

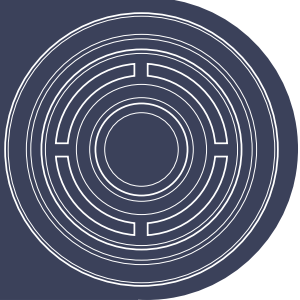


NO EXCUSE

PUBLIC PROTECTION INSPECTION II:
A THEMATIC INSPECTION OF THE HANDLING OF
DOMESTIC VIOLENCE AND ABUSE CASES BY THE
CRIMINAL JUSTICE SYSTEM IN NORTHERN IRELAND

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Laid before the Northern Ireland Assembly under Section 49(2) of the Justice (Northern Ireland) Act 2002 (as amended by paragraph 7(2) of Schedule 13 to The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010) by the Department of Justice.

June 2019





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List of abbreviations

ABE	Achieving Best Evidence (interview technique)
CJI	Criminal Justice Inspection Northern Ireland
CPS	Crown Prosecution Service
DAAS	Domestic Abuse and Adult Safeguarding (role in PSNI)
DoH	Department of Health
DoJ	Department of Justice
HMCPSI	Her Majesty's Crown Prosecution Service Inspectorate
HMICFRS	Her Majesty's Inspectorate of Constabulary and Fire and Rescue Services (formerly Her Majesty's Inspectorate of Constabulary; HMIC)
IDVA	Independent Domestic Violence Advisor Service
LGBT	Lesbian, Gay, Bisexual and Transgender
MARAC	Multi-Agency Risk Assessment Conference
NI	Northern Ireland
NICTS	Northern Ireland Courts and Tribunals Service
PBNI	Probation Board for Northern Ireland
PCSP	Policing and Community Safety Partnership
PEEL	Policing Effectiveness, Efficiency and Legitimacy inspection programme (HMIC/HMICFRS)
PPS	Public Prosecution Service for Northern Ireland
PSNI	Police Service of Northern Ireland
UK	United Kingdom

Terminology

'Domestic'

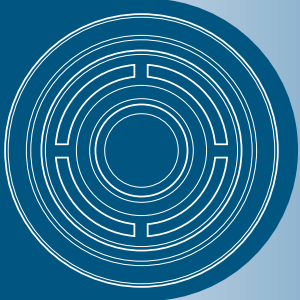
In undertaking this inspection CJI used the context of 'domestic' as outlined in the Department of Health (DoH)/Department of Justice (DoJ) Strategy; i.e. a current or former intimate partner or family member.

'Violence and abuse'

In undertaking this inspection CJI mirrors the use of the terms 'domestic violence' and 'domestic abuse' as outlined in the Department of Health (DoH)/Department of Justice (DoJ) Strategy; that is intended to encompass all forms of abusive behaviour.

'Victim'

Similarly CJI uses the term 'victim' to describe anyone who has been subjected to a offence in a domestic context but this also encompasses anyone described as a 'survivor', 'injured party' or 'complainant'.



Chief Inspector's Foreword

Domestic Violence and Abuse can occur within any human relationship and transcends gender, class, religion, race, age, disability or sexuality. The global demand for equality, particularly for women and children, has led to increased legal protections and an expectation that law enforcement agencies will respond effectively and ensure that perpetrators are identified and brought to justice. Sustained political and social pressures demand improvements be made.

This is the third inspection we have conducted of this issue, such is its importance. Progress has been made as a result of the prioritisation of serious cases and protections provided through the Multi Agency Risk Assessment Committees (MARACs), which shows the positive impact that can be achieved when agencies work together. The support provided to victims and their families by the voluntary and community sector has increased. But the unstable funding environment which currently exists leaves their contribution at risk and as a result, a properly funded Independent Domestic Violence Advisor Service (IDVA) which works so effectively in other jurisdictions has still not been established in Northern Ireland nine years after it was first recommended.

More victims are reporting crimes of domestic violence and abuse and we are at last beginning to understand the true extent of the challenge.

It is therefore incumbent on the criminal justice system to ensure that everything possible can be done to support those victims who seek, or those crimes which demand, a criminal justice sanction.

Abuse can take many forms and can be both enabled and exacerbated by the use of technology and social media. The need for greater legislative protections to address the issue of coercive control has already been accepted, and work has begun, but the introduction of new laws will be delayed until a devolved government is restored or legislation is introduced in Parliament. The systemic failure to deliver faster, fairer justice in Northern Ireland only adds to the levels of attrition normally associated with these crimes and the frustration that victims may feel. The need for a response from a functioning legislature is critical.



Harnessing the commitment and good intent of the criminal justice agencies despite the legislative deficit and raising their response to domestic violence and abuse to the next level is both desired and achievable. We have referred to how enhanced training now available to first responders in other jurisdictions has made a positive difference and the impact that a properly resourced IDVA service can have in supporting victims and their families to ensure they are safeguarded from further harm.

We must take the appropriate steps to turn the positive rhetoric and desire for change into reality and I believe the strategic and operational recommendations made in this report will, if implemented, assist in delivering significant improvements.

This inspection was led by Rachel Lindsay, David MacAnulty and Roisin Devlin. I am grateful for the assistance received from Her Majesty's Inspectorate of Constabulary and Fire and Rescue Services (HMICFRS) and Her Majesty's Crown Prosecution Service Inspectorate (HMCPIS), particularly Di Hurlley, in conducting this inspection. I am also grateful to all those victims and survivors of domestic violence and abuse who shared their experiences of the criminal justice system with us.

Brendan McGuigan CBE
Chief Inspector of Criminal Justice
in Northern Ireland

June 2019





Executive Summary

The issue of domestic violence and abuse in Northern Ireland (NI)

Domestic abuse covers a range of behaviours which range from persistent and unwanted contact via telephone calls, text messages and harassing behaviour through to physical assaults and ultimately, in the worst cases, death by homicide. Domestic abuse occurs between partners, ex-partners, (step-) parents and (step-) children, siblings and grandparents and grandchildren. It affects people from every background with particular issues faced by women, men, children, older people, people with disabilities, lesbian, gay, bisexual and transsexual people (LGBT) and people from ethnic minorities.

In 2017-18 the Police Service of Northern Ireland (PSNI) recorded the highest level of domestic abuse incidents¹ and crimes since the data series began in 2004-05². The 29,913 domestic abuse incidents equated to one reported domestic abuse incident approximately every 17 minutes. Of these incidents, 14,560 were crimes with just under three quarters recorded as violence against the person. In 2017-18 there were 23

murders in total in Northern Ireland, of which 11 occurred in a domestic context (four of which related to one family). Over the last 10 years there have been an average of six domestic homicides per year. The Northern Ireland Crime Survey suggests at least one in 25 adults experienced domestic abuse in the last three years³.

In terms of outcomes recorded by the police, three in five offences committed in a domestic context did not progress to prosecution due to evidential difficulties and in more than two fifths, the victim did not wish to engage with/support or continue to support the criminal justice process. Data collected for this inspection suggests that around a third of cases did not meet the evidential or public interest tests required to proceed to a prosecution and just under a third resulted in a conviction at court. This inspection considered the approach of the criminal justice system in handling cases of domestic violence and abuse.

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- 1 All incidents reported to the police are recorded in accordance with the National Standard for Incident Recording, which sets out a common approach to be followed in classifying the broad range of calls for service the police receive from the general public. In many cases these incidents may be crimes in law, such as disorderly behaviour or many road traffic offences, but they are not of a level of severity that would result in the recording of a notifiable crime. Thus, they are not included in the main police recorded crime dataset.
 - 2 PSNI, *Trends in Domestic Abuse Incidents and Crimes Recorded by the Police in Northern Ireland 2004-05 to 2017-18: Annual Bulletin published 31 October 2018*. Available online at: <https://www.psni.police.uk/globalassets/inside-the-psni/our-statistics/domestic-abuse-statistics/documents/domestic-abuse-incidents-and-crimes-in-northern-ireland-2004-05-to-2017-18.pdf>
 - 3 Campbell, P and Rice, A., Department of Justice Analytical Services Group, *Experience of Domestic Violence: Findings from the 2011-12 to the 2015-16 Northern Ireland Crime Surveys, Research and Statistical Bulletin 17/2017, June 2017*, Available online at: <https://www.justice-ni.gov.uk/publications/r-s-bulletin-172017-experience-domestic-violence-findings-201112-201516-northern-ireland-crime>



Strategy, governance and prevention

The Departments of Justice (DoJ) and Health (DoH) had published '*Stopping Domestic and Sexual Violence and Abuse in Northern Ireland: A seven year strategy*' in March 2016⁴. Several other governmental strategies and criminal justice agency organisational and business plans had specific objectives which referenced domestic abuse. There had been a focus on domestic abuse by the Minister and Committee for Justice prior to the dissolution of the Northern Ireland Assembly (in early 2017), with legislation and guidance being discussed or developed for a domestic abuse offence, stalking, domestic violence protection orders, domestic violence and abuse disclosure scheme and domestic homicide reviews. The PSNI had welcomed these developments and worked with the DoJ to move forward with this legislative reform programme and the implementation of initiatives, even in the absence of an Assembly. Legislation for dealing with reports of choking was problematic and would benefit from a review. With further legislation required, the implementation of domestic violence protection orders had been delayed but Inspectors recommend that the DoJ should also develop legislation for protection orders for stalking and harassment. The PSNI, DoJ and Policing and Community Safety Partnerships (PCSPs) were also involved in preventative and awareness raising around domestic violence and abuse, particularly using seasonal campaigns.

First response, risk assessment and multi-agency safeguarding

The creation of C7 Public Protection Branch by the PSNI in 2015 had brought together officers in public protection roles and the new role of Domestic Abuse and Adult Safeguarding

(DAAS) officer had been created. The work of domestic abuse policing had been determined to be a specialist detective role and officers had undergone the appropriate development programme to deal with serious and complex investigations. All officers received several inputs on domestic offences via the Foundation Training programme and a selection of officers from Local Policing Teams had also received enhanced domestic abuse training, although feedback to Inspectors suggested its impact was limited⁵. Harassment and stalking were also covered in Foundation Training. Inspectors found some evidence of issues in the approach to dealing with lower level offences and coercive and controlling behaviours, albeit that, given the lack of a domestic abuse offence and a stalking offence at the time of the inspection, these could only form evidence of the offence of harassment or as the background to a domestic history. In England and Wales and Scotland the *Domestic Abuse Matters* programme was being rolled out and had shown positive results in addressing these issues.

The response to calls for service appeared from discussions with victims, police officers and staff and case files reviewed by CJI to be timely and effective, although the volume of cases required the allocation of a significant proportion of local police resources. The results of the case file review indicated that the initial and ongoing risk assessment in domestic cases could be improved. A key issue in this risk assessment was the use of the DASH⁶ risk checklist; the PSNI had a high completion rate of these checklists but the quality of the completed forms had been noted as a cause for concern with inconsistent supervision of the content of the form. Issues raised with the DASH checklist itself are not unique to Northern Ireland and the College of

4 Available online: <https://www.justice-ni.gov.uk/sites/default/files/publications/DoJ/stopping-domestic-sexual-violence-ni.pdf>

5 A further two-hour training package had been provided to all Local Policing Team officers subsequent to the conclusion of the fieldwork of this inspection.

6 DASH stands for Domestic Abuse, Stalking and Honour-based violence.

Policing was piloting a revised risk assessment tool. The PSNI should follow the progress of this new form and implement it at an appropriate time. Information from DASH forms was shared with the Public Prosecution Service for Northern Ireland (PPS) when requested, but there appeared to be some inconsistencies in the application of policy⁷. Criminal Justice Inspection Northern Ireland (CJI) recommend that the PSNI produce an implementation plan to further develop its approach to dealing with cases of domestic violence and abuse. This should address the issues highlighted in this report in relation to both the training and development of new recruits and first responders in the areas of harassment, stalking and coercive and controlling behaviour and in the risk assessment of cases of domestic violence and abuse. The PSNI was an active partner in the Multi-Agency Risk Assessment Conference (MARAC) process, both chairing the meetings and providing administrative and co-ordination support. Some issues had been raised in reviews of MARAC against SafeLives⁸ principles and recommendations made to all multi-agency partners for improvement. These issues did not appear to have been addressed by the MARAC Operational Group or via any other governance arrangements. It is recommended that the PSNI and new MARAC Operational Board develop an implementation plan to further develop the management of safeguarding arrangements.

Police investigation and case building

There was evidence that investigations were carried out in a timely fashion in three-quarters of cases, although overall the findings from the file review suggest that improvements could be made in the PSNI's approach to the investigation

of domestic abuse cases in between a quarter and a third of cases. Body-worn video had been rolled out and had provided valuable evidence in some cases, although there were technical issues which could cause delays in the prosecution.

With the need for further legislation to fully implement Domestic Violence Protection Orders and Notices, there continued to be a reliance on non-molestation orders, applied for by victims, to deal with harassment and lower level coercive behaviour. There was a positive duty of arrest within the PSNI in relation to cases of domestic abuse but in some cases, the use of voluntary interviews where an arrest was not carried out had the potential to delay the progress of the case.

In the police case file sample in nearly two-thirds of cases the victim did not support the investigation and prosecution, with over a third of these not supporting it from the outset. Police took a victim statement in a timely manner in the majority of cases. In nearly half the cases there was evidence the victim was a repeat victim. The submission of the prosecution file to the PPS was in accordance with the PSNI's time limits in four-fifths of cases. Overall the file review indicated that just under a third of cases resulted in a charge or summons but in a third evidential difficulties prevented further action where the victim did not support the police action (in gathering evidence for a prosecution file).

There was evidence of governance and management oversight in district policing in relation to domestic abuse cases, particularly in relation to morning meetings. However in some cases in the police file review, Inspectors found there to be issues with the supervision

7 PSNI and PPS advised that they were reviewing the Service Level Agreement relating to domestic violence and abuse cases including processes regarding DASH form information at the time of drafting this report.

8 *SafeLives* are a national charity working to end domestic abuse which among other activities they provide resources and training for MARACs and IDVAs. They have produced a report detailing the 10 principles of an effective MARAC which they have identified. It can be viewed online at <http://www.safelives.org.uk/sites/default/files/resources/The%20principles%20of%20an%20effective%20MARAC%20FINAL.pdf>



of the work of individual officers in relation to some aspects of the case. These findings were in keeping with CJl's other work in this area and shows that there is still work to be done to address inconsistencies in supervision.

PPS decision making and case-building

Decision-making and prosecution in domestic abuse cases was split across the two PPS regions and the Serious Crime Unit. The PPS Policy for Prosecuting Cases of Domestic Violence had not been updated since 2006 although a guidance document was issued during the fieldwork for this inspection. Training had also been delivered in relation to this guidance. Just over a third of cases in which a decision was made in relation to suspects which were flagged by the PPS as having a 'domestic violence motivation' resulted in a prosecution decision in 2016-17, although this was a fall from two-fifths of cases in 2015-16. Predominantly the reason for this decision was a lack of evidence to support the prosecution. The Code for Prosecutors was assessed to be applied correctly in most cases but Inspectors found there were improvements needed in the application of the Public Interest Test and the Policy for Prosecuting Cases of Domestic Violence. The contents of the DASH form should be a valuable source of risk information for the prosecutor but there were inconsistencies in the sharing of information with the prosecutor by the police. Inspectors recommend that the PSNI and the PPS further develop the prosecution team approach for cases of domestic abuse.

In common with previous reports and CJl's inspection of sexual violence and abuse⁹ record-keeping by prosecutors required improvement. Similarly victim communication, particularly in written format, requires further attention.

In general most of these types of cases were dealt with in a timely fashion and progressed effectively.

Trial and court process

The specialist domestic violence listing in Londonderry Magistrates' Court had been in operation for a number of years, but no such similar arrangement had been rolled out in other courts in Northern Ireland. A court mandated perpetrator programme was being developed at the time of the fieldwork to be piloted in the Londonderry Magistrates' Court. The lack of roll-out of the listing arrangement is considered to be a missed opportunity when the benefits of domestic cases being clustered to a specialist court have been seen elsewhere in the United Kingdom (UK). In the prosecution file sample the time of the case from receipt of the file by the PPS to the eventual outcome was under 51 days in three-quarters of cases. Medical reports were cited as a cause of delay and, in response to a previous CJl recommendation, the PSNI and the PPS were working with Health and Social Care Trusts to address this.

Figures indicated that guilty pleas for domestic cases were low compared to overall figures. Delays in the criminal justice process increases the likelihood that the victim will withdraw support for the prosecution case. In common with other CJl reports disclosure was not handled well in most cases. Issues were also apparent for victims and witnesses at court including the facilities available and likelihood of being in close proximity to the defendant or their supporters. The need to ensure victims are able to give their best evidence at court is critical to successful outcomes. There needs to be a further review of the use of special measures for victims of

⁹ CJl, *Without Witness, Public Protection Inspection I: A thematic inspection of the handling of sexual violence and abuse cases by the criminal justice system in Northern Ireland, November 2018*. Available online at: <http://www.cjini.org/TheInspections/Inspection-Reports/2018/October-December/Sexual-Violence>

domestic abuse to ensure the Victim Charter¹⁰ is complied with.

The perpetrator programme for those who were willing to plead guilty was being piloted at Londonderry Magistrates' Court but, at the time of the inspection, there was limited provision for non-adjudicated perpetrators. Restraining orders appeared to be considered and applied for in some cases in the police file review. In cases in the prosecution file review, there was no evidence of restraining orders being considered.

The experiences of victims and their supporters

Victims highlighted the support received from support organisations, such as Women's Aid and Victim Support, as vital to them before and during the criminal justice process. Positive relationships had been developed between the police and victim supporters but lack of funding meant the availability and success of these was inconsistent. The lack of funding for, and implementation of, an Independent Domestic Violence Advisor (IDVA) scheme continued to be a significant issue for both victims and their supporters as well as criminal justice organisations and their partners. This was concerning particularly given the clear evidence reported in other parts of the UK of their impact for victims in terms of risk reduction and increase in safety, as well as the economic benefits. The processes and procedures of the criminal justice system impacted on victims both emotionally and practically, particularly where they were also involved in the civil justice system regarding non-molestation orders or over child contact. In addition the perceived and real need for victims to engage a solicitor to assist them (either to help them understand the criminal justice process or

to apply for a non-molestation order) placed a financial burden on some victims, thus enabling the perpetrator to continue to financially abuse them.

Victim supporters advised that the police response had improved since CJJ's last inspection although the reduction in police resources was noted in some areas. The response of individual officers, whilst having improved overall, could still be inconsistent, particularly where victims reported harassment, controlling behaviour or perceived breaches of non-molestation orders. This was also borne out in the views about the approach to the investigation of cases viewed by police as lower risk. The approach to the taking of statements and video interviews however was mostly positive.

Victims and their supporters generally viewed the prosecution and court stages as requiring improvement. Issues were raised in relation to delays in the process, late adjournments at court, and lengthy waits at court and inadequate court facilities. Whilst the views of supporters about the Londonderry Magistrates' Court domestic violence pilot listing arrangement were positive, concerns were raised that this had not been rolled out to other areas. Limited or inaccessible communication from the PPS during the decision-making process and at court, was also raised as a concern for victims.

Additional difficulties and the need for extra support during the criminal justice process were also identified for victims from particular groups, for example older victims, children, male victims, LGBT victims, Black and Ethnic Minority victims and victims with disabilities. The need for tailored support for individuals from particular groups to ensure barriers to reporting are reduced is clear.

10 The Victim Charter published in 2015, set out how victims of crime should be treated and what advice, support and practical information they could expect to receive. This listed the support and information standards a victim could expect from the justice system. The document is available online at: <https://www.justice-ni.gov.uk/sites/default/files/publications/doj/victim-charter-summary-oct-2015.pdf>



Recommendations

Strategic recommendations

1

The PSNI should develop an action plan, within six months of this report, to further develop the approach to dealing with cases of domestic violence and abuse and address the issues highlighted in relation to:

- the training and development of new recruits and first responders in the areas of harassment, stalking and coercive and controlling behaviour; and
- the risk assessment practices in cases of domestic violence and abuse (paragraph 3.47).

2

The PSNI and MARAC Operational Board should develop an action plan, within six months of this report, to further develop the multi-agency safeguarding arrangements for cases of domestic violence and abuse in Northern Ireland (paragraph 3.64).

3

The PSNI and the PPS should develop an implementation plan to further develop the prosecution team approach for cases involving domestic abuse or with a domestic motivation within three months of this report (paragraph 5.19).

4

The Criminal Justice Board, in conjunction with its partners, should, in the nine months following the publication of this report, ensure the delivery and roll out of Northern Ireland-wide schemes to enhance the criminal justice system's approach to domestic violence and abuse, in relation to:

- where volume is assessed to be sufficient, providing services to enable the clustering of domestic abuse cases to a designated court in each Administrative Court Division; and
- a properly costed contract for an IDVA service to address the safety of victims at high risk of harm (paragraph 7.12).

Operational recommendations

1


The DoJ should review, with input from relevant stakeholders, how potential inadequacies in current legislation regarding the act of choking or strangulation by defendants could be addressed (paragraph 2.17).

2

The DoJ should develop plans for and consult upon legislation to introduce protection orders for stalking and harassment (paragraph 2.19).

3

The PPS, with support from criminal justice partners, should review the use of special measures in cases of domestic abuse to assess compliance with paragraph 48 of the Victim Charter and take action to address any issues arising (paragraph 6.24).



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