravers Street, London, WC2R 3EE**

**Tel: 020 7395 7700**

**E-mail: [info@refuge.org.uk](mailto:info@refuge.org.uk)**

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

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### **Respect**

Respect is a UK-wide membership organisation for practitioners and organisations working with perpetrators of domestic violence and associated work with women partners and ex-partners. Respect's core aim is to increase the safety of women and children who have experienced domestic violence, by promoting best practice in work with perpetrators of domestic violence and associated work with women.

**PO Box 34434, London W6 0YS**

**Tel: 020 8563 8523**

**E-mail: [info@respect.uk.net](mailto:info@respect.uk.net)**

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### **Southall Black Sisters (SBS)**

SBS provides a range of services to women and children who have experienced violence and abuse. They provide crisis/emergency intervention, counselling, support group activities and educational and development work.

**52 Norwood Road, Southall, London UB2 4DW**

**Tel: 020 8571 9595**

**Fax: 020 8574 6781**  
**E-mail: [sbs@leonet.co.uk](mailto:sbs@leonet.co.uk)**

**Hours: Mon-Fri 10am-4pm. Closed for lunch 12.30pm-1.30pm  
and all day Wednesday.**

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### **Standing Together**

Aims to: (1) promote for the public benefit the provision of services, which are directed towards the prevention of domestic violence and meet the needs of survivors of domestic violence and their families; (2) advance the education of voluntary and statutory agencies and the public in all aspects of domestic violence.

**Room 44D, 4th Floor, The Polish Centre, 238-246 King Street,  
London W6 0RF**

**Tel: 020 8748 5717**

**E-mail: [admin@standingtogether.org.uk](mailto:admin@standingtogether.org.uk)**

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### **Victim Support**

Victim Support is the national charity which helps people affected by crime. It provides free and confidential support.

**Victim Support line — 0845 30 30 900**

**9am-9pm Mondays to Fridays**

**9am-7pm weekends**

**9am-5pm Bank Holidays**

**For those with hearing difficulties — 020 7896 3776**

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### **Welsh Women's Aid**

Welsh Women's Aid is the leading provider of services for vulnerable women and children experiencing domestic abuse in Wales.

**Welsh Women's Aid, 38-48 Crwys Road, Cardiff, CF24 4NN**

**Tel: 029 2039 0874**

**Best time to telephone: 10am-3pm Monday to Friday**  
**[www.welshwomensaid.org](http://www.welshwomensaid.org)**  
**[www.cymorthifenywod.org](http://www.cymorthifenywod.org)**

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### **Witness Service**

Victim Support runs the Witness Service in every criminal court in England and Wales to give information and support to witnesses, victims, their families and friends when they go to court.

**National Office, Cranmer House, 39 Brixton Road, London SW9 6DZ**

**Tel: 020 7735 9166**

**Fax: 020 7582 5712**

**E-mail: [contact@victimsupport.org.uk](mailto:contact@victimsupport.org.uk)**

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### **Women's Aid**

Women's Aid agenda for action against domestic violence has three major strands: (1) work at a strategic level to promote the protection of women and children, by representing their needs to policy and decision makers; (2) work towards the long-term prevention of domestic violence through public awareness and education programmes; (3) work which supports the provision of services to meet the needs of all abused women and children.

**PO Box 391, Bristol, BS99 7WS**

**Tel: 0117 944 4411**

**E-mail: [info@womensaid.org.uk](mailto:info@womensaid.org.uk)**

**[www.womensaid.org.uk](http://www.womensaid.org.uk)**

***For information about obtaining this document in other languages or on audio cassette or in Braille, contact:***

Crown Prosecution Service, Communications Branch,  
50 Ludgate Hill, London EC4M 7EX

Telephone: 020 7796 8442

Fax: 020 7796 8030

e-mail: [publicity.branch@cps.gsi.gov.uk](mailto:publicity.branch@cps.gsi.gov.uk)

# Domestic violence

This leaflet is a public document. It is available on the CPS website:  
[www.cps.gov.uk](http://www.cps.gov.uk)

Further copies may be obtained from:  
**CPS Communications Branch**  
50 Ludgate Hill  
London EC4M 7EX  
Tel: 020 7796 8442  
Fax: 020 7796 8030  
E-mail: [publicity.branch@cps.gov.uk](mailto:publicity.branch@cps.gov.uk)

Translations into other languages and audio copies are available  
Contact CPS Communications Branch for details.

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The CPS Public Enquiry Point can provide general information on the CPS and advice on who to contact. The unit can't give legal advice but may be able to offer you practical information.

CPS Public Enquiry Point:  
Tel: 020 7796 8500  
Phone calls may be recorded  
E-mail for enquiries and comments:  
[enquiries@cps.gov.uk](mailto:enquiries@cps.gov.uk)  
complaints can be sent to:  
[complaints@cps.gov.uk](mailto:complaints@cps.gov.uk)