



The Attorney General Falkland Islands

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The Attorney General's Guidance on Protection from Domestic Abuse

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Introduction

1. This guidance is designed to help the Royal Falkland Islands Police and the Prosecution Service when dealing with cases involving domestic abuse.
2. The term domestic abuse applies to a range of offences that are committed in a domestic environment. Domestic abuse offences are particularly serious because the offending targets people made vulnerable by their domestic circumstances and involves an abuse of a personal relationship and a breach of their trust.
3. Complainants will know and may remain living with, or have lived with, the offender. There may be a continuing threat to the complainant's safety, and in the worst cases a threat to their life or the lives of others around them.
4. Domestic abuse can inflict lasting trauma on victims and their extended families, especially children and young people who may be directly exposed to abusive behaviour, or who may be aware of the abuse, or hear it occurring. Many individuals suffering domestic abuse whether in intimate relationships, or within familial situations, will not always be aware that what they are experiencing is abusive behaviour.
5. Complainants of domestic abuse, particularly those who have suffered over considerable time, will have difficult decisions to make that will significantly impact on their lives, and the lives of those close to them. As a result, some complainants may not want to go through the criminal justice process.
6. Domestic abuse is likely to become increasingly frequent and more serious the longer it continues, and in some circumstances, it results in death. Cases involving domestic abuse can be very difficult to prosecute, and will require sensitive and careful handling which considers the nature of the offending behaviour, the relationship between the complainant and the alleged offender, the family circumstances, cultural or religious beliefs and other factors such as sexual orientation, gender identity, mental capacity, physical disability, or poor health etc.
7. Support and safety needs for complainants should be identified from the outset and continually considered throughout the life of the police investigation and the prosecution case. The police will provide the complainant with accurate and up to date information and there will be careful consideration of special measures and other supportive mechanisms.
8. Improving a complainant's safety is a key part of the police investigation and the prosecution case. This approach helps to raise a complainant's confidence in the criminal justice system and facilitates their effective participation in the prosecution process.

Terminology

9. A range of terminology is used by different organisations within the criminal justice system to describe a person who has made a criminal allegation and to describe the person who is the subject of that allegation.
10. 'Complainant', 'victim' and 'survivor' are communally used to describe the person who has made the allegation and 'suspect', 'defendant', 'offender' or 'perpetrator' are frequently used to describe the person against whom the allegation has been made.
11. This guidance uses different terminology depending on the stage of proceedings being described and the type and nature of the proceedings. The use of specific terms within this guidance is not intended to suggest prejudice in cases of domestic abuse. All allegations involving in domestic abuse are prosecuted impartially in accordance with the Attorney General's Code Prosecutors.

Definition of Domestic Abuse

1. Domestic abuse is a general term describing a range of behaviour used by one person to maintain control over another with whom they have, or have had, an intimate or family relationship. Domestic abuse is rarely a one-off incident and often consists of interlinked physical, psychological, sexual, emotional and financial abuse which has a particularly damaging effect on the victim.
2. Domestic abuse occurs amongst people of all ethnicities, sexualities, genders, ages, disabilities, immigration statuses, religions, beliefs and socio-economic backgrounds. Domestic abuse differs in severity between incidents and more often than not will increase in frequency and seriousness, having a cumulative impact on the victim. People of all ages and genders can be victims of domestic abuse.
3. Domestic abuse is defined by section 102 of the Crimes Ordinance 2014 ("the Ordinance"). Abusive behaviour is defined as being any of the following:
 - (a) physical or sexual abuse;
 - (b) violent or threatening behaviour;
 - (c) controlling or coercive behaviour;
 - (d) economic abuse (i.e. behaviour that has a substantial adverse effect on the ability to acquire, use or maintain money or other property, or obtain goods or services); or
 - (e) psychological, emotional or other abuse;
4. Abuse is domestic abuse if the people involved are each aged 16 or over and are personally connected to each other. Two people are 'personally connected' to each other if:
 - (a) they are, or have been, married to each other;
 - (b) they are, or have been, civil partners of each other;
 - (c) they have agreed to marry one another (whether or not the agreement has been terminated);
 - (d) they have entered into a civil partnership agreement (whether or not the agreement has been terminated);
 - (e) they are, or have been, in an intimate personal relationship with each other;

- (f) they each have, or there has been a time when they each have had, a parental relationship in relation to the same child (i.e. the person is a parent of the child, or the person has parental responsibility for the child);
or
 - (g) they are relatives.
- 5. Section 104 of the Ordinance provides that where the behaviour of one person towards another person is domestic abuse, any child who sees or hears, or experiences the effects of the abuse, and is related to the people involved in the domestic abuse, is to also be treated as a victim of the domestic abuse.

Avoiding Assumptions

1. When dealing with members of groups that more commonly experience discrimination (for example, women, black and minority ethnic people, disabled people, older people, lesbians, gay men, transgender people, bisexuals and transsexuals), prosecutors should avoid making stereotypical assumptions.
2. Prosecutors should also be careful not to make assumptions with regard to a victim's age, or the nature of their relationship with their abuser, or physical stature/appearance or gender stereotypes.
3. Each relationship is different and police and prosecutors should make decisions based on the specific circumstances of each case.
4. The Police and the Prosecution Service should always be sensitive to the needs of diverse communities but cultural sensitivity should not be used as an excuse to avoid taking appropriate action in domestic abuse cases.

Impact and Dynamics of Domestic Abuse

1. The broad definition of domestic abuse means that the dynamics and forms of how abuse takes place will also be broad and prosecutors should focus on the specific facts of each case when reviewing the case and making a charging decision.
2. Most incidents of domestic abuse will involve some form of person to person contact. Increasingly, however, incidents also take place via telephone/mobile calls, through internet and communications technologies, such as texts, emails, social networking sites and other web-enabled methods.
3. Examples of using technology to engage in abusive behaviour include:
 - (a) controlling the use of a victim's phone;
 - (b) harassment through text, mobile, email, social networking sites etc;
 - (c) posting of inappropriate material, such as sexually explicit or nude images or defamatory or insulting comments; or
 - (d) stalking a victim through the use of GPS technology on a victim's mobile device.
4. This is not an exhaustive list, and prosecutors will need to consider all forms of online abuse which is unwanted, offensive or used to harm or threaten individuals. This behaviour may occur between individuals during an ongoing relationship and also when a relationship has ended.
5. This type of abuse is not restricted to allegations made by complainants against their partners, or ex-partners. Online abuse can be equally applicable to individuals in family relationships.
6. It may not always be straightforward to identify the primary aggressor and true victim in a case of domestic abuse. It is possible in some cases for a primary complainant of abuse or violence to have acted in a manner in which they are then seen as being the perpetrator of abuse. For example, where a person retaliates against the primary aggressor. Such occasions may then be used by the primary aggressor to disguise their own abusive behaviour.
7. The complexities of domestic abuse cases mean that great care should be taken to consider the full facts of the alleged offending behaviour and the relevant background before any action is taken in arresting and/or charging the suspected offender. It is crucial to identify the primary complainant and this may not always be obvious.

8. Many different types of offending fall under the definition of domestic abuse and due regard should be given to the scope of offending that falls within the breadth of the definition, particularly under the controlling and coercive elements. For example, psychological abuse may not be immediately evident as there may not be any physical injury visible on the complainant.
9. Acts of control or coercion alone may not be seen or recognised immediately as obvious criminal behaviour, either by the complainant themselves or by criminal justice agencies. When reviewing cases, prosecutors should consider evidence of such conduct alongside determinable criminal offending, as well as any previous incidents where similar behaviour was reported but no further action was taken at the time. Controlling or coercive behaviour may be seen through the following examples:
 - Intimidation** - through threats to harm children; threats to have children taken into care through coercion/exploitation of family court proceedings, or otherwise; threatening abuse when the victim does not comply in conducting certain sexual acts; threatening abuse when the victim does not support/assist the defendant; threats of abuse if the victim does not terminate a pregnancy, as well as forcing a continued pregnancy; victims feeling too intimidated to continue pregnancies to full term; 'outing' a victim's sexuality or sexual orientation, HIV status or information about other sexually transmitted infections or immigration status.
 - Deprivation** - for example, deprivation of money, or from having a bank account; from entitlements such as the victim's name on property deeds/tenancy agreements; not being allowed to attend school/college; being restricted from certain opportunities, such as learning to drive, or access to car use or from medical care.
 - Isolation** - for example, not being able to have friends; stopped from seeing family; not being allowed to leave the house; controlling the use of telephones or social media; exploiting a lack of understanding of English; using actual or perceived mental health status to restrict activities, or contact with others; using physical impairments or disability to maintain control and restrict activities or freedom to leave the home when desired.
10. These examples are in no way exhaustive, but are provided to assist in understanding the manifestation of controlling and coercive behaviour. Consideration should also be given to behaviour linked to harassment and stalking offences as part of the offending that may occur.
11. Prosecutors will also need to consider specific methods of control or coercion that are relevant to distinct groups of people and are not listed above. For example, coercive or controlling behaviour may present in very different ways for different groups within black and minority ethnic communities and equally so for individuals in lesbian, gay, bisexual and transgender relationships.

12. Further still, these behaviours will be very specific to the nature of the relationship between the victim and perpetrator and prosecutors should pay particular attention to the specific facts of the case and take care not to make assumptions or stereotype individuals.
13. Ultimately, prosecutors should be alert to the fact that an offender will follow a course of conduct which is used to control, dominate or exploit a complainant. Identification of the triggers for abuse will also assist in understanding the context of the offending. Some examples of factors that often effect or trigger abuse include:
 - (a) a new relationship;
 - (b) the disclosure of an individual's sexual orientation;
 - (c) changes in a relationship, such as a reconciliation, break-up or separation;
 - (d) new surroundings, such as a move to a new location, school/college or job;
 - (e) the introduction of new people in a social context, such as new friends or partners which may have changed an individual's perceived routine behaviour;
 - (f) pregnancy or loss of pregnancy;
 - (g) retirement from employment, or loss of employment and subsequent impact on finances;
 - (h) illness or mental/physical incapacitation;
 - (i) initiation or termination of criminal proceedings;
 - (j) custody proceedings in the family courts; or
 - (k) immigration issues.
14. From the point of charge, prosecutors should proactively address the security and safety of the complainant and any children throughout the proceedings by appropriate bail conditions and protective orders.
15. An incident of domestic abuse is not usually a one-off incident, and will in most cases increase in frequency and severity. It is only after suffering abuse for some time that victims may come forward to report to the police.
16. The police need to be aware that certain actions, such as the complainant supporting a prosecution, may place the complainant and/or any children, or other family members at increased risk. The police should carefully monitor compliance with bail conditions and maintain contact with the complainant and other relevant individuals.

17. In many cases, separation from a partner or escape from a relationship in cases of non-familial abuse is likely to lead to an increase of the abuse a complainant will experience. This may take a different form of abuse, such as harassment, stalking or intimidation that is committed either online, offline or by both methods.
18. Offenders in cases of domestic abuse could also have a lot to lose if the prosecution leads to a permanent separation and some defendants may embark on conduct to maintain a relationship, which may lead to witness intimidation, or further offences such as harassment or stalking the complainant. For example, by exerting pressure on victims to reconcile a relationship or pressuring a victim to withdraw their support for a prosecution or retract an allegation.
19. In cases of familial abuse, the dynamics will be very different. Complainants may escape abuse by leaving the home whether on a permanent or temporary basis but for some complainants this escape may not be fully realised. For example, in a small community a person's whereabouts can be easily discovered and other family members may coerce or threaten them to return. In other situations, feelings of shame or duty to the family may force the complainant to return.
20. However, there will also be many instances where a complainant will not be able to escape the abuse, or abuser they live with. They may be dependent on them for finances, care, provision of medication or immigration security. The Police and prosecutors should understand how these matters are likely to affect a complainant's decision making and their involvement and support for a prosecution.
21. In particular, the risk of losing a lot through supporting a prosecution may lead complainants to disengage from a case on their own volition. Prosecutors need to be sensitive to this issue in particular and must take care not to label the complainant as being complicit in perpetrating the abuse they are suffering.
22. Complainants will be making a difficult choice in reporting the abuse to the police in the first place and it is therefore important that police and prosecutors consider the significant difficulties faced by complainants when making decisions.

Domestic Abuse Protection Notices and Orders

1. Domestic abuse protection notices (“DAPNs”) and domestic abuse protection orders (“DAPOs”) are intended to be used as an effective method of disrupting domestic abuse behaviour and protecting domestic abuse victims.
2. In accordance with section 10Z of the Ordinance, the Attorney General may issue guidance relating to the exercise of functions by police officers in relation to DAPNs. The information in this Guidance is issued under section 10Z and police officers must have regard to it.

Domestic Abuse Protection Notices (DAPNs)

3. A DAPN is a notice given by a senior police officer (of at least the rank of inspector) under section 105 of the Ordinance prohibiting a perpetrator from being abusive towards a person aged 16 or over to whom they are personally connected.
4. A DAPN is intended to provide immediate protection from all forms of domestic abuse, not just from physical violence or the threat of physical violence. This may include sexual abuse, violent or threatening behaviour, controlling or coercive behaviour, economic abuse, and psychological or emotional abuse. It does not matter if the abusive behaviour took place in the Falkland Islands or elsewhere.
5. A DAPN can be given when there are reasonable grounds for believing that:
 - (a) the perpetrator is aged 18 or over;
 - (b) the perpetrator has been abusive;
 - (c) to a person aged 16 or over;
 - (d) to whom they are personally connected (see above: definition of domestic abuse); and
 - (e) There are reasonable grounds for believing that a DAPN is necessary to protect the person from domestic abuse, or the risk of domestic abuse, carried out by the perpetrator.
6. A DAPN prohibits the perpetrator from being abusive towards the person to be protected. A DAPN can also be used to impose certain specific prohibitions and requirements on a perpetrator. Section 106 sets out an exhaustive list of the provisions that can be included in a DAPN. These are:

- (a) That the perpetrator may not contact the person to be protected; and
 - (b) That the perpetrator may not come within a specified distance of the premises in which the person to be protected is living.
7. Where the person to be protected and the perpetrator live in the same premises, the prohibitions and requirements may also include:
- (a) That the perpetrator is prohibited from evicting or excluding the person to be protected from those premises;
 - (b) That the perpetrator is prohibited from entering those premises; and
 - (c) That the perpetrator is required to leave those premises.
8. A DAPN should never be given as an alternative to investigating a substantive criminal offence. A DAPN can be used in conjunction with a criminal investigation and charge, but in circumstances where there are sufficient grounds to make an arrest the needs of the victim are likely to be able to be addressed through the use of bail conditions. Consideration must always be given to the identification and investigation of substantive criminal offences.
9. A DAPN is an effective method of protecting victims where there are not sufficient grounds to make an arrest or to impose bail conditions. For example, where the circumstances suggest that the perpetrator is engaged in abusive conduct but there is no complaint or other evidence to establish a substantive criminal offence.

Authorisation of a DAPN

10. To authorise the giving of a DAPN, the senior police officer must be satisfied that there are reasonable grounds for believing that the statutory criteria for giving a DAPN have been met (see above).
11. Section 107 of the Ordinance provides that, before giving the DAPN, the senior police officer must consider:
- (a) The welfare of any person under the age of 18 whose interests are considered relevant, whether or not that person is personally connected to the perpetrator;
 - (b) The opinion of the person to be protected;
 - (c) Any representations from the perpetrator about the DAPN being given;
 - (d) Where the DAPN contains prohibitions relating to the premises in which the person to be protected lives, the opinion of any other person living in the premises who is personally connected to the person to be protected or to the perpetrator (if the perpetrator also lives in the premises).

12. The senior police officer will also want to consider other relevant information and evidence, such as any incident reports from previous call outs, including those against other victims; any intelligence from other agencies or organisations; and whether giving the DAPN would make the perpetrator homeless or vulnerable.
13. Section 107(4) provides that it is not necessary for the person to be protected to consent to the DAPN being given.

Service of a DAPN and Notice of Hearing

14. Section 108 of the Ordinance provides that a DAPN must be made in writing and served upon the perpetrator personally by a police officer.
15. A DAPN must include the following information:
 - (a) the grounds on which the DAPN has been given;
 - (b) that a police officer may arrest the perpetrator without warrant if the officer has reasonable grounds for believing that the perpetrator is in breach of the DAPN;
 - (c) that an application for a Domestic Abuse Protection Order (DAPO) under section 108C will be heard within 48 hours of the giving of the DAPN (not counting Sundays, Christmas Day or any Public Holidays) and that a notice of the hearing will be given to the perpetrator;
 - (d) that the DAPN continues in effect until that application has been determined or withdrawn; and
 - (e) the provision that a court may include in a DAPO.
16. The officer serving the DAPN will be expected to explain the requirements of the DAPN to the perpetrator and that they can be arrested for breaching them.
17. On serving the DAPN, the officer must ask the perpetrator for an address at which they may be given notice of the hearing for the application for the DAPO. Notice of the hearing can be served at the same time as the DAPN.
18. The notice of hearing will be treated as having been given if it has been left at the address provided by the perpetrator to the police officer. If the notice of hearing is not given because the perpetrator has not provided an address the court can still hear the application for the DAPO in the perpetrator's absence if it is satisfied that reasonable efforts have been made to give the notice of hearing to the perpetrator.
19. Where the person subject to the DAPN is a member of the armed forces and the DAPN includes prohibitions or requirements related to premises which are relevant service accommodation, the police must make reasonable efforts to inform the perpetrator's commanding officer of the giving of the DAPN.

Breach of a DAPN

20. Section 108A of the Ordinance provides that if a police officer has reasonable grounds for believing that a person subject to a DAPN is in breach of the DAPN, the officer may arrest the perpetrator without warrant.
21. A police officer may enter and search any premises for the purpose of arresting a person who is believed to be in breach of a DAPN.
22. After arrest for the suspected breach, the perpetrator must be held in custody before being brought before the court which is to hear the application for a DAPO, either within 24 hours of the arrest (not counting Sundays, Christmas Day or any Public Holidays) or at the hearing of the application for the DAPO, whichever is sooner. If the perpetrator is brought before the court within the period of 24 hours since the arrest, the court may remand the perpetrator in custody.
23. The court may require the perpetrator to comply, before release on bail or later, with any requirements that appear to the court to be necessary to secure that the person does not interfere with witnesses or otherwise obstruct the course of justice. Police officers should ensure that they are familiar with any requirements imposed on bail in order to effectively police them.
24. If the perpetrator has been brought before the court following breach of a DAPN and the court adjourns the hearing of the application for the DAPO, the court may remand the perpetrator in custody.
25. It is vital for maintaining the confidence of the person to be protected and the efficacy of the protective order regime that all reported breaches of a DAPN are thoroughly investigated and that appropriate action is taken in a timely manner. An arrest should be made at the first opportunity, as any delay may increase the risk to the person to be protected and therefore undermine the purpose of the DAPN.
26. Consideration must always be given to the identification and investigation of substantive criminal offences arising from the breach if, on breaching the DAPN, the perpetrator has engaged in criminal behaviour.

Application for a Domestic Abuse Protection Order (DAPO) following the issue of a DAPN

27. Where a DAPN has been given, an application for a DAPO must be made by way of application to the Summary Court (or the Magistrate's Court if the Summary Court is not sitting).
28. In accordance with section 108C of the Ordinance, an application for a DAPO can only be made by the Attorney General. It is therefore vital that at the time a senior officer authorises a DAPN to be given the Attorney General is informed.

29. Applications for DAPOs will be allocated to Crown Counsel and police officers will need to liaise closely with Crown Counsel to ensure that the application for a DAPO is fully prepared so that the material supporting the application can be properly placed before the Court.
30. A DAPN can be used to provide immediate protection in the aftermath of an incident, whereas the purpose of a DAPO is to provide longer term protection and the length of the order and requirements placed on the perpetrator can be tailored to meet the needs of the person to be protected and address the perpetrator's abusive behaviour.
31. Like a DAPN, a DAPO is intended to provide protection from all forms of domestic abuse, not just from physical violence or the threat of physical violence. Like the DAPN, this may include, sexual abuse, violent or threatening behaviour, controlling or coercive behaviour, economic abuse, and psychological or emotional abuse.
32. At the time of issuing a DAPN, police officers should carefully evaluate the different types of requirements that would be most effective in safeguarding the person to be protected and addressing the abusive behaviour of the perpetrator and present these to Crown Counsel for consideration. Working jointly, police officers and Crown Counsel should prepare the application for a DAPO which seeks effective safeguarding requirements.
33. If there is a genuine need for further time to consider which positive requirements are most appropriate to attach to a DAPO, an application for an adjournment of the hearing can be made. Such an application will need to be supported by a clear action plan from police officers as to the further steps that are required to investigate which DAPO requirements will be most appropriate.
34. In accordance with section 108D(7), if the court adjourns the hearing of the application for the DAPO, the DAPN continues in effect until the application has been determined or withdrawn.

Conditions for making a Domestic Abuse Protection Order (DAPO)

35. Section 108G of the Ordinance provides that a court may make a DAPO if:
 - (a) it is satisfied on the balance of probabilities that the perpetrator has been abusive towards a person aged 16 or over to whom they are personally connected; and
 - (b) it considers that the DAPO is necessary and proportionate to protect that person from domestic abuse, or the risk of domestic abuse, carried out by the perpetrator; and
 - (c) the perpetrator is aged 18 or over.

36. It does not matter whether the abusive behaviour mentioned above took place in the Falkland Islands or elsewhere.
37. The behaviour can also have taken place before or after the commencement of section 108G.
38. Domestic abuse can consist of a single incident or a pattern of behaviour over time. The court may therefore need to take into consideration an act or acts carried out prior to the commencement of the section, where doing so would establish relevant conduct to support the assessment of necessity and of the risk posed to the person to be protected.
39. A DAPO is a standalone order and therefore no prior conviction is required in order for the court to make a DAPO.
40. Section 108H sets out matters which, among other things, the court must consider before making a DAPO:
 - (a) The welfare of any person under the age of 18 whose interests the court considers relevant (whether or not that person and the perpetrator are personally connected);
 - (b) The views of the person being protected by the DAPO. Where this is not already made clear, the court should be made aware of any support or opposition (as the case may be) by the person to be protected to an order being made; and
 - (c) Where the DAPO includes requirements relating to the premises in which the person to be protected lives, any opinion of any other person living in the premises who is personally connected to the person to be protected or to the perpetrator (if the perpetrator also lives in the premises).
41. In accordance with section 108H(3), it is not necessary for the person being protected to consent to a DAPO being made.

Making a DAPO without notice

42. The court may make a DAPO against the perpetrator even though the perpetrator has not been given notice of the proceedings. In deciding whether to make a DAPO without notice, the court is likely to have regard to:
 - (a) any risk that the perpetrator will cause significant harm to the person to be protected if the DAPO is not made immediately; and
 - (b) whether there is reason to believe that the perpetrator is aware of the proceedings but is deliberately evading service of notice of the hearing.

Requirements for inclusion in a DAPO

43. A court may impose any requirements that the court considers necessary to protect the person for whose protection the order is made and in this context such requirements include prohibitions or restrictions. Requirements can be tailored to protect the person to be protected and address the perpetrator's abusive behaviour based on the specific facts of each individual case.
44. Section 108N of the Ordinance provides that every person subject to a DAPO is automatically subject to certain notification requirements, requiring them to notify the police of certain information and when any of this information changes. Because these requirements apply automatically, it is not necessary to seek notification requirements in the application for a DAPO.
45. The final decision as to which requirements to include in the DAPO and their duration will be made by the court, according to what it considers necessary to protect the person from domestic abuse or the risk of domestic abuse. The application must therefore effectively demonstrate the necessity of requirements sought to protect the person from domestic abuse or the risk of domestic abuse. The police are expected to engage with the person to be protected to obtain their views on the most appropriate requirements to seek in the application for the DAPO.
46. The police are also expected to consider that the person to be protected may not be aware of all of the abusive behaviours being exhibited by the perpetrator, particularly behaviours which are carried out online or are otherwise "digitally enabled" (for example, if the perpetrator is monitoring the person to be protected by installing a programme or application on personal devices belonging to the person to be protected), or the person to be protected may not believe that the behaviour amounts to domestic abuse. The police will be expected to discuss this with the person to be protected and should be satisfied that the person to be protected understands why certain behaviours are unacceptable.
47. Section 108J provides that the requirements of a DAPO must, so far as practicable, avoid conflict with the perpetrator's religious beliefs, the perpetrator's work or education, or the requirements of any other court order which the perpetrator is subject to. The police are expected to interrogate, so far as is possible, relevant police records in order to establish whether the perpetrator is already subject to another court order or injunction. Applications should consider section 108J, whilst also prioritising the safety of the person to be protected and their children.
48. Section 108L provides that a DAPO has effect for a fixed period specified in the order, until the occurrence of a specified event, or until a further order is made. Different durations may be specified in relation to different requirements of a DAPO. The court will make the final decision over the period for which an order and its individual requirements apply, however, for each requirement sought in the application, the police are expected to consider over what time period the different requirements of the DAPO should have effect.

49. If the perpetrator is already subject to another DAPO, the court may specify that the new DAPO will take effect on the previous DAPO ceasing to have effect.

Prohibitions

50. Section 108I provides examples of the type of requirements which a DAPO may impose, such as:
- (a) prohibiting the perpetrator from contacting the person to be protected (this requirement captures contact by any means, including via telephone, post, email, SMS text message or social media);
 - (b) prohibiting the perpetrator from coming within a specified distance around the premises in which the person to be protected is living;
 - (c) where the person to be protected and the perpetrator live in the same premises, prohibiting the perpetrator from evicting or excluding the person to be protected from those premises, prohibiting the perpetrator from entering those premises, or requiring the perpetrator to leave those premises.
51. The examples given in section 108I are not exhaustive and the police may seek, and the court may subsequently impose, any requirements which are considered necessary to protect the person from domestic abuse, or the risk of domestic abuse.
52. For example, requirements can be sought to address abusive behaviour such as:
- (a) Contacting or interacting with the person to be protected via third parties. For example, the children, partner, other family members, friends or co-workers of the person to be protected;
 - (b) Hacking, monitoring or controlling the social media accounts, email, phone, computer, or other personal devices of the person to be protected;
 - (c) Engaging in any form of surveillance of the person to be protected by any means;
 - (d) Interfering with or restricting the person to be protected's access to goods, services or property;
 - (e) Damaging or threatening to damage property belonging to the person to be protected;
 - (f) Cancelling or procuring goods or services to the person to be protected, or intentionally running up bills or debts in the name of the person to be protected (with or without the knowledge of the person to be protected);

- (g) Interfering with, restricting the person to be protected's access to, or deliberately frustrating the disposal of joint assets; and
- (h) Making or threatening to make vexatious applications to the civil or family court with reference to the person to be protected.

Positive requirements

- 53. A DAPO can also be used to directly address and challenge the root causes of the perpetrator's abusive behaviour to help prevent repeat and serial offending. Alongside seeking prohibitions in relation to certain kinds of abusive behaviour in their application for a DAPO, positive requirements may also be necessary to reduce the risk posed to the person to be protected and their children.
- 54. When considering which positive requirements may be necessary, the police are expected to consider other factors which may need to be addressed in order to stabilise the perpetrator and help break the cycle of abuse. This could include, but is not limited to, drug or alcohol dependency, mental health difficulties, precarious housing or unemployment.
- 55. Information on the local availability of interventions which the police could seek as positive requirements of the DAPO can be obtained through engagement with the Health and Social Services Department, Education Department and through Multi Agency Risk Assessment Conferences (MARACs) and Multi-Agency Public Protection Arrangements (MAPPA).
- 56. The police should pro-actively inform themselves about the range of the different interventions available.

The responsible person

- 57. Section 108J provides that, for each positive requirement imposed by the DAPO, the DAPO must specify the person who is to be responsible for supervising compliance with that requirement – 'the responsible person'.
- 58. For each positive requirement which is sought, the court must receive evidence from the responsible person on the suitability and enforceability of that requirement.
- 59. The responsible person also has a duty to make any necessary arrangements in connection with the positive requirement which they are responsible for; to promote the perpetrator's compliance with that requirement; and to inform the police regarding the perpetrator's compliance or non-compliance with the requirement.
- 60. The responsible person can be an individual or an organisation. Who the responsible person is will vary depending on the nature of the positive requirement being sought. This should never be the same person as the person to be protected.

61. For example, they may be a provider of a perpetrator intervention programme, a provider of a mental health treatment programme or a provider of a drug or alcohol treatment programme or a specialist organisation commissioned by a local authority.
62. If a particular positive requirement is sought in the application, the individual or organisation who would be responsible for delivering the intervention must be contacted and must confirm that the requirement can be delivered.
63. Where possible, the responsible person should provide evidence on suitability and enforceability of the requirement as part of the application. Alternatively, the court can invite the responsible person to give evidence on the suitability and enforceability of the requirement at the hearing.
64. In the majority of cases, the responsible person is likely to be a police officer, probation officer, social work officer or medical officer. A police officer should always be nominated to monitor the order and be a point of contact for the responsible person if the responsible person is someone other than a police officer.

Notification requirements

65. Section 108N of the Ordinance provides that a person subject to a DAPO must notify the police of their name(s) and their home address within a period of three days beginning with the day on which the DAPO is made.
66. If the perpetrator starts using a new name whilst the DAPO is in effect the perpetrator must notify the police within a period of three days beginning with the day on which they first used the name.
67. If the perpetrator's home address changes, or they cease to have a home address whilst the DAPO is in effect (which would include, for example, them moving outside of the Falkland Islands and no longer having their sole or main residence there), the perpetrator must notify the police within a period of three days beginning with the day on which the change happened.
68. In accordance with section 108O, the perpetrator must give notification by:
 - (a) attending at a police station, and
 - (b) giving an oral notification to a police officer, or to any person authorised for the purpose by the officer in charge of the station.
69. When the perpetrator gives notification, they must, if requested to do so by the officer receiving the notification, allow the officer to verify their identity by taking their fingerprints and/or their photograph.
70. Once the perpetrator has given notification, this must be acknowledged in writing.

71. The notification requirements do not apply where the perpetrator is already subject to notification requirements imposed by another DAPO, or under Part 11 of the Ordinance (sexual offences), or section 154I (stalking protection).
72. If the perpetrator ceases to be subject to any of those notification requirements before the expiry of a DAPO, the requirement to notify in relation to the DAPO is activated and the deadline for notification would be three days beginning with the day on which the perpetrator ceases to be subject to the other notification requirements (i.e. beginning with the day on which the other order or orders expire).

Offences relating to notification

73. Section 108P provides that it is an offence if the perpetrator fails, without reasonable excuse, to comply with the notification requirements or if they provide information which they know to be false in purported compliance with those requirements.
74. The maximum penalty for breach of the notification requirements is five years imprisonment or a fine, or both.
75. The perpetrator commits an offence on the day on which they first fail, without reasonable excuse, to comply with the notification requirements. Whilst the perpetrator continues to commit the offence during any period of non-compliance, they can only be prosecuted once for the same failure to notify.
76. Section 108P also provides that it is an offence if the perpetrator fails, without reasonable excuse, to allow the officer receiving their notification to verify their identity by taking their fingerprints and/or their photograph.
77. The maximum penalty for failing to comply with the taking of fingerprints and/or photographs is twelve months imprisonment or a fine, or both.

Variation or discharge of a DAPO

78. Section 108Q of the Ordinance provides that the following people can apply for a DAPO to be varied or discharged:
 - (a) the person to be protected;
 - (b) the perpetrator; and
 - (c) the Attorney General.
79. The application to vary or discharge the DAPO must be made to the court in which the DAPO was originally made.

80. When deciding whether to vary or discharge a DAPO, the court must hear from:
 - (a) the Attorney General, if they wish to be heard;
 - (b) the person to be protected, if the person to be protected is seeking to discharge the DAPO, remove any requirements imposed, or make any of the requirements less onerous on the perpetrator.
81. These requirements guard against circumstances in which the person to be protected is coerced by the perpetrator into making an application to vary or discharge the DAPO.
82. The police are expected to support the Attorney General in relation to any such application and engage with the person to be protected when an application for the DAPO to be varied or discharged is made.
83. If the court is satisfied that varying the DAPO is necessary to protect the person from domestic abuse or the risk of domestic abuse, the DAPO may be varied to:
 - (a) Impose additional requirements on the perpetrator; or
 - (b) Extend the duration of the DAPO, or the duration of particular requirements.
84. Otherwise, the court may make any order varying or discharging the DAPO that the court considers appropriate.
85. The court may only remove a particular requirement, or make that requirement less onerous on the perpetrator, if it is satisfied that the requirement is no longer necessary to protect the person from domestic abuse or the risk of domestic abuse.
86. If it appears to the court that any conditions necessary for a requirement to be imposed are no longer met, the court may not extend that requirement and must remove that requirement.
87. The court may only discharge the DAPO if it is satisfied that the DAPO is no longer necessary to protect the person from domestic abuse or the risk of domestic abuse.

Monitoring compliance with a DAPO

88. Section 108J sets out the duties of the responsible person, which are:
 - (a) to make any necessary arrangements in connection with the positive requirement(s) which they are responsible for;
 - (b) to promote the perpetrator's compliance with the positive requirement(s);
 - (c) to inform the police if they consider that the perpetrator has failed to comply with the positive requirement(s);

(d) to inform the Attorney General if they consider that the perpetrator has complied with the positive requirement(s).

89. In practice, the police should provide the responsible person with a single point of contact to a police officer who will receive information regarding the perpetrator's compliance or non-compliance with positive requirements. Where there has been compliance the designated police officer can then inform the Attorney General who will consider whether it is appropriate to seek variation or discharge of the DAPO.

Ongoing management of a DAPO

90. Effective maintenance of police records in relation to DAPOs will enable police officers to access information in respect of a DAPO, which will assist in monitoring compliance with and taking appropriate and timely action in response to any breaches.
91. The police have responsibility for enforcing and responding to reported breaches of any DAPO.
92. The ongoing management of a DAPO and the risk posed to the person to be protected and their children requires a proactive multi-agency approach at all stages. In all cases, the police should consider:
- (a) referring the person to be protected to MARAC;
 - (b) referring the perpetrator to MAPPA
93. There are additional risk factors which should be taken into consideration when managing the subject of a DAPO, including but not limited to the perpetrator's access to legal firearms, their competency with firearms or other weapons, mental health difficulties, or drug or alcohol dependency. The police should conduct such enquiries as are necessary to identify any additional risk factors and should include these in their risk management plans.

Planning for the expiry of a DAPO

94. The police should consider well in advance of the expiry date of a DAPO whether they need to make an application to vary the DAPO to extend its duration – for example, if the DAPO is due to expire but the police consider that the perpetrator still poses a risk to the person to be protected. Further information on variation of a DAPO is provided above ("Variation or discharge of a DAPO").
95. The expiry of a DAPO may be an unsettling time for the victim, as they may be concerned that they will no longer be safe from the perpetrator. The police should review existing safety planning with the person to be protected and provide the person with information about available support services.

Breach of a DAPO

96. In accordance with section 108M of the Ordinance, it is an offence for a perpetrator to breach a DAPO, that is to do anything which is prohibited by the DAPO, or fail to do anything which is required by the DAPO, without reasonable excuse.
97. The maximum penalty for breach of a DAPO is five years' imprisonment, or a fine, or both.
98. If a person is convicted of breach of a DAPO, it is not open to the court to make an order for a conditional discharge.
99. It is vital for maintaining the confidence of the person to be protected and the efficacy of the protective order regime that all reported breaches are thoroughly investigated and that appropriate action is taken in a timely manner. An arrest should be made at the first opportunity, as any delay may increase the risk to the person to be protected and therefore undermine the purpose of the DAPO.
100. It should be noted that the person being protected cannot breach the order, even if, for example, they act to contact the perpetrator (for example about the care of children). The requirements of the order apply only to perpetrator.

Appeals

101. In accordance with section 108S, the following people can appeal a decision to impose, or not to impose, a DAPO:
 - (a) the person for whose protection the order was sought;
 - (b) the person against whom the order was made; and
 - (c) the Attorney General.
102. An appeal arising in the case of a decision made by the Summary Court, is to be made to the Magistrate's Court, in the case of a decision made by the Magistrates Court, is to be made to the Supreme Court and in the case of a decision made by the Supreme Court is to be made to the Court of Appeal.
103. Before determining any appeal relating to a domestic abuse protection order the court must hear from the Attorney General if they wish to be heard.
104. On an appeal, the court may, on a review of the decision appealed against confirm, vary or revoke any part of the decision;
 - (a) refer the matter back to the court that made the decision with a direction to reconsider and make a new decision in accordance with its ruling;

- (b) make any order which the court that made the decision appealed against could have made; or
- (c) make any incidental or consequential orders that appear to it to be just.

Multi-agency information sharing and safety planning

105. The effective use of DAPNs and DAPOs demands proactive multi-agency working at all stages. The police are expected to keep partner agencies involved in and informed of any updates to active DAPO cases and to work closely with established multi-agency forums where appropriate – for example through MARAC and MAPPA.
106. As appropriate and as soon as is practicable at each stage, the police are expected to:
- (a) Enter the relevant information into police record systems;
 - (b) Inform the person to be protected and offer referral to specialist services where available;
 - (c) Review safety of the person to be protected and update safety planning as required;
 - (d) Inform relevant partner agencies through established multi-agency forums;
 - (e) Where a child or vulnerable adult may be affected by what has occurred at that stage, consider a referral to the Social Services Department as per safeguarding procedures.
107. The stages requiring police action in relation to multi-agency information sharing and safety planning as appropriate are:
- (a) When a DAPN is given;
 - (b) When a DAPN is breached;
 - (c) When a DAPO is made, or is not made;
 - (d) When a DAPO is varied or discharged, or is not varied or discharged;
 - (e) When a DAPO is breached;
 - (f) When an appeal lodged against any decision of the court relating to a DAPO is determined;
 - (g) In advance of the expiry date of a DAPO.

108. For example, safety plans may need to be amended to ensure that the person to be protected remains protected in the event that the court does not make the DAPO or the variation, or if the requirements imposed by the court are different to the ones sought in the application.
109. When engaging with the person to be protected, the police should, as necessary:
 - (a) explain the prohibitions and/or requirements imposed by the DAPN or DAPO to the person to be protected and ensure the person to be protected has a copy of the order;
 - (b) inform the person to be protected about what action they should take in the event that any of the prohibitions or requirements are breached; and
 - (c) in the event of a breach, consider that the person to be protected may not be aware of the full extent of the breach or the behaviour which constituted it.

Consent of the person to be protected

110. It is not necessary for the person to be protected to consent to a DAPO being made. This guards against circumstances in which the person to be protected is being coerced by the perpetrator not to support the police giving a DAPN or the court making a DAPO.
111. Many factors can influence the decision of the person being protected not to support police or court action against the perpetrator. The lack of need for consent does not remove the need to listen to the views of the person being protected and they should be fully engaged at all times when deciding the best course of action.
112. Officers will want to seek to understand any opposition to an order being sought and offer a referral to any support service, whether or not the person to be protected supports the order. Although consent of the person to be protected is not needed before a DAPN or DAPO is made, their views must be considered.

Pre-charge bail

113. Giving a DAPN, or applying for a DAPO, and imposing pre-charge bail with conditions are different interventions, with different criteria, different timescales and different sanctions for breach. The police are expected to consider these different interventions on their own merits, based on the specific facts of each individual case, to ensure that the victim is appropriately protected.

Evidential Considerations

1. It is important that efforts aimed at gathering evidence to build a robust prosecution case are not focused solely on the evidence of the complainants. The stronger the overall case the less likely it is that it will be contested or, if it is, that the prosecution will need to rely wholly upon the complainant to give evidence. The starting point should be to build cases in which the prosecution does not need to rely on the victim. However, prosecutors should ensure that the views of the complainant are balanced with this approach and the complainant is not overlooked during proceedings.
2. In all cases, consideration should be given to constructing and the case through the use of evidence other than that of the complainant. Police and prosecutors may refer to the Evidence Checklist (see annex) to assist in preparing cases and to maximise all evidential opportunities.
3. The Evidence Checklist is not an exhaustive list of evidential opportunities to explore by the police and consideration should always be given as to how supporting evidence could be captured, particularly in the prosecution of cases where controlling or coercive behaviour has been more prevalent (without the presence of any violent behaviour or such as online abuse), and equally where the complainant has indicated that they are not willing to support a prosecution.
4. As domestic abuse incidents often take place in private, the complainant may be the only witness. Giving evidence may be very difficult for them, or may cause additional difficulties. For example, they may have fear of reprisals; for the safety of their children; of increased family pressures or serious financial repercussions; of being 'outed'; of a lack of support by the criminal justice system and other agencies. The complainant may also have an emotional attachment or loyalty towards the defendant, leading to uncertainty about the course of action they should take.
5. Joint working by police and prosecutors is required to build a case which could be brought without the complainant's active participation, by seeking out other evidence, where available, which does not focus solely on the complainant's statement. As per the Evidence Checklist, such evidence might include 999 tapes, statements from third party witnesses (such as neighbours, other family members, colleagues, peers, teachers, specialist support organisations, etc.), CCTV footage or footage from police body-worn cameras, forensic evidence, photographs of any visible/immediate injuries and the scene, medical evidence and police observation at the scene (such as furniture overturned, any damage to property, etc.).
6. Prosecutors should advise the police accordingly where it is considered that further supporting evidence may be available to support the prosecution. Consideration should be given to the use of 999 calls as admissible hearsay evidence.

7. It is important that support is given to the complainant. Practical and emotional support services, where available, should be identified to the complainant by the police and appropriate referrals made. The complainant may also need specialist support, such as a sign language interpreter or lip-speaker, a language interpreter or intermediary. Complainants receiving tailored attention and respect for their specific needs by criminal justice agencies may feel more confident or encouraged to continue support for a prosecution.
8. To ensure complainants are kept as safe as possible, prosecutors should properly consider all tools at their disposal. For example, bail conditions and protective orders.
9. Early consultations with prosecutors are recommended in cases where the complainant is reluctant to support a prosecution and advice would assist to identify other evidence that could form the basis of a prosecution without the complainant's account.
10. Where a prosecutor decides that there is not enough evidence to proceed to charge but that further evidence could be obtained which could satisfy the evidential test then prosecutors should provide investigative advice to the police so that the opportunity can be taken to attempt to secure additional evidence.

Self-defence and counter allegations

11. Prosecutors may often be presented with conflicting accounts of the incident, with each party claiming to be the victim. The offender may make a counter-allegation of abuse, or argue that they acted in self-defence, making it difficult to identify and distinguish between the primary victim and primary aggressor.
12. In these circumstances the police should explore the nature of the relationship between the individuals; the context of the offending, including any previous call outs, allegations and/or convictions involving the individuals; and, whether there are any other factors at play which may impact on an allegation, such as civil or family proceedings.
13. The complainant in the reported incident may also have acted in retaliation, which may add to the complexity of the report and where there is uncertainty the police will need to investigate fully to clarify the situation. This will help prosecutors assess circumstances where for example, a primary victim of abuse has retaliated against a perpetrator who has been abusing them, as well as other scenarios, such as complaints of alleged reciprocal abuse made by perpetrators to disguise their own offending.
14. Care needs to be taken to avoid stereotyping against both complainants and alleged perpetrators and both police and prosecutors should avoid making assumptions based on a complainant's physical appearance or stature, sexual orientation, mental or physical capacity, age, gender, ethnicity and the nature of the relationship.

15. Police and prosecutors should understand the vulnerability of complainants and the particular impact that control, coercion and psychological abuse may have on the individual. There may be some circumstances in which the offender or primary aggressor will accuse the complainant of having mental health difficulties, and that the allegation reported did not occur, or that the offender used violence to control the person for their own good. Each case should be considered on its own facts and merits. Victims should not be subjected to any preconceptions of what a 'perfect' victim or complainant will look like.
16. In cases where a counter allegation has been made, police officers should conduct an immediate further investigation at the scene (or as soon as is practicable) to attempt to establish the primary aggressor and to assess whether the 'primary' victim may have been justified in using a reasonable level of force to defend themselves or another person, such as a child. Police and prosecutors should be alert that some counter allegations may be made to further exploit the abuse perpetrated on the 'primary' complainant. A thorough investigation should be conducted into the background of the relationship between the complainant and alleged perpetrator to ensure that the full context of the incident is understood.
17. Counter allegations may give rise to difficulties in prosecutions, particularly as instances where the actual perpetrator alleges that the 'primary' victim is the abuser. This may result in a counter allegation being used as the basis of bad character applications against the victim. A thorough investigation of such claims should take place to ensure that factually incorrect or misleading information is not put before the courts.
18. In considering a primary aggressor's previous misconduct, prosecutors should consider whether any previous acts committed against the complainant in question, or other victims, can be adduced as bad character evidence. Prosecutors should consider whether these offence(s) have sufficient nexus to be joined with the latest charge(s).

Previous domestic abuse incidents

19. Many complainants will experience multiple attacks or incidents before coming forward to report an incident to the police. In some cases, complainants may have undertaken civil routes or remedies before contacting the police. Prosecutors should also be aware that some suspects will have perpetrated abusive or violent behaviour in other relationships.
20. Proactive enquires into the suspect's previous criminal behaviour, or intelligence reports relating to domestic abuse incidents (even if they concern a different complainant) should be obtained. This might include police callouts, including those where no further action was taken, previous allegations and how they were concluded, including reasons why a case did not proceed and breaches of civil orders or previous bail conditions.

21. Intelligence about similar previous behaviour should be sought so that information from complainants can be used to:
 - (a) inform the risk to the safety of the most recent complainant and any children;
 - (b) identify similar fact evidence;
 - (c) form separate charges relating to previous victims;
 - (d) support an application to adduce the defendant's 'bad character' or 'reprehensible behaviour'
22. Where other victims or complainants are willing to give evidence, the prosecutor should assess whether different allegations are part of a series of offences of the same or a similar character so that they can be tried together, subject to where fairness requires separate trials to take place.
23. Next, the prosecutor should assess the weight that an objective, impartial and reasonable tribunal, properly directed and acting in accordance with the law, is likely to attach to the evidence, in the context of the case as a whole. This will depend on a range of factors, including the issues in the case. For example, similar allegations may support each other, but that apparent support would be less valuable if the different allegations could be explained away by evidence of collusion or contamination.
24. By joining individual cases together in this way against a single suspect, other evidence available of the suspect's abusive or violent behaviour, could mutually strengthen each case to the point where there is sufficient evidence to afford a realistic prospect of conviction.
25. Where a summary only offence has been committed, such as common assault, any charge(s) or information must be laid within 6 months of the date of the alleged incident. This time limit may prevent some previous cases being joined with those involving later complainants. However, the earlier incidents may still be able to support the more recent case through the use of bad character evidence.

Risk Assessments

1. Risk assessments are usually conducted by the police upon notification of an incident, and can provide invaluable background information to understand the circumstances the complainant may be experiencing.
2. The police should provide prosecutors with a copy of the risk assessment for each case as a matter of routine.
3. Given the varying nature of domestic abuse, victims and complainants will move in and out of risk categories. The police should be conscious of this at all stages of criminal proceedings and review their risk assessment in light of changes in circumstances.
4. The police should ensure that where the complainant has children, or if there are children regularly in contact with the complainant (for example, another family member), that they conduct a risk assessment of them with a view to sharing the information at the earliest opportunity. This assessment will also inform applications for bail conditions or protective orders to address relevant safety issues for all concerned.
5. Police should always ensure they have provided the most up to date risk assessments to prosecutors to inform bail considerations and applications for protective orders.

Cautions and Conditional Cautions

1. It will rarely be appropriate to deal with a domestic abuse case by way of a simple or conditional caution. However, where the complainant does not support a prosecution and the available evidence would only disclose a very minor offence, a simple caution will be considered in preference to a decision to take no further action.
2. Where there is sufficient evidence to proceed to prosecution all but the most minor of offences should be prosecuted because the aggravating factor of the abuse being domestic in nature makes the overwhelming majority of domestic abuse offences too serious to be dealt with by way of cautions or conditional cautions.

Charging Considerations

1. This guidance supplements the Code for Prosecutors. In domestic abuse cases, if the evidential stage of the Code for Prosecutors is passed and the complainant is willing to give evidence, it is more likely than not that the decision made will be to prosecute.
2. Where the evidential stage has been met, but the complainant is not willing to support the prosecution, prosecutors should carefully consider the public interest test given the domestic nature and serious impacts of such offending. It will be rare for the public interest stage not to be met, even where a complainant is not willing to support the prosecution.
3. To properly assess the public interest test, prosecutors should be made aware of any children living in an abusive household. The impact on children must always be taken into consideration, as it will increase the seriousness of the offence, and be a key factor in determining the charging decision. The police should seek information about the children from the Social Services Department, Education Department and other relevant organisations to help inform the charging decision to be made.
4. The following factors will be relevant when considering the culpability of the suspect:
 - (a) the extent to which the offending was pre-meditated;
 - (b) whether any threats were made before or after the attack;
 - (c) whether the defendant has any previous convictions or out of court disposals, or record of any other offending whilst on bail or whilst subject to a court order;
 - (d) whether the offending was or is likely to be continued, repeated or escalated;
 - (e) the suspect's age or level of maturity; and
 - (f) whether the suspect was suffering from any mental or physical ill health before, or at the time of the offence taking place.
5. The circumstances of and the harm caused to the complainant:
 - (a) complainant's injuries, whether physical or psychological;
 - (b) whether a weapon was used (a weapon should be considered as anything which could inflict physical harm, or threats to harm, such as ordinary household items/objects, as well as knives, guns etc.);

- (c) whether the offence was motivated by any form of discrimination against the complainant's ethnicity, gender identity or sexual orientation, mental or physical capacity, age, religion, immigration status, employment status, social background etc.;
- (d) the presence of children or vulnerable dependants living in the household;
- (e) whether the offence took place in the presence of, or near a child;
- (f) whether the complainant is/was pregnant at the time of the offence;
- (g) any continuing threat to the health and safety of the complainant (despite irrespective of the relationship status), or anyone else who is, or may become involved; and
- (h) the history of the relationship, particularly if there has been any abuse in the past.

Avoiding charging delays

10. All charging decisions should be made speedily and with specific attention to the complainant's, and any children's or other dependant's safety in mind. Delaying charging decisions to allow the incident to 'cool off' for the complainant to decide whether they want to support a prosecution, or for the complainant and/or defendant to 'calm down', should not be applied in any circumstance.
11. Complainants may be further harassed or abused, and may be at enhanced risk as a result of their reporting the incident - it is therefore essential that the appropriate charging of a suspect takes place as soon as possible. The police are responsible in ensuring that the safety needs of the complainant, any children or other dependants are met during this period by appropriate bail conditions.

Acceptability of pleas

12. In some cases, the defendant may offer a guilty plea to a different charge, or plead guilty to some of the charges made against them, but not all.
13. When considering whether to accept a plea in these instances, prosecutors should discuss the situation with the complainant where possible, normally through the officer in the case. The complainant's views should be considered to ensure prosecutors are informed of all information before making their decision. These views are important to consider but are not determinative of the decision, which is to be made by the prosecutor after consideration of all the relevant factors.

14. For cases of familial abuse, prosecutors and the police will need to take great care when seeking views of the family and in some cases, it may be entirely inappropriate to speak to some members of the family, or even affiliates of the family, given the context of the offending. Each case should be assessed on its own facts and the specific circumstances.
15. Prosecutors should consider the following factors when deciding whether or not to accept a plea to a lesser offence or a plea to one or some of a number of offences in a domestic abuse case:
 - (a) whether the defence offer a plea that is in accordance with the evidence available to the prosecution;
 - (b) whether the defendant has any previous incidents recorded against them;
 - (c) whether it would be advantageous to the complainant and any children or dependants not to have to give evidence;
 - (d) the complainant's views on the pleas offered (some complainants would prefer to give evidence rather than accept a plea to a lesser offence);
 - (e) whether the plea fetters the discretion of the court in relation to sentencing;
 - (f) whether the difference between the prosecution and defence version of events is such that it would significantly affect the sentence that would be imposed (if it does, there should be a hearing to determine the facts); and
 - (g) the fact that perpetrators will often seek to minimise the offence or mitigate their offence.

Bail and Remand in Custody

1. When considering bail issues, a prosecutor's primary concern should be the safety of the complainant and any children or other dependants. The police should gather information; including the complainant's views, to assist in deciding the best approach to the issue of bail. This will help to oppose the grant of bail or inform conditions to be applied for when responding to bail applications. Information will include the following:
 - (a) the complainant's whereabouts or living arrangements, care should be taken not to disclose a location about which the perpetrator is unaware as part of the bail arrangements;
 - (b) fears the complainant may have regarding the perpetrator's behaviour;
 - (c) in familial abuse cases, the complainant may fear the perpetrator's contact with other family members and the subsequent repercussions this may have. Prosecutors may need to consider this, particularly in cases of honour-based violence;
 - (d) the complainant's fear for further offences or repeat offending by the perpetrator;
 - (e) information regarding any children or any other dependants (e.g. care arrangements for children, other family members, and/or any risk of violence);
 - (f) areas/locations the complainant frequently visits or attends (the school attended by children, any social clubs that the child attends, social clubs the complainant may attend, etc);
 - (g) the impact on the complainant if the complainant and perpetrator are at school/college/university together, or work in the same organisation etc;
 - (h) methods of contact between the complainant and perpetrator (including, but not limited to mobiles, emails or social media and networking sites, as well as face to face);
 - (i) whether any civil orders are in force and details of those orders;
 - (j) whether any civil or family proceedings are ongoing and the stage they have reached;
 - (k) the proximity of any of the perpetrator's relatives, to the complainant and the likelihood the perpetrator may want to visit them;

- (l) the age of the complainant- consideration should be given to other contact methods such as social networking, local groups or social events, or school/college for younger complainants;
 - (m) whether the perpetrator may already be on bail for another offence;
 - (n) the defendant's history of complying with bail in the current case's proceedings; and,
 - (o) the perpetrator's history of complying with bail in other proceedings, especially where the offence in question, was one of domestic abuse.
2. Prosecutors will need to think carefully about applications for bail where the complainant and offender will be unable to avoid each other or it would be very difficult for them to do so. Whilst it is for the court to consider how such an application is served, prosecutors will have a duty to consider how the complainant can be kept safe in the specific circumstances that apply to them in relation to the offender.

Use of pre-charge bail

3. Suspects may be remanded or kept in custody or may be given bail before being charged, depending on the nature of the incident reported. Complainants may withdraw support as a result of prolonged decision-making so the police and prosecutors should handle these cases expeditiously.

Post-charge bail

4. Complainants may be afraid of repercussions once a suspect is charged. To protect complainants and witnesses from the risk of danger, threats, pressure, or repeat offences, the police should consider applying appropriate conditions for bail or for the defendant to be remanded in custody before the first appearance in court.

Bail conditions

5. Prosecutors should ensure that any conditions requested prioritise the safety of the complainant and any children or dependants. The complainant should retain as much freedom of movement as possible by curbing the ability of the defendant to approach or intimidate the complainant, such as at home, on the way to work, school or college, regular social venues, extended family homes, when taking children to school, or when socialising with friends etc. Due care will be required in relation to the different dynamics of the abuse, such as whether the abuse is familial, or between former or current intimate partners, and the nature of safety needs required by the complainant.
6. It is the offender who is subject to bail conditions, not the complainant. The court will make clear to offenders that any breaches will be taken very seriously. Arrangements regarding child contact will be managed by the family court and generally will not be a matter considered within a bail hearing.

7. Any changes to the bail conditions or custody status of a perpetrator must be communicated to complainants immediately, by the police.
8. If a perpetrator breaches their bail conditions, the police should arrest them immediately and without delay. The court may remand them in custody, or may re-admit the defendant with the same, or slightly differing bail conditions. It is important that the breach is carefully considered, as new offences may also have been committed in addition to the conditions being breached; prosecutors must review all new offences to assess whether a prosecution should follow.
9. Where a condition has been imposed for there to be no contact with the complainant, it does not matter whether the complainant has agreed contact, or if the complainant initiated contact with the perpetrator. It is the perpetrator who is subject to the bail conditions, and they are responsible for compliance until those conditions have been lifted.
10. In some cases, the complainant may have purposefully contacted the defendant to reconcile the relationship, manage child contact, or manage other care arrangements with other dependants or family members etc. In such cases, prosecutors will need to consider how a breach should be effectively dealt with. It is therefore important that such matters are brought to attention at the outset to ensure that appropriate conditions are set out for the individuals concerned, which are specific and suitable for their circumstances, and to ensure safety requirements where needed.

Applications to vary bail

11. Prosecutors should insist the defence gives proper notice of any application to vary bail in order that enquiries can be made of the complainant to seek views and check whether any court orders already exist or are pending.
12. Where the proposed variation concerns contact with a child, prosecutors should note that such contact might provide the perpetrator with opportunities to intimidate the child and/or complainant which, in the worst cases, could lead to murder or suicide. The same may also apply with regard to unborn foetuses - both issues will need to be properly highlighted to ensure that any variations avoid providing the perpetrator with an opportunity to exploit the circumstances of their relationship with the complainant.
13. Similarly, where cases involve non-intimate partner abuse, it is possible that perpetrators will exploit situations, or seize on opportunities, enabling them to perpetrate further abuse, such as through the involvement of other family members, or community contacts.

Sentencing

1. A Prosecutors' duty to actively assist the court should include reference to the abuse of trust in a domestic setting as an aggravating factor, as well as the vulnerability of complainants. Specific reference should be made to the nature of the offending involved, and a particular emphasis on the nature of the relationship between the complainant and perpetrator to assist the court in reaching an informed decision about the most appropriate sentence.
2. All prosecutors should have in mind whether a protective order is appropriate in the event of a conviction or an acquittal. The view of the complainant should be sought through the officer in the case, as protective orders may be difficult to obtain and/or enforce if the complainant and perpetrator are in a continuing relationship and/or the complainant would like to continue contact with the perpetrator.
3. Prosecutors will need to give regard to the practicability of the terms of a protective order when dealing with younger complainants and perpetrators who attend the same school or college. Prosecutors should work with the police and other relevant agencies to ensure that there is a comprehensive understanding of how such an order could be enforced practically, before making the application.
4. Applications for compensation should also be made where appropriate, bearing in mind that in some circumstances, it may not be appropriate for a compensation order to be made. Orders are often met from family money, and may be used as an opportunity to abuse, or control a complainant further.

Complainants: Specific Considerations

1. It is possible that a complainant may ask the police not to proceed any further with a case and say they no longer wish to give evidence. There may be a number of reasons why a complainant will withdraw their support from a prosecution, or retract their allegation, but this does not mean that the case will be automatically stopped.
2. Prosecutors may see any of the following as possible reasons why a complainant may no longer support a case. This is not an exhaustive list, but should be considered as a means to assist prosecutors in understanding how they will need to consider the next steps to be taken:
 - (a) fear of other offences being committed, or risk of further harm (both in person, but also through online technologies);
 - (b) fear of coming face to face with the abuser in court;
 - (c) pressure from the perpetrator, the perpetrator's family or associates;
 - (d) fear of repercussions that may follow from peers of the perpetrator, or gang members where either the complainant, perpetrator or both are involved in a gang;
 - (e) pressure from other family members, other members of the community or community 'elders', including being pressured to resolve 'differences' between parties through mediation, or arbitration tribunals conducted within the community;
 - (f) fear of being publicly shamed, disowned or outcast from the community;
 - (g) a wish to be reconciled with the perpetrator, if not already reconciled, or a wish to return to the family, if estranged;
 - (h) the complainant is no longer in a relationship with the perpetrator or does not want to re-live the incident;
 - (i) a fear that children will be removed and placed into care, or not wanting to be perceived as 'being difficult' if children or other dependants are involved;
 - (j) a fear of the impact on children, or other dependants, or financial repercussions (such as the receipt of certain child maintenance, tax allowances or financial support through benefits) if the perpetrator were to receive a custodial sentence;

- (k) continuing with a prosecution may cause the complainant to feel they are responsible for the perpetrator receiving a criminal record and the impact on their job and family finances, etc;
 - (l) the perpetrator may agree to drop other proceedings such as custody applications for children, if the complainant withdraws the complaint;
 - (m) embarrassment at reporting the complaint (as a result of the complainant's or perpetrator's social background, or for example, in cases of child to parent violence);
 - (n) fear they may not be believed and fears that the criminal justice system is biased towards the offender;
 - (o) feelings of isolation or vulnerability, and fears they may not be believed as a result of those vulnerabilities;
 - (p) fears that showing support for a prosecution may place them at further risk of harm;
 - (q) fear of immigration status being made known to law enforcement authorities, or fear that a complaint may reveal the perpetrator's immigration status which may not be secure;
 - (r) fear of being 'outed' about their sexual orientation, or gender identity if not already known about;
 - (s) fear of HIV status or other very sensitive personal information being revealed if not already known;
 - (t) where complainants are involved in prostitution, fears that any previous contact with the police will result in their complaint not being taken seriously;
 - (u) lack of engagement or communication from criminal justice agencies, or a fear of not knowing what will happen if they do support a prosecution; or,
 - (v) concerns that the criminal justice agencies are not aware of the issues they face or may not be sensitive to their specific situation (such as an understanding of why certain special measures are required etc).
3. There may also be some instances where a complainant will withdraw support or retract an allegation as a result of not accurately reporting what has actually happened. Such instances will be extremely rare and must be handled with careful consideration and sensitivity by prosecutors.

4. If any such case is brought to the attention of a prosecutor by the police with an allegation of perverting the course of justice, or wasting police time, prosecutors should carefully consider the case. It is important that prosecutors ascertain why a complainant has retracted their allegation or withdrawn their support from the case and the risks and impacts posed to the many children and/or any dependants, before deciding what action to take. Prosecutors should also refer to the section on avoiding the criminalisation of a complainant for further guidance (see below).

Withdrawal statements (retraction of allegations)

5. The police should provide a statement for the prosecutor following contact with the complainant to explain the reasons that a retraction of the allegation/withdrawal of support has been made. Without this there cannot be an informed decision about the next steps to be taken.
6. Where a complainant's account of the allegation in their withdrawal statement is not the same, or is not consistent with their earlier statement, there is a possibility that the complainant may have been pressurised into changing their account. In these circumstances, the police should be asked to investigate changes and whether a further investigation into the circumstances is required.
7. Prosecutors should consider particularly:
 - (a) the nature of the original allegation (if not fully covered in a previous statement);
 - (b) the complainant's reasons for withdrawing support or retracting the allegation;
 - (c) details of those with whom the complainant has discussed the case - particularly anyone who has advised them and obtain their details; and,
 - (d) whether any civil or family proceedings have been, or are likely to be, commenced which may have impacted on the complainant's decision.
 - (e) withdrawal statements should be accompanied by a background report containing:
 - (f) the officer's views on the case, including the veracity of the statement, any suspicions of witness intimidation or pressure (if not already included in the withdrawal statement), and a general assessment of the reasons given by the complainant;
 - (g) the officer's views on how the case should be dealt with, including proceeding against the complainant's wishes;
 - (h) how the complainant might react to being compelled to give evidence;
 - (i) details of any identified risks to the safety of the complainant, children or any other person;

- (j) details of the support available to the complainant prior to the allegation being retracted or support withdrawn and whether this was a reason for the change in position;
 - (k) whether any support organisation assisting the complainant has expressed a view; and,
 - (l) the likely impact on the complainant and any children/dependants of proceeding or not proceeding with the case.
8. The police officer's report may reveal the need to consider whether further charges, for example, witness intimidation, harassment or stalking should be brought, or whether there has been a breach of the perpetrator's bail conditions.

Avoiding Criminalisation

9. It should be highlighted that in some cases, complainants may provide contradictory accounts of an incident or will assert that their original complaint was false to attempt to stop proceedings. The reasons why a complainant will assert they have 'lied' or that their allegation was false are numerous and are set out above.
10. Prosecutors should consider a complainant's vulnerability (including the pressure or coercion they may be experiencing, as well as any mental health, ill health, or disability issues) when determining whether the original allegation was false, or if there is any falsity in the second statement given when the complainant retracts their allegation. Prosecutors should avoid any preconceptions about the 'perfect' complainant in such instances.
11. Depending on the nature of the considerations and the circumstances of the case, it may still be possible to continue with proceedings against the perpetrator without the complainant's active support.
12. Prosecutors should note that some complainants may be advised to say they had 'lied' when making their original statement; this is more likely to be the case where the complainant and perpetrator are in a continuing relationship, or where there has been reconciliation between the parties, such as between family members.
13. Other examples may include family or cultural pressures to avoid publicising a family's private circumstances, or avoiding bringing shame or dishonour to a family's reputation within the community and/or beyond. This illustrates how a complainant can be persuaded or in some instances, coerced into retracting their allegation.
14. Prosecutors should be wary of 'criminalising' the complainant in such circumstances and should carefully assess why they may have made the decision to say they had lied or made a false allegation. There may be a variety of reasons and each should be considered on its own merit before the complainant is informed of the action to be taken.

15. Where it is decided that a prosecution should proceed, the safety of the complainant or any other potentially vulnerable person should be a prime consideration. The fact that a complainant withdraws their support does not mean that they can no longer engage with the police. The complainant is still entitled to have future complaints believed and taken seriously.

Complainants proceeding with additional support/assistance

16. Prosecutors should ask the police to consider exploring whether the complainant might change their position and be willing to proceed if special measures or other forms of support could be provided (for example, being screened from their abuser, giving evidence via remote video live link, or with a support representative being present whilst they give evidence). This will assist some way in helping the complainant not having to face the offender(s) in court.
17. Police and prosecutors should work closely to explore the special measures and support available and identify whether they would help the complainant to feel safe and confident when attending court.
18. Special measures should be explained to ensure complainants are fully informed of the options available if their reason for considering withdrawing support or retracting their allegation is due to a fear of giving evidence against their abuser(s).

Proceeding with a prosecution without the complainant's live evidence

19. The prosecution strategy should, from the outset, contemplate the possibility of proceeding without the complainant's support. Prosecutors should rarely need to apply to the court for further time to investigate this possibility.
20. Prosecutors should consider the following in the order outlined:
 - (a) Using evidence other than that of the complainant;
 - (b) Res gestae statements made by the complainant or a witness to a third party, or around the time that the offence was allegedly committed, that are so directly linked to the events occurring at the same time, so as to make it unlikely that they were distorted or concocted may be admissible other than as hearsay; and
 - (c) Hearsay evidence. Consideration should be given to applying to admit a complainant's statement as hearsay if there is evidence that the victim is in fear; or where there is other evidence consideration should be given to applying to introduce hearsay if it would be in the interests of justice to do so. For example, any third-party witness statements from neighbours, support representatives assisting the complainant etc.

Witness summons and compelling the complainant to give evidence

21. This is a last resort for complainants who disengage from a prosecution and should only be considered when the avenues above have been exhausted. Full consideration should be given to the specific facts of the case and impact on the complainant's safety and wellbeing.
22. The police and any support organisations involved should be asked for their views on how they perceive the complainant will react if called to give evidence at a court hearing against their wishes, where a prosecution goes ahead without their support. The police should identify and verify whether further risk assessments are needed or have been recently carried out, as well as seeking the latest position regarding any civil and/or family proceedings that are, or may be concurrently taking place.
23. The decision to compel a complainant must not be taken lightly and should be based on the specific facts of the case, and in particular, the needs and requirements of the complainant.
24. Before the decision to apply for a witness summons is taken, prosecutors must make enquiries through the officer in the case to satisfy themselves that the safety of the victim, any children and/or other dependants will not be endangered. This information should be sourced by the police.
25. In some cases of familial abuse, there may be no further information available from other sources relating to the risk of the complainant and others in the household. In these circumstances, prosecutors should source from the police all relevant information about the family dynamics, and the wider community where relevant. This information may need to be collected from other sources, such as others in the community, medical practitioners, or schools. Where further information is unavailable, prosecutors must carefully examine the benefits in compelling the complainant to attend court to give evidence against a family member.
26. In some circumstances, a complainant may prefer a summons to be issued, to secure their attendance at court for a trial rather than attending voluntarily, or being seen to be doing so by the perpetrator, this is not unusual. Some complainants feel the 'formality' of a summons may justify their attendance at court to the perpetrator where the abusive behaviour is continuing. Prosecutors should consider any special measures or support the complainant may need in these circumstances.
27. Where the complainant may have a specific vulnerability or support requirement, prosecutors should assess whether it is appropriate to obtain a witness summons. Special consideration will need to be given to complainants with physical disabilities, or mental health issues to assess whether this may have been the reason they have taken the decision not to support a prosecution in the first place.

28. Prosecutors should determine whether compelling the complainant would be in the public interest in such circumstances, or whether an alternative approach such as with additional support measures, or the use of a hearsay application could be taken instead. Prosecutors will need to consider relevant medical reports obtained to inform the decision to obtain a witness summons.
29. Prosecutors should also consider the impact on the complainant if they are to be compelled. In some instances, the compelling of a complainant will not guarantee their attendance at court; in other instances, compelling attendance at court, may cause the complainant further distress.
30. In the domestic abuse context, the issue of witness summoning a child or young person should be considered only in very limited and exceptional cases. Prosecutors should be aware of the distress that may be caused to a child or young person, especially where they are being compelled to give evidence in support of one parent, against the other. A decision to witness summons a child/young person should therefore be very rare.
31. Where it is thought appropriate, prosecutors should consider:
 - (a) the nature and seriousness of the case;
 - (b) the usefulness of the material evidence the child can provide;
 - (c) the age and maturity of the child - do they have a sufficient mental understanding to give evidence;
 - (d) whether giving evidence would be detrimental to the child's welfare or safety;
and
 - (e) the repercussions should the child fail to comply with the summons request.
32. This list of considerations is not exhaustive, but provides a guide to the issues to be examined when deciding whether to make an application. Where an application is made, prosecutors should consider the special measures which will assist the child/young person's appearance at court as well as whether they need to be accompanied by a parent or guardian, or other appropriate adult, depending on the circumstances of the case.
33. Prosecutors should apply this approach equally to children/young people who are witnesses to domestic abuse taking place at home, for example between their parents, and young people who may themselves be victims of familial or partner abuse.

Witness summonses - third party witnesses

34. In certain cases, it may be appropriate to apply for a witness summons for third parties who may have information integral to the prosecution case.
35. Third party evidence may provide vital background information about the abuse that has taken place, and may even in some circumstances; lessen the risk towards the complainant by the perpetrator.
36. Prosecutors should be aware that there may also be risks to a third party being witness summonsed. The perpetrator may also commit offences such as stalking or harassment or witness intimidation against the third party as a result of their involvement. The risk to a third party should therefore also be an important consideration when deliberating whether to apply for a witness summons.
37. Summoning a third-party witness may, as summoning a complainant often does, give the perception to the perpetrator that the case is progressing without the complainant formally providing their support. This is often an assistance to the victim.

Warrants for arrest

38. If a complainant or witness refuses to attend court following the issue of a witness summons, prosecutors should consider whether a warrant application to the court is appropriate.
39. The safety of the complainant and any children or dependants should be borne in mind throughout. The intention of obtaining the warrant should be to assist attendance at court and not to penalise or criminalise complainants. Applications for warrants should be made on a case by case basis after considering issues such as the nature of an incident (whether the abuse was serious or prolonged); whether there are significant aggravating factors, such as a high degree of harm; if the complainant is 'high risk'; or if there is a pattern of escalating abuse.
40. Seeking a witness warrant could deter the complainant from seeking help in the future, thereby jeopardising their future safety and that of any children or other dependants. Arresting a complainant may also have the effect of 'criminalising' them, and may have a detrimental effect on the quality of evidence given. Prosecutors should therefore use this approach as a last resort and only where absolutely necessary.

Reluctant and 'hostile' complainants

41. Having secured the complainant's attendance, every attempt should be made to proceed with the case. However, having initially indicated a willingness to attend court, some complainants may not attend on the day of the trial.

42. The full reasons for non-attendance should be explored and many of these reasons may be the same or similar to the reasons why complainants withdraw support or retract allegations.
43. Complainants should not be automatically dismissed as reluctant because hostile complainants may not understand what will happen to them when the day of attending court arrives, and may therefore choose to not attend for a number of reasons, for example uncertainty over the support they may have access to if they have a specific disability. Whilst every effort should be made to identify such needs at the earliest opportunity it is possible that such matters may only come to light on the day of the trial.
44. Prosecutors should establish in the first instance why a complainant has not attended, and consider whether the case can proceed without them, using either other evidence, or through making an application to have the complainant's statement admitted, as an exception to the hearsay rule, if any of the applicable conditions are met. Prosecutors may also want to consider whether it may be possible to adjourn the case to allow for any special measures applications to be made, to account for any late preferences made known by the complainant.
45. There will be instances where despite a complainant being willing to attend court, they may be unwilling to give evidence. In such instances, the complainant may be treated as a reluctant witness. In the first instance, prosecutors should firstly seek to establish the reasons why the witness does not wish to give evidence, and should consider whether they would change their mind if an application for special measures were to be granted.
46. It is possible that a complainant is willing to give evidence, but once called may say they cannot recall the circumstances of the incident. In such cases, prosecutors may wish to refresh the complainant's memory through verifying their statement. Some complainants may have been put under duress (by the defendants, by the defendant's or their own family, or through community members) to say that they do not recall the facts of the incident, or they may fear the repercussions if they reveal their account at court, in which case prosecutors may want to consider whether an application should be made for their statement to be admitted.
47. However, there will be some cases where a complainant will claim they cannot recall the incident in an attempt to be deliberately uncooperative, rather than fearful of the defendant. The complainant may give evidence that directly contradicts what they have said previously in a manner that suggests the new account is fabricated. In these situations, prosecutors may want to consider applying to have other previous statements made by the complainant admitted as evidence.

48. Where the complainant remains resolute in not supporting the prosecution despite attending court, prosecutors should consider requesting leave from the court to treat the witness as 'hostile'. Such applications should be made at the first signs of hostility, which may for example, be demonstrated through the making of deliberately inconsistent statements. It is possible, that through this approach, the complainant's account extracted under cross-examination could provide strong evidence in relation to the allegation, and subsequently secure a conviction.

Discontinuing the case

49. It is possible that after considering a complainant's reasons for retracting their allegation or withdrawal of support, a prosecutor may discontinue the case as the complainant's evidence was the only evidence available, and a summons would not be appropriate. Prosecutors should carefully review the case before the final decision to discontinue the case is made.

Support and safety of complainants and witnesses

50. Providing support and protection for complainants and witnesses is a crucial aspect of domestic abuse cases. Complainants need to be supported throughout the criminal justice process, from the point of charge, through the prosecution and after the case has been finalised.
51. Complainants will react differently and behave differently (current circumstances and/or past experiences will often influence how they behave or react), and prosecutors should be aware that this behaviour should not be used to determine their credibility. As discussed earlier in this document, cases where the complainant may have been arrested following a report by the primary aggressor, need to be handled very sensitively. It is for this reason that prosecutors should consider the complainant's needs based on the facts and merits of the case, including any history of previous abusive behaviour and make decisions accordingly.
52. Complainants will often not realise that they are in an abusive relationship, as some abuse behaviours may not in fact be violent or immediately obvious; prosecutors therefore should handle cases effectively and without any preconceptions of what a 'perfect victim' will look like. Complainants may often adjust their behaviour to try and prevent any further abuse or violence, especially where children or other dependents are present in the household, or to simply have an 'easier time'; such behaviour may as a result be 'normalised', with the complainant showing no obvious or stereotypical behaviours. However, this should not be used against the complainant.
53. A number of factors have been previously stereotyped as militating against some complainants, including:
 - (a) the offence not being reported immediately;

- (b) the account given may have been inconsistent;
 - (c) the complainant carrying on with their everyday life;
 - (d) the complainant voluntarily returning to their abuser; or
 - (e) the complainant's reliance on alcohol or other substances.
54. These factors have in the past been seen as undermining the credibility of an account; however, they may in fact support the behaviours of complainants who have been, or continue to be, abused. Complainants of domestic abuse typically experience a number of abusive incidents before they feel able to report the matter. This should not be seen as a detriment.

Victim Personal Statements

55. A Victim Personal Statement (VPS) gives the complainant a voice in the criminal justice process, providing them with an opportunity to explain in their own words how a crime has affected them. For domestic abuse cases, a VPS may also usefully include a complainant's concerns about safety, intimidation and the perpetrator's bail status.
56. Prosecutors should consider this information to inform the court about the effect on the complainant. The VPS can be an important way to empower the complainant, and project the impact of abuse and the effects on the complainant and family, or other vulnerable individuals within the household to the court. The VPS may also include any concerns the complainant may have as a result of the offence, for example, issues around intimidation, fears for their safety, or the impact of the perpetrator's bail status during any proceedings. The VPS is useful in understanding the nature of the offending behaviour as well as the effects and consequences upon the complainant.
57. The following should be borne in mind:
- (a) it is for complainants to decide whether to make a statement;
 - (b) the complainant's opinion about type and level of sentence should not be included;
 - (c) a statement was evidence and should be treated as such and served in a timely manner;
 - (d) responsibility for presenting admissible evidence remains with the prosecution; and
 - (e) the statement could be challenged in cross-examination and could give rise to disclosure obligations and even used after conviction to question a complainant's credibility.

Issues Relevant to Particular Groups

1. This section of the Guidance identifies the different impacts of domestic abuse on people from a range of communities and groups, and the particular considerations that prosecutors will need to bear in mind. Some of the issues listed will be common to all complainant and perpetrator groups, such as many victims trivialising the abuse they suffer, or fearing they will not be taken seriously.
2. In all cases, the police should ensure risk assessments consider a complainant's individual and specific circumstances in context with the offending behaviour or course of conduct.
3. The following paragraphs provide some examples of issues, needs and barriers which may be relevant to individuals belonging to particular groups. Prosecutors should note that this list is not exhaustive and should only be used as a guide as it is not possible to include every scenario and every case is different. Complainants may fall into one or more of the categories listed below and each case will need to be assessed on its own facts and merits.

Women

4. Domestic abuse victims and complainants are predominantly women, and experience abuse perpetrated largely by men. This section does not seek to minimise the abuse experienced by men, or abuse which has been perpetrated by women on female victims, but rather seeks to assist prosecutors in identifying the gender-biased abuse that a large majority of female victims will be subjected to. This section therefore focuses on female victims experiencing intimate partner violence by male perpetrators, and familial violence perpetrated by men, unless otherwise stated.
5. Some male perpetrators may exploit the specific vulnerabilities of a female victim to perpetrate abuse or manipulate/control their behaviour.

Intimate partner violence and abuse

6. There is significant evidence available that women will be subjected to a greater level of, and more severe physical violence and control, and more likely to experience sexual violence where abuse has been perpetrated by a male. Women may therefore be more vulnerable as a result of this abuse.
7. The abuse suffered by women, will in most cases, involve a combination of physical violence and controlling and coercive behaviour; however, it is also recognised that physical violence does not always have to feature in all cases.

8. Often, threats of, or actual physical violence may occur where a male perpetrator wishes to exert control over a female victim. For example, some perpetrators may threaten harm where the victim does not agree to carry out certain preferences, such as the way the victim should dress or behave.
9. In other cases, coercion or controlling behaviour can be used by a male perpetrator to exert dominance over a female victim - such as depriving them of contact with friends or family.
10. Male perpetrators may have an additional method of perpetrating abuse through the control of the female's role and relationship with children. Examples of how children, and unborn foetuses can be used to manipulate and control victims has been covered above, but it is worth highlighting that females are usually the recipients of this type of abuse, as in the majority of familial settings the female will be the child's main carer.

Familial violence and abuse

11. Prosecutors will be aware that males may exert dominance over female family members through a number of different methods and scenarios. For example, a son may be violent or abusive towards his mother in order to acquire a benefit or gain (such as money, or theft of an item to secure financial gain). Other male/female relationships may be exploited in similar ways in order for the male to gain dominance over the female.
12. However, it should also be recognised that some, but not all, instances of familial abuse will also be perpetrated under the guise of 'protecting' a female within the family, or to avoid the female bringing the family shame or dishonour. This type of abuse is not solely perpetrated by males against a female victim, other females may also be involved, but it is important that prosecutors note the primary role of males in such cases.

Men

13. Men may also be victims of domestic abuse, perpetrated by females. Abuse may, as with female victims, be perpetrated as physical violence, and/or non-physical behaviours linked to psychological and emotional abuse. This section focuses on male victims experiencing intimate partner abuse by female perpetrators, and familial abuse perpetrated by both men and women, unless otherwise stated.
14. A male victim's physical appearance or masculinity should not be used as a preconception to understanding why the abuse is occurring. In fact, some male victims may as a result of their physical stature feel less able to report the abuse they are experiencing for a fear that they will not be believed.

15. Prosecutors should be aware that there is a significant under reporting of domestic abuse against male victims. Many victims will be reluctant to report offending in the fear that it may damage their reputation, or pride; others may be hesitant as they fear the consequences that may ensue in relation to their family settings. Prosecutors will need to deal with these issues with great care, to ensure that male victims do not feel undermined, or the credibility of their allegation not believed on the basis of their gender.
16. Prosecutors should also note that in some cases, female perpetrated abuse against male partners is a sensitive and complex area. Some women may use children within the relationship to manipulate a male victim, by for example threatening to take away contact rights.
17. In the same way that females can be victims of familial abuse, males can also experience similar issues. Male familial abuse may be perpetrated by other males in the family to exert dominance or control, but also by females. For example, male victims may be just as susceptible to abuse perpetrated in the name of forced marriage. This may occur despite the male victim's sexual orientation or gender identity.
18. In some instances, familial abuse may take the form of physical violence or abuse as a result of a disability, or a dominance of one male over another, in the family.

Children

19. The presence of children during a domestic abuse incident must be treated as an aggravating factor when applying the public interest test. Exposure to domestic abuse can have a devastating effect on children and children are recognised in law as being victims in their own right.
20. The police should always provide information regarding the presence of children in the household, the extent to which they have been exposed to the domestic abuse and whether the children are the subject of any orders (for example, whether they are under the attention of Social Services Department, whether there are any contact orders in place, or whether they are included in non-molestation orders involving their parent(s)/guardian(s)).

Teenagers in abusive peer relationships

21. Prosecutors need to take into consideration a number of factors when dealing with cases of teenage victims who find themselves in abusive relationships with individuals of their own, or, similar age.
22. Whilst domestic abuse is likely to take place in private between teenagers, it is less likely that teenage victims will share a home with their abuser. This means that victims will be more likely to live away from direct or immediate physical abuse.

23. However, this should not minimise the extent of abuse perpetrated. A teenage victim may also suffer physical abuse and patterns of coercive or controlling behaviour can be just as intense and damaging to a victim, but may manifest in a different way (for example, abuse through social media may be more prevalent in relationships between young people. Perpetrators may constantly call or contact victims through emails, text social media etc). Abuse between teenagers may take place in an 'online space' and/or other places outside of their home. For example, certain behaviours may be perpetrated at school or college/university, at extra-curricular clubs, within social events/circles or in their own neighbourhoods.
24. Some teenagers may also live with the perpetrator's family. In some instances, this may prove to be an additional barrier, even in circumstances where the family are unaware of the abuse taking place. Some victims may not recognise they are in an abusive relationship, or that they may have 'normalised' the behaviour of the perpetrator in some way.
25. Parents of those involved may not know about the relationship (individuals may fear telling their parents about their own, and/or their partner's sexuality or race, or even the fact that they are in a relationship). They may fear their family's reactions to the offending or any subsequent proceedings. These factors may pose additional barriers to the reporting of any crime.
26. Police and prosecutors should be aware of the impact the family's reactions may have on the victim, and therefore need to be careful in their communications. The parents'/guardians' or family's lack of awareness of a relationship, or the nature of any abuse taking place, could in some circumstances place the young person at further risk. Care should be taken as to whom, where and how communications are sent.
27. The following factors should be borne in mind:
 - (a) young victims will experience abuse and violence irrespective of their race, religion, class, culture;
 - (b) young people may not be aware that the behaviour actually constitutes abuse, or may see it as a 'normal' part of a relationship;
 - (c) victims may not be aware of the methods their abusers use to perpetrate abuse (e.g.-they may not be aware that abuse can be perpetrated through emails, texts or social networking or gaming sites; they may only consider physical violence as abuse);
 - (d) victims may be abused by other older family members or relatives, and may again not realise their behaviour constitutes abuse;
 - (e) the victims relationship with their family may prevent them from coming forward to report a crime. Where a victim has no family support as a result of being estranged or homeless, prosecutors may find victims less willing to report a crime;

- (f) victims may feel they cannot trust some adults or authority figures;
 - (g) teenage victims are unlikely to be financially independent and may fear their family's reactions or how they can access services without their family's knowledge;
 - (h) teenage victims may have children of their own, and may fear the removal of their children;
 - (i) victims may not know of the services offered by the criminal justice system such as the use of special measures and achieving best evidence interviews;
 - (j) teenagers may have a fear of 'getting into trouble' for their own behaviour being revealed (e.g. being sexually active, drinking alcohol or abusing substances which may not be known to the parent);
 - (k) victims may feel unable to report abuse, fearing the impact it might have on their lifestyle (e.g. bullying from peers in the same social group, either in person or through social media);
 - (l) victims may think that reporting abuse might restrict their social activities (e.g. visiting the same places as the perpetrator, such as leisure venues, clubs or their own neighbourhood);
 - (m) victims may not want to report a crime as they fear any abuse might continue, or even increase, despite the relationship ending;
 - (n) victims may see their abuser at school or college/university which may prove very difficult for them. They may not want to endure any repercussions from friends of the abuser or others following the reporting of a crime;
 - (o) reporting may make the victim more vulnerable to other types of abuse (e.g. cyber bullying by peers, etc); or
 - (p) diversity issues such as the victims cultural background may make them reluctant to come forward for fear of embarrassing or shaming their community, or the victim may fear being 'outed' about their sexuality.
28. The ages of the victim and of the defendant are very important, and different handling will be required, if the victim is under 16 years old, and of the defendant where under 18 years old.
29. If the perpetrator and victim are under 16 years old and a sexual relationship was taking place, prosecutors will need to examine whether the sexual relations are/were, consensual.

30. Where the perpetrator is over 16 years of age, prosecutors will need to consider the nature of the relationship, was there any coercive control or manipulation present in any sexual activity that has been taking place? Could there be an element of grooming or exploitation by the defendant that needs to be considered, especially where the perpetrator is over 18 years old? In such circumstances, prosecutors will also need to consider child safeguarding and protection issues and the nature of the relationship taking place; and whether the victim is subject to any involvement with other statutory agencies. For example, are the Social Services Department involved or aware of the young person?

Child to parent violence and familial abuse

31. Violence and abuse perpetrated on parents by their children also falls under the definitions of domestic abuse. This section should be read in conjunction with the earlier sections on familial abuse for female victims and male victims. Prosecutors should take care not to make preconceptions about the offending behaviour as a result of the victim or perpetrator's ethnicity and prosecutors should note that considerations in relation to familial violence in minority ethnic communities is covered later in this document.
32. Violence and abuse may also be taking place on elderly relatives such as grandparents, by children or other family members who are legally adults, as well as children under 16 years old.
33. Victims do not usually report abuse as a result of a number of barriers. Such barriers may include:
 - (a) shame or embarrassment that they are being subjected to abuse by a younger family member;
 - (b) disagreement between family members on how the abuse should be handled;
 - (c) a possible lack of awareness that the behaviour actually constitutes abuse;
 - (d) little understanding of the issues which may contribute to the abuse perpetrated (e.g. a new baby in the family; break down of family relationships; new partners of family members; substance or alcohol misuse, mental health issues, etc);
 - (e) parents/other victims may feel that there are no support services available to them in these scenarios;
 - (f) parents/other victims may not want the defendant to end up with a criminal record and may fear that by reporting they would be impacting on the future of the defendant; or,
 - (g) victims may be unaware of the support and services available for the young person.

34. The police should attempt to draw out from the victim the nature of the abuse, and how the perpetrator can be effectively handled. The Evidence Checklist will be useful in these cases to ensure that evidence collation can be maximised. Police officers should pay particular attention to gathering and/or sharing information with other agencies, such as Social Services, as well as from other support organisations where appropriate.
35. It should be noted that it is possible in some familial settings that victims may not support a prosecution, or may withdraw from a prosecution soon after charges are brought. The dynamic between a parent and child may be a determining factor in whether support for the prosecution can be secured.

Same sex, bisexual and transgender (LGBTQ+) individuals

36. The dynamics of violence within relationships involving same-sex, bisexual or transgender, queer/questioning (LGBTQ+) individuals may be similar to those within heterosexual relationships, but there may be additional issues, dynamics and barriers that will require careful consideration by prosecutors.
37. The term 'transgender' has been used to include gender identity, the full spectrum of trans-statuses and gender reassignment.
38. LGBTQ+ individuals may have some pre-existing isolation from family as a result of the individual's sexual orientation or gender identity which may be exploited by an intimate partner.
39. Exploitation and abuse by the perpetrator could manifest in a variety of ways, as explored above through the use of physical or sexual violence, or through controlling or coercive behaviours. A complainant may fear their preferences or relationship choices may be 'outed' by an intimate partner or the perpetrator may use threats of removal of children by the Social Services Department as a means of control.
40. Additionally, where complainant's families are aware of sexual orientation or gender identity, there may be coercive or controlling behaviours used by those family members to deny or hide an individual's sexual or gender identity, such as being forced into marriage, or even being physically abused. Some LGBTQ+ complainants may even be physically abused or forced into marriage by family members in the belief that this may 'rectify' their sexual orientation or gender identity.
41. There may be some complex dynamics involving bisexual and transgender individuals where abuse is taking place in a relationship between members of the same sex, and/or also where the individuals are of different sexes; this may apply to current and previous intimate partners.

42. Prosecutors should consider whether applicable reporting restrictions alleviate worries about the publicity of any court proceedings; this may be particularly helpful where the complainant is fearful of repercussions of their sexual orientation or gender identity being revealed to the wider community, especially where such a disclosure may place them at risk or harm. This may be a more pertinent requirement for LGBTQ+ individuals who also fall into one or more of the other groups identified in this section; for example, if the individual is also from a minority ethnic community where sexual orientation and/or gender identity are not openly discussed or shared.
43. Some complainants may fear homophobic or transphobic reactions from services when reporting incidents, or feel less confident in accessing services they perceive to be more readily available for heterosexual individuals. These fears or previous experiences of negative reactions by the individuals themselves, or others they know, can make it more difficult to report the abuse they may be experiencing. Complainants should be assured they will be treated fairly, in the same way as everyone else and without judgement, and with specialist support to their specific circumstances if further support is required.

Older people

44. Some older people may be vulnerable to domestic abuse as a result of their mental or physical frailty, and/or mental capacity or physical disabilities; however, these are not the only factors which could lead to an older person being abused. Other factors prosecutors may want to consider include:
 - (a) events occurring in later life such as the development of health problems or the retirement of their abuser from work may lead to a victim experiencing abuse or violence, or an increase in such behaviour;
 - (b) changes in life circumstances leading to a shift in the balance of power between intimate partners, or family members, where one individual may wish to retaliate against another, or 'get their own back' after suffering from abuse previously;
 - (c) where the victim is physically impaired or experiencing ill health, abuse may begin as a result of 'care-giver' stress or anxiety;
 - (d) the victim's mental health may also lead to them being more vulnerable and at increased risk of abuse; or,
 - (e) older age can lead to societal or geographical exclusion or isolation which may make a victim more vulnerable to abuse.
45. This is not an exhaustive list, and prosecutors should be mindful that some of these factors may also relate to inter-familial or age-related abuse, and not just abuse between intimate partners.

46. Abuse may be perpetrated on older victims for a number of reasons, and does not necessarily cease or reduce as the victim or abuser gets older. In fact, an older victim may experience more frequent or increased intensity of abuse as they feel they are less able to 'escape' the abuse; additionally, some older people may only start to experience abuse at this stage in their life. Older victims may:
- (a) have grown up in a generation where domestic abuse was acceptable and not 'talked about', or expected to be tolerated as a part of a 'normal' relationship;
 - (b) find themselves in a mutually dependent relationship with their abuser, and as a result may fear that by reporting the abuse and supporting a prosecution, they will be left without a carer or companion, or without any financial support;
 - (c) feel unable to cope leaving their family home and everything they had built up with their partner over the years;
 - (d) have less knowledge of support services available to them, as some may not know how to access the information to find out more, or may be unaware of the services and the support that may be available to them. Some victims may also believe that services are not available to them because of their age;
 - (e) have no financial independence (such as not owning their own bank account or not having their name appear on the mortgage deed to their family home). This financial issue may also escalate to a wider issue, where the victim may not easily be able to prove they have a separate identity to their abuser and fear that they may not be able to support themselves as a result;
 - (f) fear negative reactions they may receive from their family or children and the thought that they may be 'making a fuss at their age'. Victims may also fear reactions from their wider community or ethnic group;
 - (g) want to protect the 'sanctity of marriage' and the privacy of their home life, and not wanting to involve 'outside' parties in their domestic life;
 - (h) have concerns over additional health needs as a result of a disability or impairment, the onset of mental health conditions, or deteriorating ill health; and
 - (i) sometimes simply fear the unknown.
47. The forms of abuse an older victim might experience may also take the form of neglect of care or medication, not just by a partner, but also by a family member.
48. Prosecutors should be alert to the range of issues within this section which may assist with understanding the dynamics of the abuse being experienced by an older victim.

49. For example, older victims with mental health difficulties may experience very different abuse and require very distinct support needs to older victims with full mental and physical capacity, who are a member of particular ethnic community and being abused by a family member. Each case will need to be examined on its own facts and merits to ensure the most appropriate support requirements are identified.
50. Prosecutors and police officers should ensure there are no perceptions or assumptions made about a complainant. More often, older victims fear they will not be believed or fear that criminal justice agencies might think they have fabricated an allegation for attention.

Disability issues - mental and physical

51. Many disabled people face problems of negative attitudes towards either their mental or physical impairment and may often feel or be made to feel isolated. In fact, some victims may be specifically targeted as a result of their mental health condition or physical impairment by the abuser, to exert control and dominance, whether through physical violence, or through less obvious controlling and coercive behaviours.
52. Care should be taken not to victimise a disabled individual further. It is important to recognise the disability related abuse experienced and also how the disability is used to further exploit, manipulate and control the victim.
53. It is well documented that disabled women are more likely to be victims of domestic abuse than male disabled victims. Other issues such as immigration status and ethnic background may also be a victim more vulnerable to abusers.
54. Prosecutors should note disabled victims will experience some of the same physical violence and coercive control that non-disabled victims experience; however, disabled victims may experience other types of abuse as a result of their specific disability.
55. Prosecutors should be aware that some victims may be unwilling to report abuse due to limited access to services, a lack of confidence with managing everyday tasks, low self-esteem, or an enforced dependence on others to carry out those tasks. This social and physical dependence can lead to an increase in a victim's vulnerability to domestic abuse, leaving them with few or no alternatives to escape the violence. These circumstances may be exacerbated further by the possibility that the abuser may also be the victim's carer.
56. Some victims may feel they cannot leave, because, for example, they have limited economic or financial means; they may lack transport; they feel they are responsible for financial and social tensions within the relationship/family; they fear loneliness and think no-one else would want them; they fear losing their independence and having to move into residential care; or they fear losing their children.

57. The early identification of specific support needs is critical. Certain disabilities such as deafness, will require specialist care and attention to ensure that the victim has been properly understood when providing their account of the offending behaviour, and that they are comfortably supported with special measures and other support requirements if attending court. In such cases, it will be important to appoint an independent sign language supporter who can assist the victim, and facilitate communications with criminal justice agencies. Such support is likely to have to be sourced from outside the jurisdiction. In addition, the signer may also need to attend court, it is known that in some cases, perpetrators are able to intimidate or harass the victim in court through signing where others may not understand what they are communicating; the presence of an independent signer may alert the court and others to such further offences if they do take place.
58. Victims with mental health conditions should also be given special care and attention. Victims will require more tailored approaches depending on the level of their mental capacity and/or learning difficulty; this should not be taken to undermine competency as victim or as a witness in court.
59. Prosecutors should also be wary of the distinction between crimes committed against disabled people, and disability hate crime. Prosecutors should also consider the use of intermediaries for some victims.
60. Assisting disabled and vulnerable victims through prosecutions will need to be conducted as a multi-agency approach, to ensure a holistic approach handling such cases of abuse.

Minority ethnic communities

61. Each offence, perpetrator and victim will be very different, and care should be taken to avoid stereotyping the type of abuse that may be suffered by victims from specific ethnic communities.
62. Perceptions or experiences of racism in the criminal justice system and throughout other aspects of society may make it difficult for victims of domestic abuse in minority ethnic communities to report an offence or support a prosecution. Many victims may worry that they may not be believed or that they may not be treated fairly. Additional considerations, such as pressure from within the immediate and extended family and the wider community, together with cultural traditions, may also prevent or delay victims from reporting offences of domestic abuse.
63. Prosecutors should be aware that domestic abuse may take different forms within minority ethnic communities and may not be demonstrated explicitly through physical violence, but rather through controlling or coercive behaviours. Some examples are:
 - (a) honour based violence and forced marriage (as distinct from an arranged marriage, where the marriage is based on free consent);

- (b) dowry-related violence;
 - (c) enforcement of cultural/traditional roles at a young age (e.g. female genital mutilation (FGM); shaving of the head or acid attacks to minimise the female's physical appearance; preventing the victim from finishing education or pursuing a career); and,
 - (d) violence and disowning of the victim by the family or community (for 'shameful behaviour').
64. Such behaviours may be perpetrated by intimate partners and also by family members and/or wider community members.
65. Police and prosecutors should proceed with caution when communicating with the victim about a case. It is highly likely that the victim and perpetrator will be living in the same household. Some cases will be very clearly honour-based, and some will not; others, may also be a combination of both.
66. In some cases of domestic abuse, some offences may be perpetrated by multiple offenders and that despite the conviction of one offender the abusive behaviour may still continue by others who still have access to the victim.
67. The forms of domestic abuse experienced by ethnic minority victims can be triggered by a number of issues, including, but not limited to:
- (a) loss of virginity;
 - (b) being in a 'secret' or what the family perceive as 'unsuitable' relationship;
 - (c) disclosure of rape or sexual abuse;
 - (d) pregnancy (particularly where pregnancy occurs outside marriage, or from a 'secret' or 'unsuitable' relationship) and/or forced abortion or termination of pregnancy; or
 - (e) lifestyle (alcohol or sexual activity) being revealed.
68. In some minority groups, women may become more vulnerable and fear leaving their abuser because they may be unable to speak or understand English to a confident level and may therefore feel unable to access the support that is needed. This lack of confidence may be exploited by abusers, especially in scenarios between intimate partners where threats may be made to have children taken into care. The same methods of manipulation may be used to suggest that the victim is suffering from mental health issues, where she/he may not be.

69. It is therefore important that prosecutors obtain as much information from the police, and with the assistance of specialist groups where available, to understand the nature of abuse experienced by the victim, and to enable identification of the support needs required by them.
70. Cultural or religious beliefs may also be a deterrent for victims coming forward; victims may be made to feel ashamed by their community, or may fear isolation by the community. Additionally, community leaders or faith leaders in some cultures or ethnic groups may play the role of a mediator and discourage the victim from reporting. Prosecutors should be sensitive to cultural and religious practices but not where the practices are an excuse or cover for domestic abuse.
71. Police and prosecutors should be aware of community courts/arbitration forums in some communities and these should not be used as an alternative to criminal proceedings. Some perpetrators may use these mechanisms to make a case for staying with their partner, thereby enabling the abuse to be continued. Prosecutors should refer to specialist support services and organisations where required to ensure that a proper understanding of such practices is obtained, and that any risks to victims are properly identified.
72. Prosecutors should ensure that family members do not act as interpreters for those who do not have a competent or confident understanding of English. Victims may request an interpreter of the same sex and this should be arranged so far as is possible. Prosecutors should also bear in mind that written communication may also be difficult for a victim to understand, and translators may be required in these circumstances.
73. Interpreters from within the victim's or perpetrator's community group should also be avoided as this may place victims at further risk of violence. Community members may discover the victim's recourse through the criminal justice system and may put the victim at further risk in an attempt not to bring shame on the family or community. The element of shame may also result in increased pressure for the victim to withdraw from a prosecution.

Individuals involved in prostitution

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

75. It should be recognised that some victims may fear coming forward as a result of their circumstances and the possibility of already being known to the police. Continuing with a prosecution may place a victim at further risk from their 'pimp' or partner. As a result, victims may be more likely to support a prosecution if there are arrangements made to ensure their safety.
76. Regardless of safety measures put in place, victims involved in prostitution may decide to withdraw their support for a prosecution; it is essential that if a prosecution continues that these safety considerations remain in place. The police should conduct risk assessments around the risks to the victim and what further risks may be revealed if for example, the victim is compelled to give evidence by witness summons.

Immigrants, refugees and asylum seekers

77. There will be a number of victims with insecure immigration status. Immigrants will experience many barriers to reporting domestic abuse; in fact, an individual's immigration status may be used as a vulnerability to perpetrate abuse by the defendant. Victims may find themselves being unable to leave their situation for fear of having their permission to remain removed and a lack of support or knowledge of services available.
78. Victims may also suffer abuse by multiple defendants, such as a main offender, and their family members. It is possible that in such circumstances, victims may be forced into domestic servitude as part of the control and manipulation exerted by some perpetrators.

Court Orders and Family Proceedings

1. The police should check to establish whether there are any concurrent civil proceedings past, current or pending. Civil proceedings do not mean that criminal proceedings cannot be commenced or continued. Prosecutors should alert the court to any proposed orders that may conflict with existing civil orders. For example, a bail condition imposed in the criminal court prohibiting contact between the perpetrator and victim may conflict with an order the perpetrator has obtained allowing contact with their children.
2. Prosecutors should be aware of the options open to victims and other agencies under civil procedures so that a comprehensive approach may be taken in safeguarding and supporting victims, and more so, when proceedings are concurrent in the civil and criminal jurisdictions. Where prosecutors are aware that civil and criminal proceedings are taking place at the same time, prosecutors should ensure that the courts have the appropriate information to enable them to make orders that prioritise the safety of victims, children and young people.

Court orders commonly used in cases of domestic abuse

3. A number of court orders may be used in the criminal, civil or family courts. These are as follows:

Domestic Abuse Protection Notices and Orders

4. A Domestic Abuse Protection Notice (DAPNs) provides the police with the power to provide immediate protection to victims against alleged domestic abuse perpetrators in circumstances where the police consider there are no enforceable restrictions that can be placed on the defendant (e.g. where there is insufficient evidence to arrest and bail). DAPNs only have effect for 48 hours after which an application has to be made by the Attorney General for a Domestic Abuse Protection Order (DAPO).

Injunctions

5. Harassment is a tort for which a complainant can bring private proceedings and seek to obtain an injunction in the civil courts. Injunctions cannot be applied for by prosecutors on behalf of a complainant as they are civil in nature.

Non-molestation Orders

6. Non-molestation orders are civil orders that can be made by the family courts. Prosecutors cannot apply for non-molestation orders because they are civil in nature. It is the case, however, that breaching a non-molestation order is a criminal offence.

Restraining Orders

7. Prosecutors can make an application to the court on either the conviction or acquittal of the defendant for a restraining order. Careful consideration should be made with such applications and where possible, the wishes of the victim need to be considered.
8. Whilst the application of a restraining order may not be appropriate in all cases, prosecutors are advised to consider whether an application would be suitable for each case, on a case by case basis, and in particular to ensure that a victim is kept safe. This will be particularly important where the victim and perpetrator are in a continuing relationship, or where they attend the same workplace, school/college/university, and where child contact arrangements need to be considered.
9. Prosecutors should ensure that appropriate terms are considered that cover abuse that may be perpetrated in ways other than by direct personal contact between the complainant and offender. For example, it is important to recognise the effect that the offender's family or friends or peers may have on the victim. Abuse perpetrated through social media should also be considered.
10. Whilst not every scenario can be accounted for it is important that prosecutors consider the best ways to keep the victim away from further abuse and further risk of harm, for example, behaviours such as intimidation, stalking and harassment.

Obtaining and using documents and information from family proceedings

11. Prosecutors may need to obtain information or documents that pertain to family proceedings. This information may be crucial to the decision to charge; the nature of the charge; bail conditions; applications in respect to witnesses; and the admissibility or otherwise of bad character and hearsay evidence. Prosecutors may be made aware of the existence of relevant material by:
 - (a) the police who may have obtained the material from the local authority or elsewhere in line with their child protection duties; and
 - (b) the local authority may contact the prosecutor to make them aware of relevant material.
12. Prosecutors should obtain the permission of the Family Court to use such material in prosecution proceedings, via the police; not seeking permission may result in contempt of court in the Family Court proceedings.

Annex

Evidence Checklist

Examples of evidence other than the complainants witness statement

- **999 Call**
- **Photographs**; of scene and injuries (taken over time as injuries develop)
- **Admissions**; at scene, arrest, interview
- **Medical evidence**; signed consent form required; medical records and exhibits
- **Other statements**; eye witnesses, neighbours following house to house enquiries, children, attending officers (to include visible injuries, signs of struggle, disposition of victim/offender, IDs of other persons present) and other witnesses
- **Visually recorded footage**; CCTV and bodycam footage (if relevant/available)
- **History**; relevant information from police records, previous allegations, call outs, convictions etc.
- **Court orders**; history and any breach of orders (including family and civil orders)
- **DAPN or DAPO**; history of proceedings and details etc.
- **Previous risk assessments**
- **Civil or family proceedings**; relevant information
- **Third party contact**; whether victim has been contacted by suspect/friends/family
- **Children**; information in relation to children, whereabouts of children during incident (include relation to victim/defendant and age), social services information

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