

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

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 an 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.

- 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).



Inspection Report



Introduction

Context

- 1.1 This is CJJ's first full inspection of the criminal justice system's approach to domestic violence and abuse since its thematic inspection in 2010¹¹. Mindful of its previous findings and recommendations Inspectors examined afresh the system's strategic approach to domestic abuse, the delivery of this by its agencies and the impact felt by victims and supporting organisations. This report presents CJJ's findings specific to domestic violence and abuse. Findings relating to the system's response to sexual violence and abuse, which was inspected concurrently, were published in CJJ's *'Without Witness'* report in November 2018¹². Where there is overlap or intersection in each report's findings appropriate references are made.

What is domestic violence and abuse?

- 1.2 In March 2016, the DoJ and DoH published a seven year joint strategy *'Stopping Domestic and Sexual Violence and Abuse in Northern Ireland'*¹³. The joint approach was explained in the Strategy's acknowledgement that while domestic and sexual violence and abuse are not the same, a similar approach to prevention is often warranted. Domestic violence and abuse was defined as *'Threatening, controlling, coercive behaviour, violence or abuse (psychological, virtual, physical, verbal, sexual, financial or emotional) inflicted on anyone (irrespective of age, ethnicity, religion, gender, gender identity, sexual orientation or any form of disability) by a current or former intimate partner or family member.'*
- 1.3 Unlike the previous Strategy's definition, control and coercion had been included to better reflect the patterns of behaviour known to form part of domestic violence and abuse. It is not a statutory definition, as one did not exist at the time of this inspection. All relevant sectors were asked to use this updated definition in their work. The Strategy's ultimate vision was 'zero tolerance' by society of domestic and sexual violence and abuse in any form.

11 CJJ, *Domestic violence and abuse: A thematic inspection of the handling of domestic violence and abuse cases by the criminal justice system in Northern Ireland, December 2010*. Available online at: <http://www.cjini.org/getattachment/1b651b43-657b-471b-b320-101fca7c6930/Domestic-Violence-and-Abuse.aspx>

12 CJJ, *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>

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

International, UK and Republic of Ireland focus on sexual violence and abuse

- 1.4 The focus internationally regarding domestic violence and abuse has tended to be on violence against women and girls. The World Health Organisation notes that *'violence against women - particularly intimate partner violence and sexual violence - is a major public health problem and a violation of women's human rights'*¹⁴. The United Nations also notes¹⁵ that *'violence against women and girls is a grave violation of human rights. Its impact ranges from immediate to long-term multiple physical, sexual and mental consequences for women and girls, including death. It negatively affects women's general well-being and prevents women from fully participating in society. Violence not only has negative consequences for women but also their families, the community and the country at large. It has tremendous costs, from greater health care and legal expenses and losses in productivity, impacting national budgets and overall development.'*
- 1.5 Similarly in England, Wales and Scotland the focus has been on violence against women and girls. The first Home Office strategy was published in 2010 and in March 2016 the *'Ending Violence against women and girls strategy: 2016 to 2020'* was published¹⁶. In Scotland a strategy to prevent and eradicate violence against women and girls was also published in March 2016 entitled *'Equally Safe'*¹⁷. In the Republic of Ireland the second national strategy on domestic, sexual and gender based violence was published in 2016¹⁸.
- 1.6 As part of this inspection CJI Inspectors visited the Scottish Violence Reduction Unit who were involved in a number of preventative initiatives to address domestic abuse. This included projects to engage with victims of domestic violence in emergency departments, training for those who may interact with domestic abuse victims in their daily life (for example, vets, hairdressers, firefighters) to spot the signs of abuse and offer help and support and the Mentors in Violence Prevention model; a tool to help tackle date rape, dating violence, sexual harassment and bullying.

The prevalence and nature of domestic violence and abuse

- 1.7 Domestic violence and abuse is a global problem. The World Health Organisation reports that 35% of women worldwide experience either physical and/or sexual intimate partner violence or non-partner sexual violence in their lifetime and that more than 50% of physically abused women reported that they had never sought help from formal services or authority figures¹⁹. Globally the World Health Organisation also reports that as many as 38% of murders of women are committed by a male intimate partner²⁰.

14 World Health Organisation, *Violence against women: Key facts*, November 2017. Available online at: <http://www.who.int/news-room/factsheets/detail/violence-against-women>

15 United Nations, *What we do: ending violence against women*, UN website. Available online at: <http://www.unwomen.org/en/what-we-do/ending-violence-against-women>

16 Home Office, *Ending violence against women and girls: Strategy 2016 to 2020*, March 2016. Available online at: <https://www.gov.uk/government/publications/strategy-to-end-violence-against-women-and-girls-2016-to-2020>

17 Scottish Government, *Equally safe: Scotland's strategy for preventing and eradicating violence against women and girls*, March 2016. Available online at: <https://blogs.gov.scot/equally-safe/wp-content/uploads/sites/18/2016/03/ES-update-18-April1.pdf>

18 Available online at <http://www.cosc.ie/en/COSC/Second%20National%20Strategy.pdf/Files/Second%20National%20Strategy.pdf>

19 See World Health Organisation website: http://www.who.int/violence_injury_prevention/violence/sexual/en/

20 See World Health Organisation website: <http://www.who.int/mediacentre/factsheets/fs239/en/>

- 1.8 Domestic abuse has a significant and lasting impact on victims and their families. A 2017-18 consultation with 150 women using Women's Aid services in Northern Ireland noted that *'Women's lives and those of their children are devastated by the violence and abuse'*.²¹ In terms of its impact, many had reported *'...the coercive control elements of their abuse much harder to endure - and more difficult to recover from - than the physical violence'*. Recorded crime does not reflect this part of domestic abuse as, at the time of the inspection, there was no coercive control offence in Northern Ireland, although a draft Bill to provide for a new domestic abuse offence had been materially prepared.
- 1.9 Statistics published by the PSNI regarding domestic abuse show steadily increasing levels of domestic incidents and crimes over the past 13 years²². In 2017-18 the PSNI recorded the highest level of domestic abuse incidents and crimes since the data series began in 2004-05. The 29,913 domestic abuse incidents reflected an increase of over two-fifths on the 20,959 recorded in 2004-05 and equated to one reported domestic abuse incident approximately every 17 minutes. Of these incidents, 14,560 were crimes with just under three quarters (72%) recorded as violence against the person (including violence without injury, violence with injury and murder). These figures showed an increase since 2016-17 when 29,166 incidents and 13,930 crimes were recorded.
- 1.10 In 2016-17 there were three murders in Northern Ireland which occurred in a domestic context (two female and one male victims) (out of a total of 12 murders in total). In 2017-18 this had increased to 11 domestic murders (seven female and four male) (out of a total of 23 murders in total). Of these murders four involved victims who were partners or ex-partners of the offender whereas seven involved victims in other family relationships (e.g. parents and children, siblings etc.). Four of these murders related to one family. Over the last 10 years there have been an average of six domestic homicides²³ per year.
- 1.11 Across the rest of the UK there was a similar picture in terms of increasing rates of domestic abuse (official data was not available on domestic abuse in the Republic of Ireland). It should be noted that figures across the three jurisdictions are not directly comparable; in Scotland the definition of domestic abuse used by Police Scotland does not include family members, with data collected only including domestic abuse between partners or ex-partners; in England and Wales police data on domestic abuse includes that by other family members but only includes those aged 16 years or older; Northern Ireland figures include victims aged under 16 as well as family members:

21 Women's Aid Federation Northern Ireland, *Women's Aid Northern Ireland: Violence against Women Consultation with victims, survivors & service users 2017-18, March 2018*. Available online at: <https://www.womensaidni.org/assets/uploads/2018/05/WA-Consultation-with-Victims.pdf>

22 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>

23 Homicide includes murder, manslaughter, infanticide and corporate manslaughter

- in 2017-18 in Scotland there were 59,541 domestic incidents recorded (an increase of 1% from 2016-17), of which 26,273 were recorded as a crime or offence²⁴. In 2017-18 there were nine domestic homicides in Scotland;
- in England and Wales there were 1,198,094 domestic abuse-related incidents and crimes recorded by the police in England and Wales in the year ending March 2018 of which 599,549 were recorded as offences (an increase from 488,049 recorded domestic abuse-related offences in 2016-17)²⁵. In England and Wales domestic homicides are reported on over a three year period. Between April 2014 and March 2017 there were 400 domestic homicides recorded by the police; and
- figures reporting the number of domestic abuse incidents and crimes per 1,000 of the population show slightly higher levels in England and Wales (22 and 10 respectively²⁶) than in Northern Ireland (16 and 8 respectively) (Scottish figures are not included here due to the definitional differences highlighted above).

1.12 As not all experiences of domestic violence and abuse are reported to the police, the Northern Ireland Crime Survey is considered a more complete measure of its prevalence (based on people's self-reports of victimisation). The 2015-16 survey²⁷ showed at least one in 25 adults experienced partner abuse in the last three years, a rate similar to 2013-14 and 2014-15. Abuse by a family member other than a partner in the last three years was reported by 2.4% of adults similar to the 2014-15 rates. The rise in incidents recorded by the PSNI may therefore in part reflect increased confidence among victims to report their experiences. It also demonstrated a considerable problem of domestic violence and abuse in Northern Ireland that merited significant focus and attention. The recent report by CJI on sexual violence and abuse highlighted the significant workload of the criminal justice system in Northern Ireland, particularly the police and prosecution service, which relates to sexual and domestic violence and abuse²⁸.

1.13 Domestic violence and abuse most often occurs in intimate relationships. PSNI recorded figures for 2015-16 showed a partner or former partner was involved in 61% of domestic abuse crimes where the victim-offender relationship was known. However, with 26% of the domestic abuse crimes for the same time period recorded as involving a parent and child and 9% a sibling, domestic abuse by a family member is also considerable. The DoJ/DoH Strategy recognised

24 Scottish Government, *Domestic abuse in Scotland: 2017-18 statistics*, November 2018. Available online at: <https://www.gov.scot/publications/domestic-abuse-recorded-police-scotland-2017-18/>

25 Office for National Statistics, *Domestic abuse in England and Wales: year ending March 2018*, November 2018. Available online at: <https://www.ons.gov.uk/releases/domesticabuseinenglandandwalesyearendingmarch2018>

26 Published figures showing domestic abuse incidents and crimes relative to the population for England and Wales were not available in the 2017-18 publication from the Office for National Statistics. This figure has therefore been calculated by CJI using population data from the Office of National Statistics, *Population estimates for the UK, England and Wales, Scotland and Northern Ireland: mid-2017*, published June 2018, available online at: <https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/populationestimates/bulletins/annualmidyearpopulationestimates/mid2017>

27 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>

28 CJI, *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>

that while domestic abuse is often associated with intimate relationships it could also include violence and abuse by any person who has a close or blood relationship with the victim. The lifetime prevalence rates recorded by the Northern Ireland Crime Survey 2015-16 for partner and family abuse were 12.1% and 6.4% respectively.

- 1.14 The significant levels of reporting were illustrated in the 2015-16 Northern Ireland Crime Survey²⁹. This showed police were made aware of only one third (32.9%) of all lifetime victims of partner abuse. But reporting of domestic abuse may be a particular concern for men with the Northern Ireland Crime Survey 2015-16 results showing that the police were made aware of one in five (19.1%) male victims of lifetime domestic abuse compared to two in five (39.4%) females.

Who experiences domestic violence and abuse?

- 1.15 Any person regardless of their background or characteristics such as age, gender, sexual orientation, disability, ethnic origin or relationship status can experience domestic violence and abuse. But victims' experience demonstrates that different groups of people have particular needs or may be particularly vulnerable to it³⁰. For example, among victims of domestic abuse evidence shows that people with disabilities experience it at a higher rate and face greater barriers accessing support than those without disabilities³¹. Difficulties accessing public funds on leaving a relationship and language barriers can be among specific obstacles faced by those who are subject to immigration control³². Domestic abuse is a considerably underreported crime overall, but evidence suggests this may be a particular concern for some groups including male victims³³ and for older women³⁴. Having their sexuality used against them can form a specific part of domestic abuse experienced by lesbian, gay and bisexual people, which can also influence reporting³⁵.

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- 29 Campbell, P and Rice, A. *Experience of Domestic Violence: Findings from the 2011-12 to the 2015-16 Northern Ireland Crime Surveys, Research and Statistical Bulletin 17/2017*, Department of Justice Analytical Services Group, 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>
- 30 See NI Women's Aid research demonstrating multiple and diverse impacts of domestic abuse relating to age (for children and young people and older women), pregnancy, Black and Ethnic Minority people, disability and sexual orientation (Women's Aid Federation Northern Ireland, *Women's Aid Northern Ireland: Violence against Women Consultation with Victims, Survivors & service Users 2017/18*, March 2018. Available online at: <https://www.womensaidni.org/assets/uploads/2018/05/WA-Consultation-with-Victims.pdf>).
- 31 Public Health England, *Disability and Domestic Abuse: Risk, impacts and response*, November 2015. Available online at: <https://www.gov.uk/government/publications/disability-and-domestic-abuse-risk-impacts-and-response>
- 32 McWilliams, M., and Yarnell, P., *The Protection and Rights of Black and Minority Ethnic Women Experiencing Domestic Violence in Northern Ireland*, Prepared for submission to CEDAW, NICEM, June 2013. Available online at: <http://uir.ulster.ac.uk/26542/1/BMEWomen%26DV-CEDAWsubmission.pdf>
- 33 Campbell, P and Rice, A., *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>. Page 7 showing that the police were made aware of one in five (19.1%) male victims of lifetime domestic abuse compared to two in five (39.4%) females.
- 34 Blood, I., *Older Women and Domestic Violence: A report for Help the Aged/Hact*, 2004. Available online: http://www.ageuk.org.uk/documents/en-gb/for-professionals/communities-and-inclusion/id2382_2_older_women_and_domestic_violence_summary_2004_pro.pdf?dtrk=true.
- 35 Stonewall, *Domestic Abuse - Stonewall Health Briefing*, 2012. Available online: [https://www.stonewall.org.uk/sites/default/files/Domestic Abuse Stonewall Health Briefing_2012 .pdf](https://www.stonewall.org.uk/sites/default/files/Domestic%20Abuse%20Stonewall%20Health%20Briefing%202012.pdf)

- 1.16 The Northern Ireland Crime Survey 2015-16 results showed women were over twice as likely as men to have been victims of domestic violence by a partner in the previous three years (5.9% v 2.5%), being '*...a gender difference that is reflected across each of the three separate offence groups examined: non-physical abuse (4.4% v 2%); threats (2.0% v 0.2%); and force (2.5% v 0.9%)*³⁶. Police trend statistics showed that in 2015-16 over two thirds (69%) of domestic violence abuse crimes recorded with a personal victim were women³⁷. This disproportionality in the experience of domestic abuse is in itself evidence of its gendered nature, meaning particular measures for women may often be required to achieve practical equality between men and women in this context. In addition recent research had highlighted the particular risks and issues for partners of perpetrators with paramilitary connections³⁸.
- 1.17 Often described as the 'hidden victims' of domestic abuse, children are also specifically impacted. The DoJ/DoH Strategy noted that the adverse impacts on children living with domestic violence and abuse are a recognised child protection issue. Recent research with children suggested the experience of living with domestic abuse warrants children's recognition as direct victims of abusive control³⁹. For children living with domestic abuse it is said that '*...far from watching passively [they] experience the violence with all of their senses*⁴⁰. Statistics do not capture this type of children's victimisation.
- 1.18 PSNI statistics for 2017-18 show that of the domestic abuse crimes where there was a known age for the victim, 18% were under 18 years old. It is not known from the statistics if children were present during the commission of recorded domestic abuse crimes or living in households where they occurred. The Women's Aid Federation Northern Ireland 2015-16 Annual Report gave some sense of children affected reporting that 520 children stayed in refuge and 7,296 received community based support. It also reports that 51 pregnant women accessed refuge and 167 outreach support. Fifteen babies were born to women in refuge in Northern Ireland during 2015-16. It is an established fact that '*pregnancy can be a trigger for domestic abuse, and existing abuse may get worse during pregnancy or after giving birth*⁴¹.

36 Campbell, P and Rice, A. *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>.

37 PSNI, *Trends in Domestic Abuse Incidents and Crimes Recorded by the Police in Northern Ireland 2004/05 to 2015/16*, October 2016, page 29. Available online at: <https://www.psni.police.uk/globalassets/inside-the-psni/our-statistics/domestic-abuse-statistics/domestic-abuse-incidents-and-crimes-in-northern-ireland-2004-05-to-2015-16.pdf>.

38 Doyle, J.L. and McWilliams, M. *Intimate Partner Violence in Conflict and Post-Conflict Societies: Insights and lessons from Northern Ireland*. Available online at: <https://www.ulster.ac.uk/news/2018/september/study-shows-how-victims-of-domestic-violence-benefitted-from-the-peace-process-in-northern-ireland>

39 Callaghan, J.E.M., Alexander, J.H., Fellin, L.C. and Sixsmith, J., '*Beyond "Witnessing": Children's Experiences of Coercive Control in Domestic Violence and Abuse*', *Journal of Interpersonal Violence*, 33(10), pp. 1551-1582, December 2015. Available online at: <http://journals.sagepub.com/doi/abs/10.1177/0886260515618946>

40 Devaney, J. *Research Review: the impact of Domestic Violence on Children*, *Irish Probation Journal*, 2015, vol. 12 pp. 79-94, at p.82. Available online at: [http://www.probation.ie/EN/PB/0/CF21865C160AB9698025802E0048AAB1/\\$File/IPJ2015pages79to94.pdf](http://www.probation.ie/EN/PB/0/CF21865C160AB9698025802E0048AAB1/$File/IPJ2015pages79to94.pdf)

41 NHS Choices: Domestic Abuse and Pregnancy, <https://www.nhs.uk/conditions/pregnancy-and-baby/domestic-abuse-pregnant/>

Recent developments

- 1.19 Preventing domestic violence and abuse is imperative not least because of its costs. The physical and emotional impacts on those affected are by far the greatest but the financial costs as a result of this form of violence and abuse are also significant. In attempting to estimate the economic impacts of domestic violence in Northern Ireland, the DoH/DoJ Strategy⁴² reported that almost 70% of the estimated £674.3 million total in 2011-12 was borne by victims and their families. The cost to health and social care and criminal justice services was £50.2 million and £82.1 million respectively. The DoH/DoJ Strategy noted that it was not possible to cost the medium to long term impact on child development, which was likely to be *'enduring and significant'*.
- 1.20 The DoJ/DoH Strategy cited examples of progress made in tackling domestic violence and abuse. This included developments impacting on criminal justice such as renewed media campaigns communicating to the public that domestic violence is illegal and wrong, the development of a MARAC process to examine and respond to high risk domestic violence cases, and greater powers for the courts to impose restraining orders. These along with other developments are examined further as part of this inspection.
- 1.21 A significant development since the Strategy's publication was the UK Government's commitment to ratify the Istanbul Convention in 2017⁴³. The seminal international text on stopping domestic violence urges signatories to apply its protections to all victims with particular attention being paid to women victims of gender-based violence, of which domestic violence is a part. It recognises that men may be victims of domestic violence but guarantees any particular measures *'...necessary to prevent and protect women from gender-based violence shall not be considered discrimination under the terms of this Convention'*⁴⁴. Ratification will require a review of domestic laws and measures for their compatibility with the terms of the Convention including those within the devolved administrations.

42 DHSSPS and DoJ, *Stopping Domestic and Sexual Violence and Abuse in Northern Ireland A Seven Year Strategy*, March 2016. Available online at <https://www.health-ni.gov.uk/sites/default/files/publications/dhssps/stopping-domestic-sexual-violence-ni.pdf>

43 Preventing and Combating Violence Against Women and Domestic Violence (Ratification of Convention) Act 2017. Available online at: <http://www.legislation.gov.uk/ukpga/2017/18>

44 Council of Europe, *Convention on preventing and combating violence against women and domestic violence*, May 2011. Available online at: <https://rm.coe.int/168008482e>

Intersectionality in the experience of domestic violence and abuse

- 1.22 As with CJJ's previous domestic violence and abuse inspection, Inspectors were acutely aware of its links with many other forms of victimisation and offending. Findings in relation to the criminal justice system's approach to sexual abuse and violence, for which the fieldwork was undertaken concurrently with this inspection, are reported in a separate inspection report⁴⁵. There is a clear overlap with the civil family courts system where those in abusive relationships may also be involved in child custody or contact cases running in tandem alongside criminal issues (see Chapter 7). The family justice system is outside the remit of CJJ. It is important however to acknowledge victims' reports of their wellbeing and safety having been put at risk by the system disconnect they experienced.

Inspections and reviews of the criminal justice system handling of domestic violence and abuse

- 1.23 Domestic violence and abuse has been a focus for many years in Northern Ireland and in England and Wales for both government and the work of justice Inspectorates. In 2014 Her Majesty's Inspectorate of Constabulary ((HMIC), now Her Majesty's Inspectorate of Constabulary and Fire and Rescue Services (HMICFRS)) published *'Everyone's Business'*, an inspection of the police response to domestic abuse in England and Wales⁴⁶ as a result of a commission by the Home Secretary to examine the issue. The inspection found that *'In too many forces there are weaknesses in the service provided to victims; some of these are serious and this means that victims are put at unnecessary risk. Many forces need to take action now.... Domestic abuse is a priority on paper but, in the majority of forces, not in practice.'* Overall the report made 11 recommendations and concluded that *'The overall police response to victims of domestic abuse is not good enough. Unacceptable failings in core policing activities, investigating crime, preventing crime, bringing offenders to justice and keeping victims safe are the principal reasons for this.'*
- 1.24 A follow-up review on progress by HMIC in 2015⁴⁷ found that *'Overall, HMIC is encouraged that this inspection found that police leaders, officers, PCSOs and staff have acted on the messages of our 2014 report and now see tackling domestic abuse as an important priority for them - domestic abuse is increasingly becoming 'everyone's business'....However, there is still much more to be done and this inspection found a number of causes of concern and areas for improvement in relation to individual force's response to domestic abuse'.*
- 1.25 More recent inspections conducted by HMIC/HMICFRS under their Policing Effectiveness, Efficiency and Legitimacy (PEEL) programme have included a focus on how effectively police forces deal with victims of crime. The 2016 PEEL effectiveness inspection focused on how the

45 CJJ, *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>

46 HMIC, *Everyone's Business: Improving the police response to domestic abuse*, March 2014. Available online at: <https://www.justiceinspectorates.gov.uk/hmicfrs/wp-content/uploads/2014/04/improving-the-police-response-to-domestic-abuse.pdf>

47 HMIC, *Increasingly everyone's business: A progress report on the police response to domestic abuse*, December 2015. Available online at: <https://www.justiceinspectorates.gov.uk/hmicfrs/wp-content/uploads/increasingly-everyones-business-domestic-abuse-progress-report.pdf>

PSNI dealt with vulnerable victims, particularly missing children and victims of domestic abuse as well as how prepared it was to deal with child sexual exploitation. Overall, the PSNI was assessed as requiring improvement⁴⁸. The 2017 PEEL effectiveness inspection assessed the PSNI's ability to keep people safe and reduce crime as 'good'⁴⁹.

- 1.26 Findings from domestic homicide reviews provide a useful indication of issues which partners working with victims and perpetrators of domestic abuse need to improve upon. Northern Ireland had yet to implement domestic homicide reviews (although the process for these was being developed - see Chapter 2) but a report of analysis conducted in England and Wales in 2016 provides a useful indication of the key issues arising from domestic homicide reviews⁵⁰. This reviewed 33 homicide reviews from those undertaken since 2011 and identified the following main findings:
- the most common theme occurring in intimate partner homicide domestic homicide reviews was record keeping;
 - risk assessment was the next most commonly occurring theme;
 - communication and information sharing between agencies was also identified as an issue in three-quarters of domestic homicide reviews; and
 - there were 24 cases (73% of those sampled) where victims or perpetrators presented to agencies with possible signs of domestic abuse and/or domestic violence but this was not recognised or explored further.
- 1.27 Her Majesty's Crown Prosecution Service Inspectorate's (HMCPsi) Area Assurance Inspection reports review the performance of Crown Prosecution Service (CPS) regions in all aspects of their practice, including in domestic abuse. For example, in the Area Assurance Inspection of CPS Yorkshire and Humberside, Inspectors found that through partnership working with one police force there had been a marked improvement in domestic abuse conviction rates within the area⁵¹ (see further details in Chapter 5). In their most recent Business Plan, HMCPsi announced their intention to inspect domestic abuse in 2017-18⁵² and the Criminal Justice Joint Inspection Business Plan 2017-18 announced the intention of HMCPsi and HMICFRS to scope a joint inspection of the effectiveness of conduct of cases which are prosecuted on evidence other than that provided directly by the victim⁵³.

48 HMIC, *PEEL: Police effectiveness: An inspection of the Police Service of Northern Ireland, 1–5 February 2016*, August 2016. Available online at: <https://www.justiceinspectors.gov.uk/hmicfrs/publications/peel-police-effectiveness-police-service-of-northern-ireland/>

49 HMICFRS, *PEEL: Police effectiveness 2017: An inspection of the Police Service of Northern Ireland, March 2018*. Available online at: <https://www.justiceinspectors.gov.uk/hmicfrs/wp-content/uploads/peel-police-effectiveness-2017-psni.pdf>

50 Home Office, *Domestic homicide reviews: Key findings from analysis of domestic homicide reviews*, December 2016. Available online at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/575232/HO-Domestic-Homicide-Review-Analysis-161206.pdf

51 HMCPsi, *CPS Yorkshire and Humberside area assurance inspection, February 2017*. Available online at: <https://www.justiceinspectors.gov.uk/hmcpsi/inspections/area-assurance-inspection-of-cps-yorkshire-and-humberside/>

52 HMCPsi, *Business plan: 2017-2018, August 2017*. Available online at: https://www.justiceinspectors.gov.uk/hmcpsi/wp-content/uploads/sites/3/2017/08/HMCPsi_BusinessPlan_2017-18_rpt.pdf

53 Criminal Justice Joint Inspection, *Joint inspection business plan 2017-2018, November 2017*. Available online at: <https://www.justiceinspectors.gov.uk/cjji/wp-content/uploads/sites/2/2017/11/Criminal-Justice-Joint-Inspection-Business-Plan-2017-18.pdf>

- 1.28 In addition in 2017 HMIC and HMCSI published their first inspection report into the police and CPS's response to harassment and stalking⁵⁴. Whilst this topic is broader than purely domestic abuse, many of these offences were experienced by victims in a domestic context. The report concluded '*Much has been done by government in recent years to try to improve how the criminal justice system tackles stalking in particular. Our inspection shows that actions taken have had mixed success*'.
- 1.29 In Northern Ireland CJI published its first inspection on the topic of domestic violence and abuse in 2010⁵⁵. This made eight strategic recommendations and five operational recommendations for change. In 2013 CJI published a follow-up report on the recommendations⁵⁶. This found that of the 13 recommendations, Inspectors assessed that only one had been achieved, six partially achieved and six not achieved. The Chief Inspector said he was concerned by the level of progress made and urged the PSNI, in particular, to apply greater strategic leadership and effort to this important issue.
- 1.30 The Northern Ireland Policing Board's Human Rights Annual Report 2015⁵⁷ (published March 2016) made recommendations for the PSNI relating to Domestic Violence Protection Notices and Orders (Recommendation 3), domestic abuse complaints (Recommendation 4), domestic abuse outcomes (Recommendation 9) and the service of Non-Molestation Orders (Recommendation 10). The PSNI indicated its acceptance of all four recommendations in its Human Rights Programme of Action⁵⁸.

The CJI 2017-18 inspection

- 1.31 This inspection aimed to investigate how the criminal justice system deals with domestic violence and abuse in Northern Ireland. The methodology for the inspection is contained in Appendix 2. In preparation for the inspection, Inspectors visited the Scottish Violence Reduction Unit and the CPS and an IDVA service in Leeds, to hear about their experiences in this area. The inspection fieldwork consisted of interviews with stakeholders from community and voluntary organisations who represented, supported or provided services to victims, meetings with representatives of the criminal justice agencies (from the DoJ, PSNI, the Forensic Science Northern Ireland (FSNI), the PPS, the Probation Board for Northern Ireland (PBNI), and the Northern Ireland Courts and Tribunals Service (NICTS)) as well as meetings with representatives from the Judiciary and legal profession, the Northern Ireland Policing Board and Health and Social Care Trusts. Inspectors also met with a number of victims who had been subjected to domestic abuse and had experience of the criminal justice system and attended four MARAC meetings.

54 HMIC & HMCSI, *Living in fear - the police and CPS response to harassment and stalking*, July 2017. Available online at: <https://www.justiceinspectorates.gov.uk/hmicfrs/publications/living-in-fear-the-police-and-cps-response-to-harassment-and-stalking/>

55 CJI, *Domestic violence and abuse: A thematic inspection of the handling of domestic violence and abuse cases by the criminal justice system in Northern Ireland*, December 2010. Available online at: <http://www.cjini.org/getattachment/1b651b43-657b-471b-b320-101fca7c6930/Domestic-Violence-and-Abuse.aspx>

56 CJI, *Domestic violence and abuse: A follow-up of the inspection recommendations*, October 2013. Available online at: <http://www.cjini.org/TheInspections/Action-Plan-Reviews-Inspection-Follow-Up-Review/2013/Domestic-Violence-and-Abuse>

57 Northern Ireland Policing Board, *Human rights annual report 2015*, March 2016. Available online at: <https://www.nipolicingboard.org.uk/sites/nipb/files/media-files/Human-Rights-Annual-Report-2015.PDF>

58 PSNI, *Human rights programme of action 2015/16*, May 2016. Available online at: <https://www.psnipolice.uk/globalassets/inside-the-psni/our-policies-and-procedures/human-rights/documents/psni-human-rights-programme-of-action-2015---16-final.pdf>

- 1.32 Two case file reviews were conducted during the fieldwork; one of a sample of police investigation files and one of a sample PPS prosecution files with support from HMICFRS and HMCPPI respectively. As domestic abuse is not, in of itself, a specific offence Inspectors selected a range of offences which had been flagged by the PSNI and/or the PPS as occurring in a domestic context. Further details on the case file reviews in terms of the types of cases, victim and suspect/defendant background characteristics and outcomes can be found in Appendix 3.
- 1.33 The police file review examined 66 case files which included offences with a domestic motivation, for example, offences of actual bodily harm, common assault, harassment, breach of a Non-Molestation Order and theft. The methodology for this file review was based on that used by HMICFRS during its PEEL inspections and covered the life of the case from first response, vulnerability, file submission, investigation and victim care. The cases had all been reported to the PSNI between 1 January 2016 and 1 July 2017. In some of the cases in the file no offences were disclosed or for some reason the investigation did not proceed past the initial stages. Cases which therefore were not relevant to individual questions were not included when calculating and reporting percentages of response for this report. Overall outcomes of the cases in file review can be seen in Appendix 3.
- 1.34 The PPS case file review similarly examined 86 case files which had been received by the PPS from the PSNI between 1 January 2016 and 31 March 2017. The prosecution files selected were not the same files as those in the police review. Of these 57% were assault files, 17% criminal damage files and 5% harassment files. It should be noted that any cases of sexual violence or abuse (for example, rape and child abuse) were excluded from this case sample. Cases of sexual offences which occurred within a domestic setting were included in the case file review for the sexual violence and abuse inspection as appropriate. The methodology was based on that used by HMCPPI to inspect the work of the prosecution service in England and Wales but tailored for this inspection. The question set was similar to that used for the CJI inspection of sexual violence and abuse. The questions covered the life of the prosecution case including pre-decision advice, decision making, case progression, policy and victim and witness care. Similarly to the files in the police sample not all questions were relevant to every case (for example where the case did not proceed to prosecution). Cases which therefore were not relevant to individual questions were not included when calculating and reporting percentages of response for this report.
- 1.35 Analysis was undertaken of the data for both file reviews and assessed in terms of other findings from the fieldwork for this inspection and other sources of evidence (for example, previous CJI reports). Where relevant, data from the case file reviews will be highlighted in the report to give an indication of the quality of the handling of domestic abuse offences.

1.36 The inspection was undertaken in parallel with an inspection of how the criminal justice system deals with sexual violence and abuse in Northern Ireland because of the joint strategy, large overlap between the two areas in terms of the criminal justice system's approach and the fact that the same victims often suffer both types of offence. The Terms of Reference (see Appendix 4) therefore reflects this approach. The report of that inspection, '*Without Witness*', was published in November 2018⁵⁹. Issues that arose and recommendations made which impacted on both topics have already been covered in the '*Without Witness*' report. Where appropriate, reference will also be made to them in this report.

Outcomes

- 1.37 The PSNI published data in January 2018 via an Annual Bulletin on the outcomes of crime recorded by the police between 2015-16 and 2016-17⁶⁰. Table A1:3 in Appendix 1 shows the PSNI outcome figures for overall crime and crimes with a domestic motivation. This reported specific outcome information regarding crimes with a domestic abuse motivation particularly in relation to the outcomes where the case did not proceed to prosecution due to evidential difficulties. The Bulletin highlighted the following figures:
- around a quarter of crimes with a domestic abuse motivation were resolved by means of charge or summons, compared to a fifth of all crimes; and
 - three-fifths of crimes with a domestic abuse motivation (60%) did not progress to prosecution due to evidential difficulties; in more than two-fifths the victim did not support police action. This compares to more than a quarter of all crimes which did not progress to prosecution due to evidential difficulties.
- 1.38 Similarly Home Office statistics on the outcome of crimes recorded by police in England and Wales in the year ending March 2017⁶¹ reported specific figures regarding domestic abuse as follows:
- higher proportions of domestic abuse-related offences received a charge/summons than those that were not domestic abuse-related (15% and 9% respectively);
 - 69% of domestic-abuse related offences ended with evidential difficulties, almost three times higher than the proportion of offences that were not domestic abuse-related (24%); and
 - the proportion of domestic abuse-related offences assigned a charge/summons decreased (from 18% to 15%) compared to the previous year. Conversely, the proportion of offences that resulted in the category "evidential difficulties - victim does not support action" increased (up from 41% to 48%).

59 CJI, *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>

60 PSNI, *Outcomes of crimes recorded by the police in Northern Ireland 2015-16 and 2016-17: Annual bulletin, January 2018*. Available online at: <https://www.psnipolice.uk/globalassets/inside-the-psni/our-statistics/police-recorded-crime-statistics/documents/police-crime-outcomes-in-northern-ireland-2015-16-to-2016-17.pdf>

61 Home Office, *Crime outcomes in England and Wales: year ending March 2017 second edition, July 2017*. Available online at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/633048/crime-outcomes-hosb0917.pdf

1.39 The prosecution case file review for this inspection recorded the final outcome of the case, where it had concluded by the time of the review. These figures are outlined in Table 1. This illustrates that a third of cases which were finalised did not meet the Test for Prosecution (33.3%) and just under a third of finalised cases (32.1%) resulted in a conviction (either after trial or by way of a guilty plea). When considering only the cases in which a prosecution was directed and the prosecution continued to the conclusion of the case at court (26 cases in the sample) the data indicates that just under half of cases resulted in a conviction (48.1%).

Table 1: Prosecution outcomes from files in the case file review

Case outcome	Number	Percentage*
Timely guilty plea	16	19.8%
Late guilty plea	5	6.2%
Conviction after trial	5	6.2%
Acquittal after trial	2	2.5%
Discontinuance	25	30.9%
No prosecution directed	27	33.3%
Other	1	1.2%
Total finalised cases	81	100.0%
Not finalised	5	-

* Percentage figures have been rounded.

1.40 Figures provided by the PPS for the purposes of this inspection indicate slightly higher figures. Convicted rates calculated using PPS data⁶² suggest higher conviction rates for the Magistrates' Court of 58% in 2015-16 and 56% in 2016-17 (all cases in the file review were heard in the Magistrates' Court). The PPS also provided figures showing conviction rates in the Crown Court of 75% in 2015-16 and 80% in 2016-17.

62 PPS data on files decisions in related to suspects flagged by PPS as having a domestic violence motivation provided to CJI in May 2017.

- 1.41 Combining these two sets of figures to calculate an overall conviction rate was undertaken to enable comparisons to be made with reported figures from England and Wales. The PPS figures suggest overall conviction rates for all courts of 59% for 2015-16 and 58% 2016-17. This compares to overall conviction rates in England and Wales reported by the Office for National Statistics of 75% for 2015-16 and 76% for 2016-17⁶³. It was noted in this report however that the defendant pleaded guilty in 69% of domestic abuse-related cases referred to the CPS so of the 70,853 successful domestic abuse-related prosecutions in the year ending March 2017, 91% were due to a guilty plea. By contrast PPS figures indicated that the proportion of defendants that pleaded guilty to all charges for cases concluded in 2016-17 in the Magistrates and Crown Court in Northern Ireland was just 25% and was 26% of the cases in the file review for this inspection. This could be for a range of reasons which are explored in this report.
- 1.42 In CJl's report on sexual violence and abuse⁶⁴ overall conviction rates were calculated for rape and other sexual offences across the UK to enable comparisons to be made between Northern Ireland, England and Wales and Scotland. National statistics are not published by the Scottish Government in respect of conviction rates for domestic abuse-related prosecutions so in this report it is only possible to compare Northern Ireland and England and Wales. These show lower figures in Northern Ireland for the ultimate conviction rates for domestic abuse related-offences/offences with a domestic violence motivation for 2016-17 and 2015-16 across Northern Ireland (9.5% and 8.9% respectively) than in England and Wales (14.5% and 17.9% respectively).
- 1.43 This report endeavours to explain the challenges that arise through the process and what the criminal justice agencies have done to date to overcome them.

63 Office for National Statistics, *Domestic abuse in England and Wales: year ending March 2017, November 2017*. Available online at: <https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/bulletins/domesticabuseinenglandandwales/yearendingmarch2017>

64 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>



Strategy, governance and prevention

Strategy and governance

- 2.1 The DoJ/DoH *'Stopping Domestic and Sexual Violence and Abuse in Northern Ireland: A Seven Year Strategy'* was published in March 2016⁶⁵. To deliver this the Strategy defined 20 priority actions under five strands along with a 'Year One Implementation Plan'. An Inter-Ministerial Group supported by a Senior Level Delivery Board and an advisory Stakeholder Group were intended to oversee the Strategy's five strands (due to the absence of a Northern Ireland Assembly the Ministerial group did not exist for the majority of this inspection). The five strategic strands were: 'driving change through co-operation and leadership'; 'prevention and early intervention'; 'delivering change through responsive services'; 'support'; and 'protection and justice.' Ad hoc Delivery Groups for the completion of particular tasks were envisaged, and at the time of inspection a 'task and finish' group had been established to oversee the development of a domestic abuse offence and a domestic violence disclosure scheme (discussed further in the next chapter).
- 2.2 The Year One Implementation Plan for the Strategy included some specific actions relating to the DoJ response to domestic abuse. These were in the areas of MARAC, practice and legislative provisions for initiatives relating to domestic abuse, improved working in relation to domestic homicides and the introduction of Domestic Violence Protection Notices and Orders and the specialist listing arrangements in Londonderry Magistrates' Court. At the time of the inspection this was the only action plan published but subsequently Year Two and Year Three draft action plans were published in August 2018.
- 2.3 The Strategy notes that *'most victims of domestic and sexual violence and abuse are women'* and that *'domestic abuse often starts or escalates during pregnancy'*⁶⁶. Stakeholders, whether they worked with female or male victims, all acknowledged that a greater number of women were subject to domestic abuse than men. However stakeholders also noted that there were differences in the impact of domestic abuse on women and men and that there were less services available to support and advocate for men than for women. Some stakeholders commented that, in an effort to ensure victims from all different categories were provided for in the strategy (i.e. women and men, victims in LGBT relationships, victims from a minority ethnic group etc.) the strategy had become too 'gender-neutralised'. They suggested that services

65 DHSSPS and DoJ, *Stopping Domestic and Sexual Violence and Abuse in Northern Ireland A Seven Year Strategy*, March 2016. Available online at <https://www.health-ni.gov.uk/sites/default/files/publications/dhssps/stopping-domestic-sexual-violence-ni.pdf>

66 See paragraph 1.18.

should be tailored more to the individual needs of victims rather than delivering a 'one-size-fits-all' universal approach which did not properly meet the needs of anyone. Inspectors would be of the view that services for victims need to be tailored to the needs of that particular victim, which has been recognised for example in the Victim Charter.

2.4 The Draft Programme for Government Framework 2016-21⁶⁷ included indicators to reduce crime, increase the effectiveness of the justice system and reduce reoffending. The work of the criminal justice system in dealing with cases of domestic abuse relates to these three indicators, but particularly in relation to reducing reoffending as perpetrators of domestic abuse are likely to reoffend against current and future victims unless appropriate interventions are used. It also contributes to the indicator regarding reducing preventable deaths, given the significant numbers of homicides which occur in the context of a domestic relationship.

2.5 The Victim Charter⁶⁸, 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, stating that victims were 'entitled to:

- *be treated fairly, professionally, and with dignity and respect;*
- *be understood and to understand - in your first language if necessary;*
- *be updated at key stages and given relevant information;*
- *have your needs considered by service providers;*
- *be told about available support and bring someone with you to give support;*
- *apply for compensation (within two years of the incident causing the injury), if you were a victim of a violent crime; ask for a court familiarisation visit and be kept separate from the accused as much as possible at court;*
- *have the opportunity to tell the court how the crime has harmed you;*
- *ask to be told how the offender's sentence is managed; and*
- *let service providers know if you are unhappy with the service provided.'*

Each organisation in the criminal justice system was required to adhere to the standards in the Charter and adopt these into their own organisational documents relating to victims.

2.6 Domestic and Sexual Violence Partnerships in each Health and Social Care Trust area had been re-established under the new Domestic and Sexual Violence Strategy. These provided local strategy and governance arrangements bringing together statutory partners from health and social care, education, housing, policing, probation and courts with voluntary and community organisations representing male and female victims and children among others. In addition MARACs brought together partners from statutory and voluntary organisations to discuss individual cases of high risk victims and agree actions to try and reduce the risk (see Chapter 3 for further details of MARAC).

67 Northern Ireland Executive, *Draft PFG framework - Chart of outcomes indicators and measures, May 2016*. Available online at: <https://www.northernireland.gov.uk/sites/default/files/consultations/newnigov/Draft%20PFG%20Framework-%20Chart%20of%20Outcomes%20Indicators%20and%20Measures.xlsx>

68 Department of Justice, *Victim Charter Summary: A Charter for victims of crime, December 2015*. Available online at: <https://www.justice-ni.gov.uk/sites/default/files/publications/doj/victim-charter-summary-oct-2015.PDF>

- 2.7 A MARAC Operational Group had been set up when MARAC was initially developed and rolled out across Northern Ireland. This included membership at a senior level from all the MARAC partners. Inspectors were advised however that the Group had not met recently and that there was a lack of clarity about the role and purpose of the Group. A recent review of MARAC by DoJ Analytical Services Group⁶⁹ summarised as follows: *'There was a general lack of understanding as to the current function of the [Marac Operational Group] MOG. Functions of oversight and implementing improvements to MARAC processes that should fall to this group appear to be absent. Elements of quality assurances, dip sampling of cases and MARAC membership do not appear to be happening. It would appear that post implementation of MARAC this group has not continued to function as expected and this should be reviewed. Findings from the SafeLives Toolkit may provide direction and a simple way to monitor improvement in this area.'* After the fieldwork for this inspection had concluded Inspectors were advised that a new MARAC governance structure, led by a MARAC Operational Board, had been developed to be operational from June 2019.

Organisational strategies and business plans

PSNI

- 2.8 The CJJ inspection report on sexual violence and abuse⁷⁰ reviewed the extent to which the organisations of the criminal justice system featured domestic and sexual violence and abuse as priorities or strategic outcomes. The PSNI was the only organisation to have specific organisational objectives which referenced domestic violence and abuse in the form of Strategic Outcomes 2.1 (reducing harm caused by crime and anti-social behaviour with a focus on protecting the most vulnerable) and 2.2 (protecting and supporting repeat victims).

PPS

- 2.9 The PPS did not have specific objectives in the area of domestic abuse although did refer to domestic violence cases in their annual business plan in demonstrating examples as to how they would achieve their strategic priorities⁷¹. This included:
- to disseminate detailed guidelines to staff covering cases of domestic violence in support of Objective 1.1: To promote the highest standard of decision-making, case preparation and advocacy, applying our Quality Standards on a fair and consistent basis;
 - to contribute to the domestic violence perpetrator programme as a way to achieve Objective 1.2: To reduce avoidable delay and improve our service delivery through stronger partnership working; and
 - to produce a service-level agreement in the area of domestic violence with the PSNI in working towards Objective 2.2: To improve public confidence by engaging effectively with stakeholders and the wider community.

69 DoJ Analytical Services Group, *Research and Statistical Bulletin 30/2017: Review of MARAC 2017, October 2017*. Available online at: <https://www.justice-ni.gov.uk/publications/r-s-bulletin-30-2017-review-marac>

70 CJJ, *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.cjjni.org/TheInspections/Inspection-Reports/2018/October-December/Sexual-Violence>

71 PPSNI, *Annual report and resource accounts 2017-18, June 2018*. Available online at: [https://www.ppsni.gov.uk/Branches/PPSNI/PPSNI/Files/Documents/Publications/Annual%20Report%20\(Low%20res\).pdf](https://www.ppsni.gov.uk/Branches/PPSNI/PPSNI/Files/Documents/Publications/Annual%20Report%20(Low%20res).pdf)

- 2.10 The CJJ 'Without Witness' report on the inspection of sexual violence and abuse⁷² (for which the fieldwork was conducted at the same time as this inspection) highlighted the need for the PPS to demonstrate the importance it places on this area of work. This was emphasised in light of an increasing proportion of crime overall and therefore cases sent from the PSNI to the PPS involving sexual offences or offences in a domestic context as well as improving the confidence of victims (see Table 1:1, Appendix 1). The report therefore recommended that *'the PPS should develop their next and future corporate and business plans to reflect the priority the organisation places on dealing with domestic and sexual violence and abuse, through action planning and key performance indicators specifically related to this area of business'*.

NICTS

- 2.11 Similarly the NICTS did not include specific objectives in relation to domestic violence and abuse. However they noted in their 2016-17 Annual Report⁷³ their contribution to work that was ongoing in this area such as the listing arrangement for victims of domestic violence in Londonderry Magistrates' Court and the introduction of Domestic Violence Prevention Orders and Domestic Violence Prevention Notices.

PBNI

- 2.12 The PBNI Annual Report 2016-17⁷⁴ also highlighted PBNI's work which contributed to recommendations from the *'Stopping Domestic and Sexual Violence and Abuse: A Seven Year Strategy'*. In addition it noted that the PBNI had engaged in the planning arrangements for the introduction of Problem Solving Courts pilots, in respect of domestic violence and substance misuse.

Legislative developments and guidance

- 2.13 In recent years there had been a number of developments in respect of legislation and practice in the area of domestic abuse. Many of these developments echo what has existed in England and Wales for a number of years. Prior to the dissolution of the Northern Ireland Assembly in January 2017 there had been a focus on domestic violence and abuse by both the Northern Ireland Assembly Committee for Justice and the Minister for Justice. A number of legislative developments had been progressed as a result of this focus, the Stopping Domestic and Sexual Violence and Abuse Strategy and the Year One Implementation Plan. These included:
- development of a domestic abuse offence (including behaviour which amounts to coercive control);
 - reviews of the need for stalking legislation in Northern Ireland by the DoJ and separately by the Northern Ireland Assembly Committee for Justice;

72 CJJ, *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>

73 NICTS, *Annual Report and Accounts 16-17*, June 2017. Available online at: <https://www.justice-ni.gov.uk/sites/default/files/publications/justice/Final%20Annual%20Report%202016-17%20to%20printers%20210717.pdf>

74 PBNI, *Annual report 2016-17*, July 2017. Available online at: <https://www.pbni.org.uk/wp-content/uploads/2015/02/PBNI-Annual-Report-2016-17.pdf>

- development of guidance and policy to enable the introduction of Domestic Violence Protection Orders across Northern Ireland (as legislated for in the Justice Act (Northern Ireland) 2015);
- introduction of the Domestic Violence and Abuse Disclosure Scheme (commenced March 2018)⁷⁵; and
- development of an appropriate model to identify lessons learned and improve response to cases of domestic homicide in Northern Ireland ('domestic homicide reviews'; consultation launched in July 2018).

2.14 A consultation had been held on the need for a specific domestic abuse offence and a domestic violence disclosure scheme in February 2016⁷⁶. As a result of the consultation the DoJ had progressed plans to develop domestic abuse legislation. The PSNI had been significantly involved in the development of this legislation and saw it as a critical mechanism for officers in dealing with coercive and controlling behaviour which was not sufficiently accounted for in current offences. At the time of the inspection the domestic abuse legislation had been developed by DoJ officials but, due to the absence of a Minister of Justice, Committee for Justice and Northern Ireland Assembly, could not be progressed any further. Inspectors were advised that the legislation had been developed based on the model of the Domestic Abuse (Scotland) Act 2018, which created '*an offence with respect to the engaging by a person in a course of behaviour which is abusive of the person's partner or ex-partner; and to make rules of criminal procedure for that offence and also for offences subject to the statutory aggravation involving abuse of partners or ex-partners*'⁷⁷. The draft Northern Ireland legislation also included abuse by a close family member. Stakeholders welcomed the development of legislation and felt that this would address the gaps in current legislation addressing coercive control and emotional and psychological abuse.

2.15 One issue which was raised with Inspectors during the fieldwork was that of the legislation and sentencing options surrounding choking or strangulation. District Judge Barney McElholm has raised concerns publicly on many occasions about the suitability of current legislation cases where the victim reported to police that they have been choked⁷⁸. At the time of this inspection this type of violence could only be specifically prosecuted under Section 21 of the Offences Against the Person Act 1861 (attempting to choke in order to commit any indictable offence). The challenges in using this section to prosecute the offence are evidencing that the choking had occurred (where often there may be no marks on the victim's neck to support their allegations) and particularly in proving the defendants intention to 'commit any indictable offence'. Judge McElholm had concerns that prosecuting such incidents as an assault in the Magistrates' Court, due to what he referred to as '*an unacceptable gap in our legislation with regard to these offences*', resulted in a maximum sentences of only six months imprisonment.

75 See <https://www.nidirect.gov.uk/articles/check-history-abuse-through-domestic-violence-and-abuse-disclosure-scheme>

76 DoJNI, *Domestic abuse offence and domestic violence disclosure scheme*, February 2016. Available online at: <https://www.justice-ni.gov.uk/consultations/domestic-abuse-offence-and-domestic-violence-disclosure-scheme>

77 See <http://www.parliament.scot/parliamentarybusiness/Bills/103883.aspx>

78 See for example articles in the Derry Journal in 2015 <https://www.derryjournal.com/news/crime/27-year-old-jailed-for-choking-mother-1-7115841> and on Irish Legal News in 2017 <https://www.irishlegal.com/article/district-judge-slams-woefully-inadequate-sentencing-powers-in-domestic-violence-cases>

- 2.16 In addition District Judge McElholm had pointed to research which had been undertaken in the United States which highlights the risk factors surrounding choking and strangulation and that in some parts of the United States choking is charged as attempted murder. In New York, for example, when strangulation was made a crime in 2011 an article by Reuters reported that there were 2,000 arrests made under the new law in the first 15 weeks⁷⁹. The article cited research which indicated that women in abusive relationships who are at some point strangled by their abuser, are 10 times more likely to be killed at some point and that about 10% of violent deaths in the United States each year are due to strangulation, with six female victims to every male.
- 2.17 Inspectors discussed this issue with PPS prosecutors who agreed that Section 21 was a very difficult section of the legislation to use. There was not a clear consensus amongst stakeholders as to how to address this issue. Inspectors were advised that this issue had not been included in considerations around developing the domestic abuse legislation.

Operational recommendation 1

Inspectors would recommend therefore that **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.**

- 2.18 In the 2010 Domestic Violence and Abuse report CJI recommended consideration of the creation of legislation to enable police to issue a Domestic Violence Protection Order (or notice)⁸⁰. This is similar to a temporary restraining order that helps protect victims of domestic violence from further violence or threats by keeping the abuser away from the victim and their children. A Domestic Violence Protection Order can be applied for by the police in order to assist the victim prior to sufficient evidence being gathered to charge the abuser with a crime. The orders were legislated for in the Justice Act (Northern Ireland) 2015. The PSNI and the judiciary were working out the practicalities and guidance surrounding implementation during the fieldwork for this inspection. However Inspectors were also advised that secondary affirmative legislation was required in relation to the legal aid provision associated with the orders and notices before they could be introduced, which required the Northern Ireland Assembly to be restored. Inspectors were disappointed to find that these were not yet available to officers as a tool to protect victims who were at risk of further abuse from perpetrators. Victims' organisations highlighted these as having great potential for high-risk victims and were frustrated that they had not yet been implemented. Inspectors would hope that the implementation of these is progressed as a priority once a legislature is in place.

79 Gulley, N, *New York law now makes choking a crime, results in 2,000 arrests*, Reuters, 7 April 2011. Available online at: <https://www.reuters.com/article/us-strangulation-newyork/new-york-law-now-makes-choking-a-crime-results-in-2000-arrests-idUSTRE7367H020110407>

80 CJI, *Domestic violence and abuse: A thematic inspection of the handling of domestic violence and abuse cases by the criminal justice system in Northern Ireland, December 2010*. Available online at: <http://www.cjini.org/getattachment/1b651b43-657b-471b-b320-101fca7c6930/Domestic-Violence-and-Abuse.aspx>

- 2.19 In the meantime in December 2015 the UK Government carried out a consultation on a proposed Stalking Protection Order for England and Wales and in December 2016 announced an intention to introduce legislation. Similarly to Domestic Violence Protection Orders the aim of this new order would be to protect stalking victims at the very earliest stages of an investigation before a prosecution can begin. In 2017 the report by HMICFRS and HMCPSI on stalking and harassment⁸¹ recommended that the Home Office should introduce legislation to create protection orders for harassment crimes. It is important that the DoJ keep abreast of such developments and seek to ensure similar legislative provisions are implemented locally to help protect victims in Northern Ireland.

Operational recommendation 2

Inspectors recommend therefore that once there is a legislature in place, and alongside plans for the development of stalking offence legislation in Northern Ireland **the DoJ should develop plans for and consult upon legislation to introduce protection orders for stalking and harassment.**

- 2.20 The Domestic Violence and Abuse Disclosure Scheme had also been developed by the DoJ, in partnership with the PSNI, and launched in March 2018. The PSNI were keen to ensure the Scheme was implemented, even in the absence of a Minister, in order to assist them in protecting potential or current victims and therefore ensured the appropriate mechanisms were in place to introduce the required procedures. This provided individuals with the 'right to ask' the police to check if their partner, or the partner of someone they know, has a history of domestic abuse as well as giving the police the 'power to tell' an individual about their partner's abusive history. Again this was welcomed by stakeholders who supported victims, although concerns were raised about the lack of support for those provided with the information in the absence of an IDVA scheme (see Chapter 7).
- 2.21 The legislation to introduce domestic homicide reviews was enacted in England, Wales and Northern Ireland in 2004⁸², prior to devolution of justice in Northern Ireland. Domestic homicide reviews were introduced in England and Wales in 2011. In July 2018 a consultation was launched by the DoJ about the planned approach to domestic homicide reviews for Northern Ireland. This anticipated that domestic homicide reviews would '*provide a forum for agencies such as the police, probation, health, and social services to consider the circumstances of the case, assess their response, and potentially learn critical lessons, improve services and work to prevent future victims from coming to harm*'⁸³. The consultation was closed in September 2018. Once the model to be adopted was finalised and the relevant provision of the primary

81 HMIC & HMCPSI, *Living in fear - the police and CPS response to harassment and stalking*, July 2017. Available online at: <https://www.justiceinspectorates.gov.uk/hmicfrs/publications/living-in-fear-the-police-and-cps-response-to-harassment-and-stalking/>

82 See Section 9 of the Domestic Violence, Crimes and Victims Act 2004 (the 2004 Act), available online at: <https://www.legislation.gov.uk/ukpga/2004/28/section/9>

83 Department of Justice, *Domestic Homicide Reviews - Consultation*, July 2018. Available online at: <https://www.justice-ni.gov.uk/sites/default/files/consultations/justice/dhr-consultation.pdf>

legislation was commenced, domestic homicide reviews could be introduced in Northern Ireland. This is a welcome step in agencies and partners learning lessons from domestic homicides.

- 2.22 In April 2018 the Attorney General for Northern Ireland published human rights guidance for the PSNI, PPS, PBNI and the NICTS regarding domestic abuse and stalking⁸⁴. This highlighted the need for professionals in the criminal justice system dealing with domestic abuse incidents to be alert to patterns of behaviour that could be controlling or coercive and detailed how this behaviour could be manifested. The guidance emphasised the responsibilities of the criminal justice agencies in the areas of risk assessment; immediate response, prevention and protection; protecting victims and witnesses; recording and analysis; preventative intervention and treatment programmes; policies; complaints; training; secondary victimisation; and delay. This guidance was released after the fieldwork for this inspection was completed and therefore it was too early to assess how the criminal justice organisations intended to take this guidance forward.

Prevention, education and awareness raising

- 2.23 In common with crimes of sexual violence and abuse there had been preventative campaigns and activities in the areas of domestic violence and abuse for many years. The PSNI had engaged in a number of campaigns around raising awareness of domestic abuse as a crime as well as in addressing myths around domestic abuse or domestic abuse against categories of individuals who were known to have high levels of under-reporting (for example LGBT victims, male victims, victims from minority ethnic groups etc.). There had also been seasonal campaigns such as those around Christmas or summer. One stakeholder organisation noted the impact of these and highlighted an increase in victims advising them that they felt like they were walking on eggshells in response to the PSNI's *'If you feel like you're walking on eggshells that's domestic abuse'* campaigns in 2017. The PSNI also had a section of its website dedicated to domestic abuse. The DoJ had also run domestic violence and abuse advertising campaigns seeking to raise awareness of the issue of domestic violence and abuse as well as the availability of the Domestic Violence and Abuse Disclosure Scheme.
- 2.24 As noted in the CJI inspection report on sexual violence and abuse PCSPs also had a key role in the prevention of crime. The DoJ advised Inspectors that 10 of the 11 PCSPs had domestic and/or sexual violence as a theme in their 2018-19 Action Plans.

84 Attorney General for Northern Ireland, *Guidance by the Attorney General for Northern Ireland pursuant to Section 8 of the Justice (Northern Ireland) Act 2004: No. 13 human rights guidance for the Police Service of Northern Ireland, the Public Prosecution Service, the Probation Board for Northern Ireland and the Northern Ireland Courts and Tribunals Service: Domestic Abuse and Stalking, April 2018*. Available online at: https://www.attorneygeneralni.gov.uk/sites/ag/files/media-files/Section%208%20Guidance%20in%20Relation%20to%20Domestic%20Abuse%20and%20Stalking%20-%20Final_0.pdf

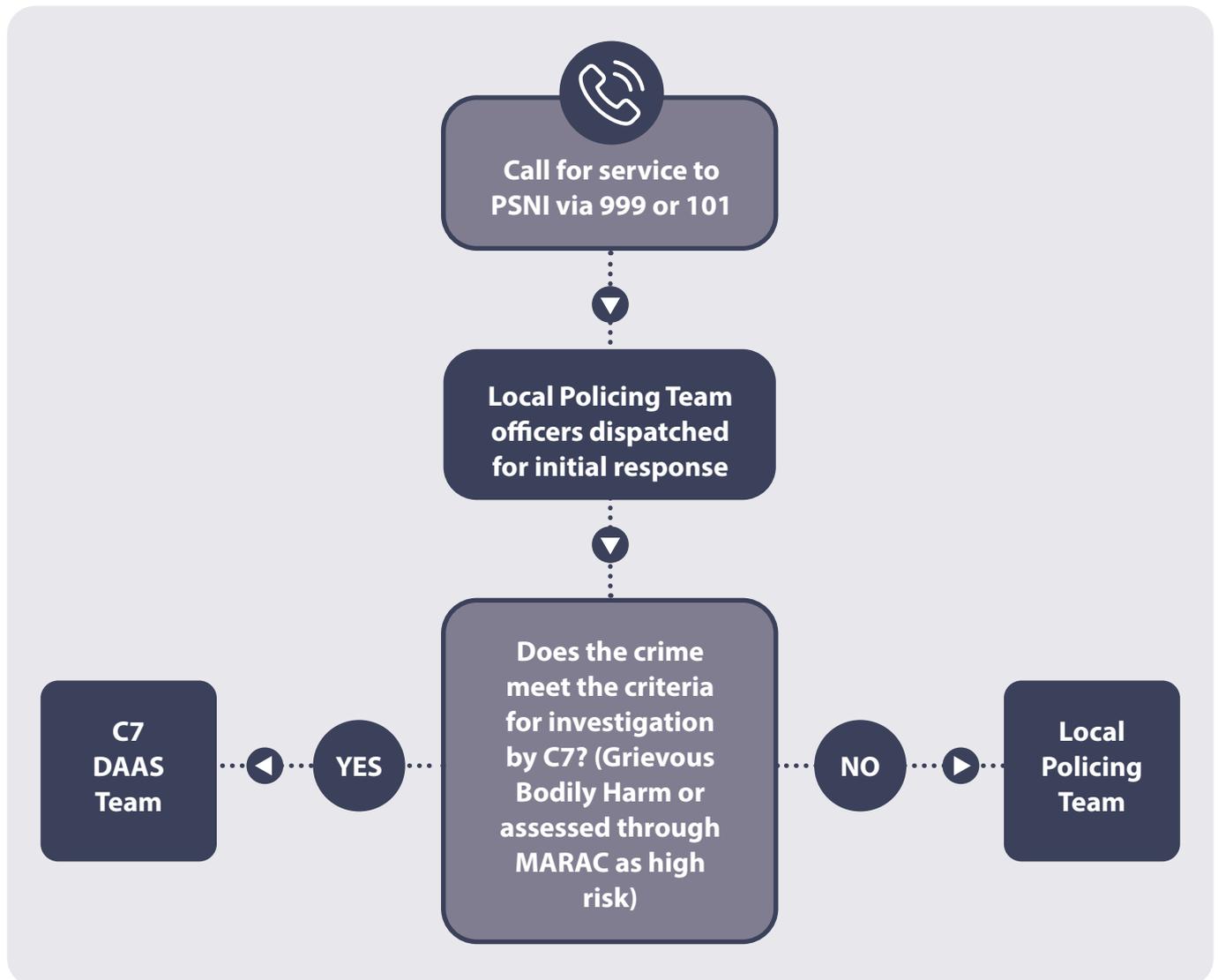


First response, risk assessment and multi-agency safeguarding

PSNI structures and staffing

- 3.1 In April 2015 the PSNI established C7 Public Protection Branch as part of the Crime Department. In doing so it brought together the Public Protection Units who had previously been based in each individual police district. The Branch brought together police officers and staff who worked across the public protection specialisms of domestic abuse, child abuse, child sexual exploitation (CSE), sex and violent offender management, adult safeguarding, rape, child abuse imagery and e-safety.
- 3.2 In terms of domestic abuse, the Public Protection Branch held the service strategic leadership and policy for domestic abuse as well as operational responsibility for the Domestic Abuse and Adult Safeguarding (DAAS) officers, the MARAC Co-ordinator and MARAC administrators. The Branch was led by a Detective Chief Superintendent, with a Detective Superintendent for Domestic Abuse, Adult Safeguarding and Offender Management, and a Detective Chief Inspector for Domestic Abuse and Adult Safeguarding (this role was split after the fieldwork for this inspection had concluded so that a Detective Chief Inspector had sole responsibility for Domestic Abuse policy). As with those working in child abuse investigation, the teams had been restructured to be coterminous with Health and Social Care Trusts, rather than police districts (which were based on Council areas).
- 3.3 First response to domestic incidents and the majority of subsequent investigations into domestic crimes were the responsibility of District Policing Command and were undertaken by Local Policing Teams. There was a case allocation policy in place, which set out the criteria upon which incidents should be allocated to a DAAS officer rather than a local policing officer. The criteria was an offence that constituted Grievous Bodily Harm or a more serious offence, a repeat victim who had reported three or more incidents in the past 12 months and cases where the victim had been assessed through MARAC as being at 'high risk'. This criteria was under review at the time of the fieldwork due to the volume of cases being allocated to DAAS officers, particularly where the severity of repeat incidents may not warrant the skills of a Detective. DAAS officers had been consulted about these potential changes and been asked for their views. The criteria was amended after the fieldwork for this inspection had concluded to remove 'three or more incidents in the past 12 month period'. The process for determining which team was responsible for dealing with domestic incidents and crimes can be most simply shown through the flow chart in Diagram 1.

Diagram 1 Flow chart for allocation of Domestic incidents



- 3.4 In the 2010 CJI report on domestic violence and abuse⁸⁵ it was recommended that *'the PSNI should review the role of and skill set requirements for Domestic Abuse Officers and Public Protection Unit supervisors and specifically consider the need for a proportion of officers working in the area of Domestic Abuse to be trained to the relevant investigative standards via the Initial Crime Investigators' Development Programme'*. The 2013 follow-up review by CJI⁸⁶ found that this had not been achieved by the PSNI at that time.

85 CJI, *Domestic violence and abuse: A thematic inspection of the handling of domestic violence and abuse cases by the criminal justice system in Northern Ireland, December 2010*. Available online at: <http://www.cjini.org/getattachment/1b651b43-657b-471b-b320-101fca7c6930/Domestic-Violence-and-Abuse.aspx>

86 CJI, *Domestic violence and abuse: A follow-up of the inspection recommendations, October 2013*. Available online at: <http://www.cjini.org/TheInspections/Action-Plan-Reviews-Inspection-Follow-Up-Review/2013/Domestic-Violence-and-Abuse>

- 3.5 By the time of this inspection however a decision had been taken that all officers in Public Protection Branch working in the area of domestic abuse would be trained via the Initial Crime Investigators' Development Programme to become Detectives, in common with their colleagues working in other areas of public protection. This had led to a period of instability as some officers had chosen to leave the branch and others were absent for periods of training. However, all officers spoken to were in agreement that the professionalisation of the role and focus on victims who were subject to more serious domestic abuse was a positive development. In addition the roles of Adult Safeguarding Officer and Domestic Abuse Officer had been combined to create the role of DAAS Officer.
- 3.6 Stakeholders who worked with domestic abuse victims had mixed views about the changes to the policing structures and resources for domestic abuse. They commented positively on the officers working in the area of domestic abuse, in common with previous CJI inspections, and praised their understanding of the issues facing domestic abuse victims. However the structural changes whereby domestic abuse officers had moved from local police districts to Public Protection Branch were highlighted as an issue as they felt that resources had reduced, expert knowledge had been removed and their connections with individual officers had suffered. There was some concern that in rural areas, removal of the DAAS role from Districts may have influenced regression in attitudes toward domestic abuse, citing examples of officers talking about 'mutual violence', 'a bit of drink' and 'fiery people'. In addition concerns were raised about the merging of the adult safeguarding and domestic abuse roles and the lack of time available to discharge the responsibilities of both appropriately.
- 3.7 The level of resourcing across the Public Protection Branch was highlighted in the CJI report on sexual violence and abuse⁸⁷. It was recommended that: *the PSNI should continue to assess and evidence that resource distribution across the areas of child abuse, rape crime and domestic abuse and adult safeguarding is proportionate and sufficient to manage demand and victim confidence effectively. The resourcing levels in Public Protection Branch should be reviewed and re-assessed within a year of the publication of this report.*
- 3.8 Police Districts had also undergone boundary changes since the last CJI inspection, so that districts were now aligned with local councils. This also created some concerns for victims' organisations where personnel had moved and they had to re-establish relationships with officers in two or three districts. Each district had one or more domestic abuse leads who were Inspectors from a Local Policing Team or a Neighbourhood Policing Team. They liaised with local victim organisations and officers from Public Protection Branch.

87 CJI, *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>

- 3.9 The Central Referral Unit, described in CJJ's report on sexual violence and abuse⁸⁸, also had a role in assessing referrals in domestic abuse cases where the victim was an 'adult in need of protection' (as defined in the 2015 adult safeguarding policy⁸⁹). They also had a role in checking DASH risk assessments as well as checking further referrals were made by attending officers as required (for example, to social services in respect of children, referrals to support agencies). As highlighted in the CJJ report, the implementation of the Unit was seen as a positive development by all those spoken to.

Training

Foundation training

- 3.10 Student officers received a specific lesson on domestic abuse during Foundation Training and various further inputs throughout the 23 week programme, which focused on identifying, dealing with and safeguarding vulnerable or intimidated witnesses. These inputs included identifying vulnerable people, witness interviewing (for example, special measures, registered intermediaries, interpreters etc.), safeguarding vulnerable and intimidated victims or witnesses using different disposal methods as well as a series of practical sessions which included dealing with domestic incidents as well as wider vulnerability and safeguarding issues. There were also specific lessons on adult safeguarding, child protection and harassment which included issues relating to domestic abuse. Women's Aid and the Alzheimer's Society provided input to two lessons at appropriate stages.
- 3.11 The training appeared to cover the key elements of domestic abuse such as what domestic abuse is and who can become a victim, why victims stay in abusive relationships and human rights considerations as well as tools that could be used in dealing with domestic abuse incidents including body-worn video, risk assessment and the use of Domestic Abuse, Stalking and Harassment (DASH) forms, MARAC and Non-Molestation Orders. Although Women's Aid provided an input into the training they commented that this had been reduced in recent years due to limitations on the timetable. This also restricted the involvement of other victim organisations, such as Men's Advisory Project or the Rainbow Project from providing an input although these organisations, as well as others attended community engagement evening at the Police College in week five of the student officer training programme.
- 3.12 Officers in districts felt that their initial training equipped them with the appropriate knowledge and skills to deal with domestic offences, but highlighted that being tasked to these incidents once they had completed Foundation Training was a steep learning curve. One issue that was being reviewed by Foundation Training was the awareness of officers about victims of domestic crimes being vulnerable and how this linked with the requirements of the Victim Charter regarding vulnerable victims and the need to consider special measures.

88 CJJ, *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>

89 Department of Health, *Adult safeguarding prevention and protection in partnership policy document, July 2015*. Available online at: <https://www.health-ni.gov.uk/sites/default/files/publications/dhssps/adult-safeguarding-policy.pdf>

Enhanced and specialist training

- 3.13 The Public Protection Branch had led the development and delivery of enhanced domestic abuse courses in 2016-17. This had provided training to two officers from each local policing team (over 840 frontline officers over a three-year period out of approximately 2,300 in local policing teams in total) on domestic abuse, which was intended to enhance their knowledge (for example, on reluctant victims, withdrawal statements, support agencies and risk management) in order to champion the strategic priority of domestic abuse within their team providing improved service to the public and extra knowledge and skills to their colleagues. Whilst this was a laudable initiative Inspectors found that, in reality, very few of the local policing officers spoken to during this inspection were aware of this training or who in their team had received it. In some cases where officers were aware who had received the training they informed Inspectors that the officers had moved on to other roles.⁹⁰
- 3.14 In addition the ability to access officers who had received specialist training in interviewing vulnerable and intimidated witnesses (Achieving Best Evidence; ABE) and to enable them to undertake searches on the internet, for example to research on social media (Research, Open-source, Internet and E-mail; ROSIE) training was raised as a challenge. Inspectors were advised of occasions where emails were sent service-wide by officers who were trying to access an ABE or ROSIE trained officer.
- 3.15 It appears that the access to officers in local policing who had been provided with enhanced training is an issue for police supervisors and managers. If officers are provided with such enhanced training they should be expected to make themselves available to assist colleagues who have not been trained with their investigations, even if they have moved to other roles. The issue of access to ROSIE trained officers was raised as an issue in CJI's inspection of cyber-crime⁹¹ and the report recommended that the PSNI review its online access for first response officers. The PSNI advised that all three Coordination and Tasking Centres provided access to a ROSIE terminal for use by first response officers. There is a wider issue though of PSNI management or operational planning departments having access to information about those who have been provided with enhanced training, ensuring those officers retain and use those skills and being willing to share resources across districts or areas.
- 3.16 Once a decision was made by the PSNI that domestic abuse was to be a Detective role DAAS officers were required to undertake and pass a structured development programme to become an accredited Professionalising Investigations Programme Level 2 investigator via the College of Policing national programme for those working on serious and complex investigations⁹². This included topics such as domestic abuse, stalking and harassment, managing risk, MARAC, non-molestation orders and female genital mutilation. As highlighted in paragraph 3.5 some

90 CJI were also advised that a further two hour training package was delivered between May and December 2018 to all frontline responders and sergeants in policing districts who were not able to avail of the eight hour package. As the fieldwork for this inspection had concluded by then Inspectors were not able to assess the impact of this training.

91 CJI, *Cyber crime: An inspection of how the Criminal Justice System deals with Cyber Crime in Northern Ireland, June 2017*. Available online at: <http://www.cjini.org/getattachment/de5474c9-fbf4-4caf-b7fd-4c440e133b8f/picture.aspx>

92 See College of Policing, *Professionalising investigations programme: Programme policy 2017, 2017* Available online at: http://www.college.police.uk/What-we-do/Learning/Professional-Training/Investigation/Documents/PIP_Policy.pdf

officers previously working in domestic abuse had chosen to move to a non-detective post rather than undertake the examination. Most officers who had chosen to stay had completed or nearly completed their training. With the amalgamation of the domestic abuse and adult safeguarding roles, there had been a programme of training for officers in undertaking investigations under the joint protocol⁹³ and ABE interviews and Public Protection Branch had provided continuing professional development sessions for DAAS officers in areas such as MARAC and the Domestic Violence and Abuse Disclosure Scheme.

Understanding harassment and stalking behaviour

- 3.17 Harassment was covered in a specific lesson in Foundation Training but was only mentioned as part of the session on the DASH form in relation to domestic abuse. It was also included in District Training as a stand-alone lesson and in the domestic abuse lesson. Harassment was also covered in training for Trainee Investigators and there was a specific lesson on stalking. Concerns were raised by officers in a range of roles about the preparedness and ability of first responders to identify harassment appropriately in cases of domestic abuse. This was also highlighted by victims in their individual stories (see Chapter 7). The PSNI Public Protection Branch highlighted to Inspectors their concerns that the offence of harassment does not appropriately address cases of domestic abuse where there is harassing, coercive or controlling behaviour which is why they had identified such a significant need for a domestic abuse offence.
- 3.18 From the discussions held with local policing officers, specialist officers and PSNI managers as well as the examples given by victims and their support organisations, CJI have concerns about the PSNI's overall approach to dealing with harassment, stalking and 'low level' domestic abuse or coercive and controlling behaviour i.e. where a physical assault has not occurred. This was particularly the case where victims complained to police about ongoing harassment via text messaging or social media. In one example a victim stated that the police officer told her 'there's not much I can do unless he actually hits you'. Several victims informed Inspectors that they had been advised by the police to seek a Non-Molestation Order to deal with instances of harassment. However examples were also given as to when police officers told victims that the defendant ringing or texting them to ask about their children or being seen loitering near their property was not a breach. One of the most concerning examples Inspectors were told about by a victim appeared to be a clear case of stalking, which had the potential to escalate as outlined in the box below.

93 Health and Social Care Board, *Protocol for Joint Investigation of Adult Safeguarding Cases, August 2016*. Available online at: <http://www.hscboard.hscni.net/download/PUBLICATIONS/safeguard-vulnerable-adults/niasp-publications/Protocol-for-joint-investigation-of-adult-safeguarding-cases.pdf>

Case example 1

A woman had a brief relationship with a man after splitting from her husband of many years. She broke off the relationship but described that the ex-partner wouldn't stop 'pestering' her to talk about why their relationship had ended. She engaged with Women's Aid and then one day he approached her on the street. She couldn't get him to leave her alone and he began to verbally abuse her. Afraid for her safety she ran to her car but he followed her and refused to exit the vehicle. She drove to the police station and ran from the car to the enquiry officer with the man in pursuit. The staff member on the enquiry desk told her that all the officers were on their break and asked her to 'come back after lunch'. She returned to her car and drove around for an hour before going back to station. She said that a local retailer in close proximity to the station had CCTV but that the police did not request this. Eventually a Police Information Notice (PIN) was served on the man but the officer who served it told her that he 'was a nice guy'.

The man wrote her a few letters and then approached her later in the year when she was on a break in the Republic of Ireland and assaulted the male friend she was with. She had been confronted by him again the week prior to meeting with CJI Inspectors. She had been advised to get a Non-Molestation Order but felt there was no point as she believed it would aggravate him. She was aware of the murder of Connie Leonard, who the media reported had recently been granted a non-molestation order against her ex-partner, which reinforced her views (see <https://www.bbc.co.uk/news/uk-northern-ireland-39949481>). She felt let down by the police and very vulnerable.

- 3.19 This and other examples provided in Chapter 7 is worrying and suggests a lack of understanding of the cycle of domestic abuse and how, what may be perceived to be minor issues, can escalate into something much more significant. The analysis of domestic homicides reviews in England and Wales described in Chapter 1 demonstrates how a failure by agencies to recognise or explore further cases with possible signs of domestic abuse and/or domestic violence can, in the worst case scenario ultimately result in a homicide occurring. The planned future introduction of a domestic abuse offence which encompasses coercive and controlling behaviour also means that the PSNI have a responsibility to prepare their officers for dealing with these types of behaviours; even if at the current time they can only be used to provide evidence of a pattern of behaviour or of bad character.

The Domestic Abuse Matters changes programme

- 3.20 In England and Wales, following the HMIC *Everyone's Business* report in 2014⁹⁴, SafeLives worked with the College of Policing to develop a new change programme; Domestic Abuse Matters⁹⁵. This programme was described as follows: *'Domestic Abuse Matters Change Programme was written with the College of Policing by SafeLives to provide police forces with a sustainable programme of change which offers the opportunity for the country to provide consistency of service to families experiencing domestic abuse. The programme recognises the difficult role police responders play in dealing with domestic abuse, given demand is often outstripping resource, takes account of helper conditions responders develop and responds to domestic abuse experienced by those who serve'*⁹⁶.
- 3.21 This programme focused on the issue of domestic abuse and coercive and controlling behaviour and was structured with a view to implementing long-term attitudinal and behavioural change in the police force. As part of the programme SafeLives delivered the following to police forces:
- a force health check using a critical friend approach to ensure that the force can support and therefore maintain the cultural, attitudinal and behavioural change achieved by the training;
 - training local trainers on a Domestic Abuse Matters train the trainer course to future proof the force;
 - training 75% of first responders (response and neighbourhood officers, front counter staff, detectives, call handlers and control room staff) designed to increase empathy and decrease negativity around domestic abuse;
 - a system of on the job 'Domestic Abuse Matters Champions' given extra skills via training with a mandate to sustain the change in skills, behaviour and attitudes by challenging inappropriate language and behaviour, checking service delivery, giving feedback and congratulating great practice. Champions also identify and act on compassion fatigue, burnout and vicarious trauma and respond to abuse within colleagues' personal lives;
 - a presentation of findings from the health check and learning from the responders and Domestic Abuse Matters Champions as to what it is like to be a domestic abuse responder in their police force. This is combined with an evaluation post the training to assess change in practice and knowledge immediately after the training and six months later; and
 - a Sustaining the Change senior leader workshop.

94 HMIC, *Everyone's business: Improving the police response to domestic abuse*, March 2014. Available online at: <https://www.justiceinspectorates.gov.uk/hmicfrs/wp-content/uploads/2014/04/improving-the-police-response-to-domestic-abuse.pdf>

95 College of Policing, *Updated training improves police understanding of coercive control*, September 2017. Available online at: http://www.college.police.uk/News/archive/september_2017/Pages/Updated_training_improves_police_understanding_of_coercive_control.aspx

96 SafeLives, *What is DA Matters?* Available online at: <http://www.safelives.org.uk/training/police>

- 3.22 An evaluation of the programme in three forces in England six months after delivery⁹⁷ found that officers surveyed before and after taking the training demonstrated an improved understanding of coercive control and a more positive attitude to tackling domestic abuse after completing the programme. At the time of writing SafeLives had delivered this course to 10 forces in England and Wales and were due to train over 14,000 officers in Police Scotland in preparation for the implementation of the Domestic Abuse (Scotland) Act. Inspectors would urge the PSNI to consider the adoption of this change programme as part of its future training plans, particularly in advance of legislation to address coercive and controlling behaviour being introduced.
- 3.23 Inspectors share the frustrations of the PSNI and stakeholders about the lack of a legislative mechanism to introduce a domestic abuse offence. Whilst the timing of work to further develop the approach to domestic abuse is important, Inspectors believe that significant delays in improving the understanding of officers could lead to victims being let down by the justice system. In doing so the PSNI should consider the approach of the other jurisdictions of the UK who have already implemented such legislation and what national guidance is available. Consideration as to how to further develop the PSNI's approach in this area is required (see paragraph 3.48).

Police response to calls for service

First contact

- 3.24 As highlighted in CJI's *'Without Witness'* report⁹⁸ there was evidence that the PSNI had taken action to implement the 'THRIVE' model⁹⁹ of assessing requests for service. Of particular relevance to the training given to call handlers in relation to domestic abuse-related calls was the ability to use police systems which highlighted repeat victims, Non-Molestation Orders in place and firearms registered at a property. Where a Non-Molestation Order had been issued the PSNI's NICHE Records Management System 'flags' were available on the system in relation to the victim, defendant and relevant addresses such as the victim's home and work addresses.
- 3.25 The PSNI file review found that in all of the 35 relevant cases the call handler acted appropriately and in accordance with PSNI policies and/or guidelines (i.e. vulnerability, repeat victims, attendance and allocation) either fully (26; 74.3%) or partially (9; 25.7%). Local policing officers confirmed that the information they received from the dispatcher in the Contact Management Centre about the risks and flags on the system was usually thorough and prepared them for the incident they were about to attend. They also confirmed that if the victim had suffered violence, the call handler would keep them on the call whilst the dispatcher tasked the officers to the scene.

97 SafeLives, *Domestic abuse matters: Police responders and champions training six month follow-up, June 2018*. Available online at: http://safelives.org.uk/sites/default/files/resources/DA_Matters_6_month_report.pdf

98 CJI, *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>

99 THRIVE (Threat, Harm, Risk, Investigation, Vulnerability and Engagement) is a model used to assess the appropriate initial police response to an emergency call.

- 3.26 Each call received to the PSNI's Contact Management Centre receives a call grading according to the assessment of the call as per the call allocation policy. In the file sample 21.0% (14) were graded as Emergency/Grade 1, 71.2% (47) as Priority/Grade 2, 1.5% (1) as Scheduled/Grade 3 and 6.1% (4) as Resolution without Deployment/Grade 4. In 93.8% of cases this grading did not change during the lifetime of the call. In three cases the grading was changed from Priority to Scheduled. In one of these cases the change was due to no resources being available at the time which was assessed not to be appropriate given that the call was relating to the breach of a Non-Molestation Order. In the other two cases the grading was changed due to the victim's wishes.

First response

- 3.27 The file review found that in 34.8% (23) of cases police attended the call immediately after the report, within an hour in 28.8% (19) cases and within two hours in 15.2% (10 cases). A total of 75.4% of cases (43 of 57) were attended within the PSNI's target time and the attendance time was assessed to be appropriate in 89.5% (51 of 57 of relevant cases). In 95.2% of relevant cases (59 of 62) there was no evidence that the attendance time or non-attendance had any adverse effect on the victim or investigation.
- 3.28 Inspectors were advised about the challenges of ensuring police resources were available to be allocated to domestic abuse-related calls. One issue highlighted, which has been raised with CJI in other inspections and by the PSNI in the media, was the time spent by PSNI first responders on dealing with individuals who are at risk of harm to themselves due to mental health issues or self-harming behaviour. The duty of care that officers had to individuals who were assisted by the police when they were suffering mental health issues meant that significant amounts of time was spent by officers waiting in hospital Emergency Departments. The figures from the case file review however suggests that the PSNI still manages to provide an appropriately timed response in the vast majority of cases, albeit that they met their own target times in only three-quarters of those.
- 3.29 First responders confirmed that attending domestic incidents was a frequent occurrence with most being tasked to one or more such calls per shift. One supervisor estimated that half of all calls attended were domestic abuse-related. The positive duty of arrest at domestic incidents was clearly understood by officers spoken to.
- 3.30 Research by the DoJ Analytical Services group¹⁰⁰ also reported that participants were generally positive about the speed with which the police arrived at the scene. In addition, there was broad consensus among participants that the police had indeed signposted them to the appropriate support organisations (for example Women's Aid and Victim Support Northern Ireland).

100 DoJ Analytical Services Group, *Research into the experiences of victims of domestic violence: summary of key findings*, March 2016. Available online at: <https://www.justice-ni.gov.uk/publications/research-experiences-victims-domestic-violence-summary-key-findings>

Vulnerability

Initial risk assessment and management

- 3.31 Vulnerability was defined by the PSNI in Service Policy 18/16 as follows: *'a term used to describe a person who is in need of special care, support or protection because of age, disability or risk of abuse or neglect'*¹⁰¹. In the PSNI case file sample where the vulnerabilities of the victim were appropriately identified this was mainly by the call handler (17 of 46; 37.0%) or the first responder (15 of 46; 32.6%). However vulnerabilities were not appropriately identified in around a sixth of cases (15.2%; 7 of 46). Where the risks to the victim were appropriately assessed and identified at the initial point of the investigation (for example, via a THRIVE assessment or a DASH form completed and submitted) this was done in most cases by the call handler (8 of 56; 14.3%) or the first responder (33 of 56; 58.9%). However the risks were not appropriately identified and assessed in eight cases (14.3%).
- 3.32 In over two-thirds of applicable cases in the file review (69.2%; 27 of 39) there was evidence on the file that the contents of initial log/999 call and other PSNI systems were used effectively to inform the attending officers of the relevant risk/vulnerability (including previous incidents involving the victim and/or premises).
- 3.33 In just under two-thirds of applicable cases (59.5%; 22 of 37) Inspectors assessed that the vulnerability (of all parties involved in the investigation) was dealt with well in the enquiry. In some cases this involved provision of appropriate support around safeguarding and referral through the MARAC process or to social services.
- 3.34 All victims of domestic abuse are potentially clearly vulnerable due to the nature of the offences against them and their ongoing relationship with the perpetrator. Victim care is therefore critically important to support the victim but more importantly, to address and manage the risks to them. In some cases victims have additional vulnerabilities by virtue of their age, social circumstances, mental health or physical health issues, which need to be a key focus for police in order to safeguard them appropriately. An example is given on the next page.

101 PSNI, *Service Policy 1816: Vulnerability*, October 2016. Available online at: <https://www.psnipolice.uk/globalassets/inside-the-psni/our-policies-and-procedures/corporate-policy/vulnerability121016.pdf>

Case example 2

The caller in the case was 73-year-old female who was both vulnerable by reason of her age and as a repeat victim of domestic abuse perpetrated by her daughter, albeit she had not made any reports to police in the previous two years. As well as previously perpetrating domestic abuse on her mother and other family members, the suspect had also been a victim of domestic abuse herself. The incident was triggered by a phone call to police about the daughter allegedly 'wrecking the place' in her mother's house in an intoxicated state. Upon police arrival the daughter was arrested for breach of bail, in respect of a previous incident of domestic abuse against her son. A DASH form was completed based on an officer's observations in respect of the suspect's son (as he declined to assist in its completion) but not on the woman. Although positive action was taken by the police in terms of the arrest for breach of bail from the notes on the file there did not appear to be any investigation conducted into the initial report of the suspect 'wrecking the place'. There was therefore no evidence of any investigation into possible disclosed offences of criminal damage or potential domestic offences against the 73-year-old woman who made the initial call, and no consideration of victim care for her. Inspectors believe the police actions undertaken on the night were limited in safeguarding the 73-year-old woman from further domestic abuse. The supervisor reviewed the file but did not appear to challenge the officer's actions or apparent lack of investigation.

Child safeguarding

- 3.35 The PSNI Service Instruction in relation to domestic abuse¹⁰² clearly stated the need to ensure the safety and well-being of any children or other household members, as well as the victim, where domestic abuse occurs or may occur. It specified the responsibility of the investigating or attending officer to assess risk and take positive action to safeguard the victims and/or children/vulnerable persons in household, including referral to Social Services.
- 3.36 In the case file review in nearly four-fifths of applicable cases (79.4%; 27 of 34) there was evidence that the vulnerability and/or risk of others involved (for example, children of household, witnesses, older people, the suspect etc.) were specifically considered. Where the issue related to a vulnerable adult there was evidence that a referral was made in 62.5% of cases (5 of 8); to a child in 80.8% of cases (21 of 26) and in cases where another type of referral (which included MARAC and Women's Aid) was required in 75.0% (6 of 8).

102 PSNI, *Service Instruction 1217: Domestic Abuse*, February 2017. Available online at: <https://www.psni.police.uk/globalassets/advice--information/our-publications/policies-and-service-procedures/domestic-abuse-270217.pdf>

3.37 Representatives from Health and Social Care Trusts responsible for child safeguarding confirmed that PSNI officers made an automatic referral to the Trust Gateway Team in every case where a child was present. They raised some concerns about the necessity for this in some situations (one example provided was where a woman called the police to attend a 'domestic incident' which turned out to be a dispute over the Chinese takeaway her husband had ordered her; whilst children were present at the address the need for a child safeguarding referral was questioned in this situation). Inspectors can appreciate however that the PSNI need to take a careful approach to child safeguarding and that any domestic incident, however small it may seem, may be indicative of a bigger issue which potentially could put children at risk. There was some concern expressed about a reduction in the detail and quality of information provided to Social Services by the police following a domestic abuse response and this was thought to have been linked to resource pressures within the police.

DASH risk assessment

3.38 The DASH ('domestic abuse, stalking and 'honour'-based violence') risk checklist was a risk assessment tool which included a series of questions based on extensive research of domestic abuse. The DASH checklist was designed to be completed by practitioners, both specialist domestic violence workers, such as IDVAs, and other professionals working for mainstream services. It aimed to provide a uniform understanding of risk across professions. The specific police version of the risk checklist, was used by most police forces in England and Wales and by the PSNI. The charity SafeLives provided training, advice and guidance for professionals on the use of DASH¹⁰³. The PSNI Service Instruction for domestic abuse¹⁰⁴ stated that it is the responsibility of the attending officer to identify and assess risk reflecting the DASH risk assessment. Inspectors were advised that the PSNI have a high completion rate for DASH forms of around 96%. In the focus groups officers from local policing teams demonstrated their awareness of the need to complete DASH forms on attendance at a domestic incident. Whilst there was general agreement that DASH was a useful tool, there were mixed views on whether the questions were all appropriate and necessary and whether the DASH form was too long.

3.39 Issues with the quality of the completed DASH forms was noted however as a cause for concern. For example some officers recorded 'DASH form refused' on the form rather than completing it as best they could with the information that was known to them without the input of the victim (for example with reference to previous domestic incidents reported to police, whether the current incident has resulted in injury etc.). Whilst this type of form counted as a completion it indicated a poor level of engagement with the victim in obtaining this information or understanding of the reasons why the DASH form was important. Failure to properly complete DASH forms could leave victims at serious risk of further abuse or violence. Case Example Three illustrates how this could occur, although in this case difficulties with the DASH form were picked up during the supervision process.

103 See www.safelives.org.uk for further information

104 PSNI, *Service Instruction 1217: Domestic abuse*, February 2017. Available online at: <https://www.psni.police.uk/globalassets/advice--information/our-publications/policies-and-service-procedures/domestic-abuse-270217.pdf>

Case example 3

Officers were tasked to a domestic incident where the victim was a woman of middle-eastern origin. Her ability to speak English was very poor and as a result the officer recorded on the DASH that the form could not be completed. The officer's supervisor reviewed the DASH form and was concerned that the risk to the woman had not been properly assessed. He tasked another officer to visit her again and an interpreter was arranged. With the interpreter's assistance the woman revealed she had been subjected to 30 years of domestic abuse at the hands of her husband.

- 3.40 There was inconsistent supervision of DASH forms across the PSNI; some local policing supervisors, such as the example quoted above, were proactive but most forms were not subject to such scrutiny. The MARAC Co-ordinator dip sampled some DASH forms and the Central Referral Unit was responsible for dip sampling 3% of standard and checking all 3+ standard, 3+ medium and high risk DASH assessments¹⁰⁵. The DASH checklists regarding victims who were assessed to be high risk were also reviewed by DAAS officers and referrals to MARAC were made as a result but it was generally accepted that the current completion rate measurement was a poor indication of quality. Where Inspectors asked about the reasons for this it was generally suggested that the form was too long with too many questions and that officers didn't see the relevance of some of them.
- 3.41 The PSNI is not unique in struggling with the challenge of ensuring quality risk assessments in domestic abuse cases. A report by HMIC in 2014¹⁰⁶ reviewed the response of police forces in England and Wales to domestic abuse. This found '*weaknesses in the risk assessment process, for example poor or no supervision of the initial risk assessment or no mechanism to check the quality of the initial risk assessment*'.
- 3.42 DASH forms had also been subject to criticism nationally and the College of Policing had been asked to undertake a series of reviews of its use and application. One College of Policing report noted that '*Feedback from members of the Reducing Bureaucracy Practitioners' Group suggested the national risk model for domestic abuse (the 'DASH') may not be appropriate or proportionate for some incidents classified as domestic abuse under the wide-ranging national definition*¹⁰⁷. This report outlined the findings of a pilot project which gave officers more discretion to decide whether a risk identification form should be completed. The evaluation criteria supported the officer's decision to not submit a risk identification form in a third of cases but in another third of cases, the officer's decision was not supported. In the final third there was insufficient information on police systems to make a robust judgment. The report concluded that '*Though there are clearly instances where the DASH risk identification form is not appropriate, police officers' knowledge of coercive control needs to improve before discretionary use of the DASH model could be advocated without increasing the likelihood of high risk cases not being identified.*'

105 These figure relates to the DASH score which is calculated by adding up each of the 24 questions to which the victim has answered 'yes'. A score of 14 or more is classed as high risk and leads to an automatic referral to MARAC.

106 HMIC, *Everyone's business: Improving the police response to domestic abuse*, March 2014. Available online at: <https://www.justiceinspectors.gov.uk/hmicfrs/publications/improving-the-police-response-to-domestic-abuse/>

107 Myhill, A. *Risk identification in cases of domestic abuse: Evaluation of a pilot project*, College of Policing, 2016. Available online at: http://www.college.police.uk/News/College-news/Documents/Risk_identification_in_cases_of_domestic_abuse.pdf

- 3.43 Another report by the College of Policing¹⁰⁸ also found that the DASH risk tool was not applied consistently at the frontline in police forces in England and Wales. The report found *'Overall, and in accordance with HMIC's recent inspections, we observed an often process driven approach to domestic abuse, which was of variable and inconsistent quality and often not fully understood or properly implemented by the officers involved. Despite acknowledged operational challenges, however, there was widespread support across police and partner agencies for a risk-led response to domestic abuse and belief that the DASH risk tool had added value in achieving this.'* It highlighted a lack of understanding of coercive control as being a particular issue and suggested that a revised risk tool for front line officers should place a greater emphasis on patterns of abusive behaviour.
- 3.44 Following on from this research the College of Policing published a report on the piloting of a new approach to domestic abuse front line risk assessment in three police forces in England¹⁰⁹. This new tool amended the question set in the original DASH form as well as amending the response options for most questions to 'never/occasionally/often/all the time' rather than 'yes/no'. In addition officers were required to provide a general assessment of the threat posed to the victim using the information they have collected and know about the victim and perpetrator and their professional judgement in an open box. They were then required to provide an initial assessment of threat as 'standard', 'medium' or 'high' based on their assessment of the responses and professional judgement rather than using a cut off score as in the previous DASH form. In November 2018 the College of Policing announced that the new risk assessment tool was to be rolled out to five further forces for testing¹¹⁰. Inspectors welcome this work by the College to improve the assessment of risk by police officers and would encourage the PSNI to closely follow this project and, at an appropriate time, work with the College to adopt this revised tool for front line risk assessment.
- 3.45 The provision of risk assessment information from the DASH form completed by the investigating officer to the PPS prosecutor was highlighted as an issue to Inspectors. When DASH forms had been initially implemented across the PSNI officers had tended to include the entire form in the case file. On the basis of legal advice this process had been altered, whereby the complete form was not included as a matter of routine but rather it was listed as a sensitive document which prosecutors could request to view in person after hand delivery by a PSNI officer. Instead officers were expected to include relevant risk information in the domestic history on the file, in the outline of case or somewhere else on the file. Where the victim withdrew from the case or the prosecutor felt this information was lacking then a decision information request would be sent to the Investigating Officer to ask for a domestic violence history/report, information about the current state of the relationship between the defendant and victim and questions about the potential vulnerability of the victim (for example if they were pregnant, suicidal, if there was a stalking/harassment element to the case) which clearly linked back to information collected via the DASH form.

108 Robinson, A. et al. *Risk-led policing of domestic abuse and the DASH risk model*, College of Policing, September 2016. Available online at: http://www.college.police.uk/News/College-news/Documents/Risk-led_policing_of_domestic_abuse_and_the_DASH_risk_model.pdf

109 College of Policing, *Piloting a new approach to domestic abuse frontline risk assessment: Evaluation report*, November 2018. Available online at: http://whatworks.college.police.uk/Research/Documents/DA_risk_assessment_pilot.pdf

110 College of Policing, *Five police forces to test new tool to help officers keep domestic abuse victims safe*, November 2018. Available online: http://www.college.police.uk/News/College-news/Pages/New_DA_risk_assessment_tool_November_2018.aspx

- 3.46 Inspectors found there to be inconsistency about the procedures and practice relating to the provision of information about risk assessment. The latest PPS guidance on domestic abuse cases from 2017 stated '*The risk assessment tool used is a DASH (domestic abuse stalking and harassment) Form and prosecutors should request from the police a copy as a matter of routine*'¹¹¹. Inspectors did not find evidence that this was undertaken in the manner described above in any of the files reviewed or in the discussions with prosecutors. In better case files in those reviewed officers would provide some indication of the level of risk as assessed on the DASH form and provide a domestic history from police records, outlining previous incidents and offences linked to the perpetrator or victim. However in others this information was not provided until the decision information request was sent to the police, which potentially built delays into the process, exposing victims to further risk. Inspectors believe the policy and practice of the provision of risk assessment information needs to be reviewed again, in order to ensure prosecutors are provided with the relevant information in an accessible manner with a consistent level of detail.
- 3.47 In light of the issues highlighted previously CJI believe there is a need for the PSNI to further develop its approach to dealing with cases of domestic violence and abuse. Inspectors believe that the following issues require further consideration by the PSNI, in conjunction with its partners where appropriate:
- how improvements can be made to the quality assurance process to enhance the quality of completed DASH forms and risk assessments;
 - a review of the practice and procedures used to share risk assessment information, including that gathered via DASH forms, with the PPS; and
 - continuing to keep abreast of developments at the College of Policing as to when and how the revised tool for front line risk assessment could be introduced to the PSNI, including consideration of the training required for officers.

Strategic recommendation 1

Inspectors therefore recommend that **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.**

111 PPS, *Domestic Violence and Abuse: Guidance for PPS Prosecutors, September 2017*. Internal document.

Ongoing risk management

- 3.48 HMIC have summarised the importance of risk management plans as follows¹¹²:
“Risk management plans are vitally important to keeping victims safe, because they enable criminal justice practitioners to:
- *understand the risks to the victim that have been identified;*
 - *consider what interventions are available; and*
 - *choose and take the most suitable actions to manage the identified risks and protect the victim.”*
- 3.49 In just under two thirds of applicable cases in the case file review (64.2%; 27 of 42) there was evidence that victim safety measures, beyond initial safeguarding, were appropriately considered and documented on the log or case file. There was evidence on the file of support, including special measures, being offered to the victim or witnesses (either by police or a partner agency) in 50.0% (11 of 22) of the applicable cases. In two cases there was evidence that the victim declined this support (9.1%). In a further case there was a referral made to Social Services but this took over a week to complete and in the final eight relevant cases, there was no evidence on the file of support being offered.
- 3.50 Officers advised that Women’s Aid were the key partner in making referrals to support victims of domestic abuse. Men’s Advisory Project were also available but had very limited resources. In CJI’s 2010 report¹¹³ it was recommended that Women’s Aid Criminal Justice Workers, who were co-located with Public Protection Units in some PSNI districts, be rolled out further to ensure consistency of service to victims across Northern Ireland. Due to funding issues this had not been progressed at the time of the follow-up inspection¹¹⁴.
- 3.51 At the time of the fieldwork for this inspection there remained Women’s Aid domestic abuse support workers in some districts but these were now co-located with local policing teams as it had been determined that front line officers were in need of greater support and knowledge from the workers in terms of understanding the impact of domestic abuse on victims and the cycle of violence. Officers were positive about the role of the support workers for domestic abuse but there remained inconsistency across the PSNI with some districts having this resource available whilst others did not. The absence of statutory provision of IDVAs across Northern Ireland remained a huge gap in this area which will be discussed further in Chapter 7. The DoJ were developing plans as the fieldwork for this inspection was concluding for a streamlined advocacy support service for victims of domestic violence and/or abuse and victims of sexual violence and abuse (see Chapter 7).
- 3.52 In the 43 applicable cases there was evidence that a risk assessment was being re-considered

112 HMIC and HMCPSP, *Living in fear: The police and CPS response to stalking and harassment*, June 2017. Available online at: <https://www.justiceinspectorates.gov.uk/hmicfrs/publications/living-in-fear-the-police-and-cps-response-to-harassment-and-stalking/>

113 CJI, *Domestic violence and abuse: A thematic inspection of the handling of domestic violence and abuse cases by the criminal justice system in Northern Ireland*, December 2010. Available online at: <http://www.cjini.org/getattachment/1b651b43-657b-471b-b320-101fca7c6930/Domestic-Violence-and-Abuse.aspx>

114 CJI, *Domestic violence and abuse: A follow-up of the inspection recommendations*, October 2013. Available online at: <http://www.cjini.org/TheInspections/Action-Plan-Reviews-Inspection-Follow-Up-Review/2013/Domestic-Violence-and-Abuse>

and updated as the investigation progressed fully in just over half the cases (51.2%; 22) and partially in 27.9% (12). There was evidence that safeguarding the victim was considered (for example, referrals to MARAC, Victim Support NI, Women's Aid etc.) in 80.4% of relevant cases (37 of 46).

- 3.53 There was evidence that appropriate action was taken by police to successfully mitigate the risks to the victim in 40.5% of relevant cases (15 of 37). There was partial mitigation of the risks in 21.6% of relevant cases (8) and in 27.0% of cases (10) there was evidence that police took action to mitigate the risks but that the victim was not supportive of these actions. In 10.8% of cases where there were risks to the victim (4) these risks were not mitigated. This evidence was supported by examples provided from some victims (see Chapter 7) who felt that some police officers appeared disinterested or unable to assist them, for example suggesting that the victim's only redress is that they should seek a Non-Molestation Order.

MARAC

- 3.54 At the time of the 2010 CJI inspection¹¹⁵ the PSNI had piloted and were rolling out MARAC across the service. By the time of the current inspection MARAC was well embedded and used in every Health and Social Care Trust Area, although it was a voluntary process for all agencies. Each MARAC was chaired by a PSNI Detective Sergeant from the DAAS team with support from a MARAC Administrator, a member of police staff. The PSNI MARAC Co-ordinator arranged training events, acted as a link with SafeLives¹¹⁶ and provided a quality assurance function as well as support and advice for the MARACs. MARAC was a multi-agency body and therefore as well as the PSNI the MARACs were attended by representatives from children's and adult services in Health and Social Care Trusts, the Northern Ireland Housing Executive, the PBNI, Education and Library Boards and the local Women's Aid group. Victim Support were asked to provide an input although did not attend in person.
- 3.55 During February and March 2016 SafeLives delivered training for MARAC representatives and MARAC Chairs in Northern Ireland, including risk assessment training. Further training for more than 100 representatives was taking place at the time of the fieldwork for this inspection. In May 2016 a report was provided by SafeLives¹¹⁷ drawing together issues that arose during training, observations from a MARAC meeting and comments on the data routinely collected from the Northern Ireland MARACs (data collected in 2015). The functioning of MARAC in Northern Ireland was reviewed against the SafeLives 10 principles of an effective MARAC¹¹⁸.

The report also made recommendations for MARAC Development across Northern Ireland.

115 CJI, *Domestic violence and abuse: A thematic inspection of the handling of domestic violence and abuse cases by the criminal justice system in Northern Ireland*, December 2010. Available online at: <http://www.cjini.org/getattachment/1b651b43-657b-471b-b320-101fca7c6930/Domestic-Violence-and-Abuse.aspx>,

116 SafeLives are a national charity working to end domestic abuse. Among other activities they provide resources and training for MARACs and IDVAs. See <http://www.safelives.org.uk/>

117 SafeLives, *Marac development report for Northern Ireland: Observation Report with recommendations for improving effectiveness of Marac processes in Northern Ireland*, May 2016. Unpublished report provided to CJI.

118 See SafeLives, *10 principles of an effective MARAC*, 2017. Available online at: <http://www.safelives.org.uk/sites/default/files/resources/The%20principles%20of%20an%20effective%20MARAC%20FINAL.pdf>

Some headline figures from the data highlighted the following:

- an 11% reduction in cases in 2015 since the previous year;
- a referral rate of 19 cases per 10,000 of adult female population, compared to 33 cases per 10,000 in England and Wales;
- 36% of cases were repeat referrals, which was within SafeLives expected range of between 28% and 40% (compared to 25% in England and Wales); and
- 28% of non-police referrals, compared to 36% in England and Wales.

More recent data provided to CJI by SafeLives¹¹⁹ showed that in 2016-17 and 2017-18 referrals remained constant at 19 cases per 10,000 of the adult female population. The 2016 report also highlighted the lack of input from substance misuse or health services at MARAC and some concerns were raised about a reluctance to properly share information among the partners, although Inspectors did witness good information sharing at the meetings attended (see paragraphs 3.59 - 3.61). The lack of an IDVA service was noted in the report as a 'fundamental weakness', albeit acknowledging the good work done by the voluntary sector including Women's Aid.

- 3.56 The 2016 HMIC inspection of policing effectiveness¹²⁰ indicated that improvements in practice in relation to MARAC were required. It reported concerns about whether MARAC was effective at protecting those at highest risk of domestic abuse and, while acknowledging the strategic priority the PSNI had afforded domestic abuse, found its response was not consistently good. The report noted *'MARACs focus on new cases, relationships that have not previously been discussed at MARACs and the re-submission of cases previously discussed and closed. The PSNI and partner agencies did not always have the information they needed to consistently understand why cases were referred to the MARAC, or identify the level of risk posed to the victim and the most appropriate safeguarding measures....A record is maintained of actions that agencies volunteer to undertake and the minutes of the next meeting include an update, but there is no multi-agency review or evaluation of any police or partner interventions. This means that conference attendees are unable to assess whether any of their previous actions had removed or reduced the risks to victims and their children.'* The lack of an IDVA scheme was highlighted by HMIC as contributing to some of these issues.

119 SafeLives, Northern Ireland Marac data - April 2017 to March 2018 and Northern Ireland Marac data - April 2016 to March 2017, data provided to CJI.

120 HMIC, PEEL: Police effectiveness: An inspection of the Police Service of Northern Ireland, 1–5 February 2016, August 2016. Available online at: <https://www.justiceinspectorates.gov.uk/hmicfrs/publications/peel-police-effectiveness-police-service-of-northern-ireland/>

- 3.57 A further review of MARAC was undertaken by the DoJ Analytical Services Group, published in October 2017¹²¹. This also reviewed MARAC against the 10 SafeLives principles. Similar themes were evident in this report as in the 2016 SafeLives report including the high proportion of referrals from the police, inadequate attendance from some organisations, mixed views about the effectiveness of actions plans and a lack of support for victims due to the absence of an IDVA scheme.
- 3.58 The lack of an IDVA scheme is a critical issue for the effectiveness of MARAC. Whilst voluntary organisations, most often Women's Aid, fulfil some or all of the roles of the IDVA and have participated in SafeLives MARAC training, they are not funded to do so and some local groups do not feel they fully deliver the role. This affects the operationalisation of MARAC in the following way:
- the voice of the victim is not provided to the MARAC by an IDVA;
 - actions are not taken on by an IDVA to keep the victim safe and link them in with appropriate services;
 - a lack of input to the meeting as to the effectiveness of previous actions from the victim; and
 - the appropriate level of non-police referrals to MARAC is lower than expected (these predominantly come from the IDVA role in England and Wales).

The issues regarding the lack of an IDVA scheme will be discussed further in Chapter 7.

- 3.59 As part of the fieldwork for this inspection, Inspectors attended four MARAC meetings as observers. The meetings appeared to be well attended and well managed and it was clear that the attendees had prepared for the meeting bringing relevant information to share. Confidentiality and consent were discussed at the beginning and end of the meeting and referred to throughout. The referring agency (which in the vast majority of cases was the PSNI) provided an overview of the incident that had led to the referral as well as any background information available on the victim and perpetrator (for example previous incidents, the current relationship between the two parties, the presence of children in the household, what action was being taken as a result of the incident, any Non-Molestation or other Orders in place, the DASH form information and the views of the victim about engaging with support organisations). The other attendees were also then invited to share the information they held on the victim and perpetrator.

121 DoJ Analytical Services Group, *R&S Bulletin 302-2017: Review of MARAC, October 2017*. Available online at: <https://www.justice-ni.gov.uk/publications/r-s-bulletin-30-2017-review-marac>

- 3.60 Despite attending only a small number of meetings Inspectors could see the potential value added by the multi-agency nature of the MARAC. Whilst the PSNI clearly held a lot of information, there was useful and significant information shared which was relevant to the case but would not have been made available had the parties not been present. For example in one case the Housing Executive advised that the victim was very vulnerable and, due to the nature of her own lifestyle but also the behaviour of her son who was perpetrating domestic abuse against her, she was at risk of losing her tenancy as the Housing Executive was seeking repossession proceedings against her. As a result of this information being shared and a discussion by the attendees an agreement was reached that other members would hold back from intervening until the Housing Officer had been given an opportunity to offer further support to the victim.
- 3.61 In another case, where the perpetrator was well known to child and adult health services because of ongoing mental health issues and alcohol and drug abuse, a decision was made to convene a health-based case conference in which a greater number of health professionals could agree a plan to offer a support package rather than focus on criminalising the individual. Whilst there were no representatives of substance misuse or health at the meetings attended by CJI for purposes of this inspection, the representative from adult services was usually able to give an overview of these areas based on records from the healthcare systems and any additional information they had requested from staff working in these teams.
- 3.62 As highlighted in the HMIC report however Inspectors would concur with the view that the focus is on new referrals and what actions could be taken. In some cases due to the time lag between the incident occurring and the date of the MARAC meeting most actions had already been completed by the agencies; particularly by the police in relation to the investigation and interviewing of the victim and suspect, children's services in relation to child protection issues and Women's Aid in relation to making contact with victims. Whilst it is right that actions should be completed as quickly as possible by the relevant agencies, undue delay in holding the MARAC meeting could potentially lead to the delivery of multi-agency safeguarding actions being delayed.
- 3.63 Finally, as noted in Chapter 2 a MARAC Operational Group had been set up when MARAC was established but appeared to have ceased to function once MARAC had been rolled out. After the fieldwork for this inspection had concluded, CJI were advised that MARAC governance arrangements were being reconstituted with a MARAC Operational Board to be established from June 2019. There is clearly a need for leadership in the way that MARACs operate with representation from all stakeholders. Several of the issues highlighted by SafeLives and by the DoJ research require strategic oversight to look at patterns and trends in the operation of MARAC (for example, of the stalling referral rates below the SafeLives recommended levels, the differences in referrals across council areas, the effectiveness of MARAC actions) in order to ascertain where good practice exists and lessons can be learned and to share these across the organisations.

3.64 In light of the issues highlighted previously CJI believe there is a need to further develop the approach to the multi-agency safeguarding arrangements for cases of domestic violence and abuse in Northern Ireland. Inspectors believe that the following issues require further consideration by the PSNI and the other multi-agency partners on the new MARAC Operational Board:

- a review of the reasons that the MARAC volume of cases is below the recommended rate¹²² and for the reducing numbers of referrals in recent years and steps to address these reasons;
- the development of methods to assess the effectiveness of actions taken by MARAC partners to address risk; and
- a review of the role of the new MARAC Operational Board, following an appropriate period of time after its introduction, in the overall governance structures for domestic abuse and actions to address issues arising.

Inspectors believe overall therefore that there is further work to be undertaken by the multi-agency partners in Northern Ireland to develop the response of the MARAC partnership in response to cases of domestic violence and abuse.

Strategic recommendation 2

It is recommended that **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.**

122 SafeLives recommend a referral rate to MARAC of 40 per 10,000 of the adult female population.



Police investigation and file preparation

Investigation

- 4.1 In the majority of the cases in the file sample the main investigator came from a Local Policing Team (87.5%; 56 of 64 cases where there was a police response). Only two of the cases (3%) were being investigated by a DAAS officer. Both of these cases were cases of harassment where the victim was a repeat victim. Four cases were investigated by a local policing officer however Inspectors believe they should have been assigned to a DAAS officer, given the circumstances of the case.
- 4.2 In 71.9% (41 of the relevant 57 cases) there was evidence that all appropriate investigative opportunities were undertaken in a timely fashion from the onset of the investigation (for example, without unexplained delays). In over half of the relevant cases in the sample, this included photographing of injuries, seizure of CCTV, early identification of key witnesses, examination of electronic media (for example, of calls, text messages or photographs) and research of intelligence databases and previous incident logs. The majority of cases where police examined electronic media and all cases where they examined social media sites related to harassment cases. Overall, the case file review assessed that staff were able to effectively deal with the digital elements of the investigation in 71.4% of relevant cases (10 of 14).
- 4.3 Body-worn video was being piloted at the time of the 2010 CJI report¹²³ on domestic violence and abuse and had been recently rolled out across the PSNI. Officers across the PSNI confirmed that the use of body-worn video cameras had increased. They spoke positively about it and confirmed the benefits of these in terms of being able to capture the scene of the incident, any injuries apparent on the victim and the emotions of all parties at the time. There were a few examples given of occasions when victims refused to engage with officers if body-worn video was used.
- 4.4 In practical terms Inspectors were told of technical issues which impacted on the effectiveness of the use of body-worn video footage to support the prosecution case. Firstly there were some issues raised about the ability to playback the evidence on them during suspect interviews. Secondly the submission of body-worn video footage was highlighted as a particular issue by PPS prosecutors. The footage was not able to be added to the electronic file and therefore

123 CJI, *Domestic violence and abuse: A thematic inspection of the handling of domestic violence and abuse cases by the criminal justice system in Northern Ireland, December 2010*. Available online at: <http://www.cjini.org/getattachment/1b651b43-657b-471b-b320-101fca7c6930/Domestic-Violence-and-Abuse.aspx>

had to be provided on an encrypted hard copy disc, which had to be personally delivered by officers from the PSNI to the PPS. The password for the disc had to be kept separate from the disc and instead included in the electronic case file but prosecutors gave examples of frequent occurrences where the officer forgot to do this. In addition the encrypted disc was not compatible with PPS computers and therefore the PSNI had provided specific laptops on which the discs could be played. Inspectors would expect that these issues will be addressed as the PSNI implements its digital strategy¹²⁴.

- 4.5 Compatibility issues were also apparent in court. On a visit to the domestic violence court in Derry/Londonderry Inspectors witnessed a case where the disc containing the body-worn video footage was incompatible with the court video system and the court had to rise whilst the Investigating Officers left to source a laptop on which the Judge could watch the footage. These issues add further avoidable delays into the system and illustrate that the impact of technical projects introduced by one part of the justice system on others, is not properly considered. In the *'Without Witness'* report¹²⁵ CJI recommended that *'the PSNI and PPS fully engage in the NICTS digital strategy and collaborate when developing and maintaining their own technology in order to ensure systems for the transfer of digital information across the justice system are fit for purpose'*. It is hoped that actions to address this recommendation will also address issues raised in relation to body-worn video footage.
- 4.6 Prosecutors also confirmed their value in providing a first account from the victim and evidence of the scene when officers arrived. Some issues were raised about the officers' competence in using the equipment appropriately and in being cognisant that everything that was recorded could be used in evidence but it is hoped that these issues will reduce over time as a result of training across the PSNI and feedback from prosecutors. In five cases in the sample there was evidence that body-worn video was utilised. Of these five cases three resulted in a charge or summons, one in an adult caution and one was not yet resolved. The use of body-worn video footage at court will be discussed further in Chapter 6.
- 4.7 In just under half the relevant cases there was evidence of appropriate consideration of specialist support or resources to assist in the investigation (for example, a registered intermediary, child advocate, Women's Aid Criminal Justice Worker etc.) (45.8%; 11 of 24).
- 4.8 Where an investigation plan was required for the case there was evidence of a clear plan in two (5.7%) of the 35 relevant cases and an un-tailored plan in 22.9% of cases (8). There was no evidence of an investigation plan in 71.4% of cases (25). In the 10 cases where there was an investigation plan there was evidence that the investigation plan was followed fully in 30.0% of cases (3) and partially in 70.0% of cases (7).

124 See PSNI, *Digital strategy to 2020 and beyond*, 2017. Available online at: <https://www.psnipolice.uk/globalassets/inside-the-psni/our-departments/finance-and-support-services/ics/digital-strat-2020/psni-digital-strategy-a4-document-v9.2.3-external.pdf>

125 CJI, *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>

- 4.9 Overall the case file review assessed that all lines of enquiry were identified and pursued in 70.8% of relevant cases (34 of 48); the investigators were focused on identifying and bringing to justice those who had committed the offence in 68.6% of relevant cases (35 of 51) and there was evidence of an effective investigation in 69.2% of relevant cases (36 of 52).
- 4.10 These findings suggest that improvements could be made in the PSNI's approach to the investigation of cases of domestic abuse in between a quarter and a third of cases. This is also supported by the assessments of the prosecution case file review for this inspection, which considered the quality of the of 86 police files received by the PPS. This found that 9.3% (8) of files were good, 62.8% (54) were fair and nearly a third of files, at 27.9% (24), were poor.
- 4.11 These findings support previous work by CJI, most recently the 2015 report on file quality and disclosure¹²⁶. This called for greater collaboration between the PSNI and the PPS, to address significant failings in the preparation of case files and the standards applied around disclosure. The inspection found one third of case files (which came from a broad range of case types coming before the Magistrates' and Crown Courts) were either of an unsatisfactory or poor standard. The CJI '*Without Witness*' report on sexual violence and abuse¹²⁷ has already commented on the work ongoing between the PSNI and the PPS to address these issues and emphasised the need for further action in this area.

Use of civil orders

Police Information Notices

- 4.12 Police Information Notices (PINs) had previously been in use by the PSNI since the introduction of the Protection from Harassment (Northern Ireland) Order 1997. The initial intention of the notices was to deal with the difficulty of proving that individual acts (which did not in themselves amount to offences) had been committed by an accused who knew or ought to have known that this would cause the victim harassment, alarm or distress. In 2017 HMIC and HMCPSP identified a number of issues with the use of PINs by Home Office police forces during their inspection of stalking and harassment¹²⁸. On the basis of this it was recommended that Chief Constables should stop the use of PINs and their equivalents immediately. The PSNI had already halted the use of PINs in 2016 with similar concerns being raised about their legal status. In general Inspectors found that officers were aware that PINs were no longer available for officers to use in dealing with harassment although the case file review did find evidence in one case that a PIN had been issued.

126 CJI, *An inspection of the quality and timeliness of police files (incorporating disclosure) submitted to the PPS, November 2015*. Available online at: <http://www.cjini.org/TheInspections/Inspection-Reports/2015/October---December/File-Quality-and-Disclosure>

127 CJI, *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>

128 HMIC and HMCPSP, *Living in fear: The police and CPS response to stalking and harassment, June 2017*. Available online at: <https://www.justiceinspectorates.gov.uk/hmicfrs/publications/living-in-fear-the-police-and-cps-response-to-harassment-and-stalking/>

- 4.13 HMICFRS and HMCPSI's stalking and harassment report¹²⁹ also recommended the introduction of a protection order to deal with harassment. They noted that *'the use of a statutory order to deal with crimes of harassment would resolve many of the current problems with PINs. For example, the numbers of orders applied for would be more easily gathered and published, and their use made more visible to police officers, thus enabling a more comprehensive risk assessment in respect of both the victim and perpetrator. However, it is important that in order to avoid some of the problems we have found with PINs, it should be made clear that applications for orders should not be made instead of thorough investigations, but alongside them.'* As recommended above this type of order should be the next step for legislators in Northern Ireland to complement the implementation of Domestic Violence Protection Orders and the development of stalking legislation.

Non-Molestation and Occupation Orders

- 4.14 The Family Homes and Domestic Violence (Northern Ireland) Order 1998 enabled individuals to apply to the court for protective civil orders; namely Non-Molestation Orders and Occupation Orders. A Non-Molestation Order restricts the behaviours of an alleged perpetrator (the 'respondent') against the victim (the 'applicant') by imposing conditions that stop, for example, contact, communication and proximity to the applicant. An Occupation Order states who can live in the family home. It is served on the person and they can be arrested for breaching the order.
- 4.15 Inspectors heard a great deal of information about Non-Molestation Orders during the course of this inspection. Police officers appeared fully aware of the availability of the orders and in many cases Inspectors were informed that they advised victims to seek a Non-Molestation Order. Police officers were required to serve the Orders on the alleged perpetrator and the digitalisation of the process whereby the orders were sent from the court to the PSNI for service appeared to have reduced issues heard previously about the misplacing of paper copies. The system of allocation had recently been amended so that each Order was assigned by a dispatcher to an individual officer to be served during their shift and there appeared to be a greater level of oversight as to whether the Order had been served or not.
- 4.16 Police systems appeared capable of retaining and flagging Non-Molestation Orders and officers confirmed they were able to review the details on the records management system, which was particularly relevant when dealing with breaches. Concerns were heard from some victims about the police approach to dealing with breaches whereby they perceived that officers didn't take their concerns seriously. Some of these issues appeared to relate to the lack of awareness or understanding of officers of the nature of domestic abuse and in particular the coercive and controlling elements of it. An example frequently cited was where the perpetrator made contact with the victim by text or by telephone call or even in person which they claimed was because they wished to have contact with their children. Victims reported that when they spoke to the police they argued that this contact was made with sinister, controlling motives

129 HMIC and HMCPSI, *Living in fear: The police and CPS response to stalking and harassment*, June 2017. Available online at: <https://www.justiceinspectorates.gov.uk/hmicfrs/publications/living-in-fear-the-police-and-cps-response-to-harassment-and-stalking/>

but in many cases were advised that this was reasonable behaviour and in some cases the victim felt that the police officer was sympathising with the perpetrator. This issue highlights the potential conflict between civil and criminal law and the difficult position that the police find themselves in, particularly for example where the family court has determined that the alleged perpetrator is entitled to contact with their children but that the way to arrange that contact is through the alleged victim.

Arrest, interview and charging of suspects

- 4.17 There was a positive duty of arrest policy within the PSNI in relation to cases of domestic abuse and this appeared to be well understood by officers spoken to. In 41 cases in the file sample there was a named suspect and a power of arrest in the case. In one of these cases the suspect lived in England but was harassing the victim (in Northern Ireland) by telephone. The case was therefore reported to the PSNI but transferred to the local force for investigation. The suspect was arrested in half of the applicable cases (50.0%; 20 of 40). Where the suspect was not arrested this may be for a variety of valid reasons. Whilst there is a power of arrest for every offence the police officer must be satisfied that the arrest is both necessary and proportionate in the circumstances.
- 4.18 Where the suspect was arrested the majority (85.0%; 17) were arrested within one day of the report to police. In 13 of the 20 cases where the suspect was not arrested, a voluntary interview was arranged instead. Of the cases where there was no arrest made or voluntary interview arranged there were six cases where the incident was 'no crimed', although in two of these it was apparent that further enquiries should have been undertaken before a decision was made as to the outcome of the case. Of the remaining three cases, in one case the suspect was in England (see above) and in two cases, the suspect was a young person and referrals were made to Social Services with no further action taken by police.
- 4.19 Concerns were raised by some victims about the use of voluntary interviews and perpetrators delaying their attendance at this in an attempt to prolong the case. The case file review therefore considered this issue. In the 13 cases where a voluntary interview was used to interview the suspect seven of these (53.8%) were completed on the first occasion it was arranged. In two cases the voluntary interview never took place; in one of these the suspect had fled to Wales. However two cases were arranged four or more times before they were completed. The use of a voluntary interview was assessed as an appropriate course of action in nine of the 13 cases (69.2%). Five of the 13 interviews (38.5%) were conducted within a week of the incident. There is the potential therefore that voluntary interviews can delay the progress of the case and in the ensuing period between the incident and the interview, provide the perpetrator with an opportunity to either attempt to reconcile with the victim or inflict further abuse upon them, in the hope that they will withdraw support for the case.

- 4.20 There was no evidence that potential evidential or forensic opportunities were lost as a result of the delay in arresting the suspect in the majority of relevant cases (90.9%; 10 of 11) or as a result of the delay in interviewing the suspect (84.6%; 11 of 13). In one case a voluntary interview was arranged but the suspect fled to Wales so it was never completed and evidential opportunities were lost and in the other, a voluntary interview was arranged several times and it was two months before it took place. There was evidence that the content of the initial log or call was used to progress the investigation (for example, earliest evidence of events, initial account of victim/caller) in over two-thirds of applicable cases (67.6%; 23 of 34). The police officers involved provide relevant and comprehensive witness statements in just over half the relevant cases (54.2%; 19 of 35).
- 4.21 Pre-charge advice was sought from the PPS¹³⁰ in seven (14.3%) of the 49 relevant police files and was acted upon appropriately in all seven (100%). There was only one case in the prosecution file sample where advice was sought by the Investigating Officer from the PPS. There were 14 cases in the police file sample where Inspectors assessed that police should have made further enquiries to improve the case following pre-charge advice from the PPS or police bail. Of these there was evidence in the file of further enquiries being made in three cases (21.4%). However in the remaining 11 cases (78.6%) there was no evidence of further enquiries to improve the case.
- 4.22 In all 10 charge cases in the police file sample the charging decision by the police was timely. In the PPS file sample the charging decision was timely in 96.0% of cases (48 of 50 relevant cases).

Victim involvement

- 4.23 The review of police case files highlighted the challenges of obtaining and retaining the victim's support for the investigation and prosecution. Of the 49 relevant cases the victim supported the investigation and prosecution in 34.7% (17) but did not in nearly two-thirds of cases (65.3%; 32). Of these 32 cases the victim did not support the prosecution from the outset in 37.5% (12) of cases, then in the remaining cases the victim withdrew their support after the report was made to the police but before arrest in 28.1% (9), after arrest but before charge in 12.5% (4) and after charge but before trial in 21.9% (7). The reasons for the victim's withdrawal were documented in 23 of the 28 cases (82.1%).
- 4.24 There was evidence on the files that the police progressed or tried to progress the case without the support of the victim in a third of relevant cases (31.2%; 10) and, of these, they made progress by doing so in eight of the 10. In 43.8% of relevant cases they did not attempt to do so but there was nothing to progress, however in a quarter of relevant cases (25.0%; 8) they did not attempt to progress the case but could have.

130 This is where the police officer will ask the PPS for advice on the appropriate charges to reflect the offences committed.

- 4.25 There was evidence the PPS progressed or tried to progress the case without the support of the victim in just under a quarter of relevant cases (24.1%; 7 of 29) and, in doing so, they made progress in six of the seven. In 55.2% of cases (16) they did not attempt to do so but there was nothing to progress, however in 20.7% (6) they did not attempt to progress the case but could have. In two cases it was unclear from the file whether the PPS attempted to progress the case.
- 4.26 A victim statement was taken by the police in 25 cases. Of these, the majority (80.0%; 20) were taken within a day. In one case (4.0%) the statement was taken one to two days after the report to police and in the remaining four cases (16.0%), the statement was taken between a week and a month after the initial report. In cases where a statement was taken the timing of the statement taking was assessed to be appropriate in 92.0% of relevant cases (23).
- 4.27 In 47% (28) of cases in the police file review there was evidence that the victim was a repeat victim. This emphasises the need for police to do all they can to progress cases at the earliest opportunity, even where the victim withdraws their support.

File submission and case outcomes

- 4.28 Of the 33 files in the case file review submitted to the PPS 30.3% (10) were adult charge cases, 36.4% (12) were adult reported cases and 33.3% (11) were no prosecution files or none court disposals. Three files in the sample were yet to be submitted.
- 4.29 The submission of the police file to the PPS was in accordance with PSNI time limits in 82.1% of relevant cases (23 of 28). Four files (14.3%) were submitted late and one (3.6%) was not yet submitted but was still within timescales. In the prosecution file sample there was evidence that the police provided all the relevant background information at the file submission stage in just under three-quarter of cases (71.1%; 32 of 45 cases). In the police file sample a decision information request (where the prosecutor requests more information on the file) was necessary before a decision could be made in just three (11.1%) of the 27 cases which had been submitted to the PPS. In the prosecution file sample this was necessary in just two of 26 cases (7.7%). The PPS advised CJJ that, of the summary decisions issued with a PPS domestic violence motivation flag during 2017-18, just over a quarter (27.0%) required a decision information request. For indictable decisions, the equivalent figure was 62.8%.
- 4.30 Of the 13 cases where there was evidence on the file of disclosure practices at the initial investigation stage this was handled appropriately in 12 of 13 (92.3%) relevant cases. It should be noted that usually disclosure issues do not become apparent until a later stage in the prosecution process, which will be discussed later in this report.

- 4.31 The outcomes of the cases in the file review illustrate the high number of cases where the disengagement of the victim from the investigation and prosecution process ultimately leads to a situation where the case does not proceed on evidential grounds. Just under a third of the 36 applicable cases resulted in a charge or summons (30.6%; 11 cases). In 12 cases (33.3%) evidential difficulties prevented further action, where the victim did not support police action (i.e. did not support or withdrew from the criminal justice process). A total of 8.3% of applicable cases (3) resulted in an adult caution, in 5.6% (2) cases evidential difficulties prevented further action, where the victim supported police action, 5.6% (2) cases resulted in a restorative justice outcome, 2.8% (1) case was cancelled, 2.8% (one case) was transferred to a force in England and 5.6% of cases (2) were not yet resolved. In the final two (5.6%) cases there was another outcome (in one case a PIN was issued to the suspect and in one case it was unclear what the outcome was). This emphasises the need for information to be gathered from other sources rather than relying on the evidence of the victim, for example body-worn video, witness statements and medical evidence of injuries where available.

Victim care

- 4.32 There was evidence of the entitlements under the Victims Charter being met in 45.5% of the applicable cases (15 of 33). In 33.3% (11 cases) this evidence was lacking and in 21.2% (7) the victim declined the entitlements or refused to cooperate with the police investigation. Where evidence was lacking this included for example, evidence that the victim had been advised about special measures, evidence of an assessment of the needs of the victim or evidence of the opportunity to make a victim statement. Overall in the case file review Inspectors assessed that there was evidence of good victim care in the case in 76.3% of relevant cases (42 of 55). The experience of victims from their perspective is discussed in more detail in Chapter 7.

Management oversight and supervision

- 4.33 In each policing district was an Inspector from either the Local Policing Team or the Neighbourhood Team who acted as single point of contact for domestic abuse. They oversaw the district response to domestic abuse, including having oversight of domestic cases at the district morning meeting, and provided contact at a local level with victim groups such as Women's Aid. They also provided a single point of contact between local policing and officers from Public Protection Branch, for example in resolving issues in relation to who would investigate particular cases under the Case Allocation Policy and following up the progress of cases.
- 4.34 District policing managers confirmed that domestic abuse cases featured significantly at district morning meetings. Inspectors were advised that in some districts each domestic-related incident was reviewed to ensure appropriate actions had been undertaken by the attending officers such as the arrest of the suspect, completion of a DASH form and referrals made to support organisations. In other districts a less intense approach was taken with a focus on repeat victims and a dip sample of other cases. Public Protection Branch had an input in these meetings and discussions were held about whether local police or DAAS officers were most appropriate to investigate the case.

- 4.35 In line with a recommendation made in CJJ's first inspection of domestic violence and abuse DAAS officers also undertook dip sampling of 3% of domestic abuse crimes to establish whether decisions not to arrest were appropriate. However the records of this analysis provided to Inspectors suggests that there is very little challenge of officers in their decision making. It also appeared that the lack of detail in these records where issues were identified would make it difficult for the PSNI to identify patterns or common issues which could feed into training or supervision practices.
- 4.36 The file review assessed the effectiveness of the supervision as evidenced in the case file at various stages of the initial response and investigation as well as in the investigation overall¹³¹. These stages included the supervisory review of vulnerability and/or risks to the victim or witness, supervision of initial enquiries, supervision of any handover occurring between two teams or officers and the ongoing investigation. The supervision was assessed to be effective or limited but appropriate at every stage in between two thirds to three quarters of cases. However in a quarter to a third of relevant cases Inspectors assessed that, at one or more stages of the initial response or investigation stage, supervision was ineffective or there was no evidence on the file of supervision. One example from the case file review illustrates how ineffective supervision can impact on the quality of the investigation.

Case example 4

Police were dispatched to an emergency call where a woman in her 50's had assaulted her partner. The male victim had been assaulted and the suspect was arrested quickly for Actual Bodily Harm. The man gave a verbal account to the attending officers that was recorded and corroborated the injuries found on him. A risk assessment showed a history of domestic abuse and that there was a high risk of repeat incidents in the future. The victim was assessed to be high risk and a referral was made to MARAC, however he did not wish to support the investigation and prosecution and declined to give a statement.

There was no evidence on the file that the Investigating Officer tried to progress the case without his support. There was limited but appropriate supervision of the initial enquiries but no evidence of any supervision of the ongoing investigation. For example, photos were taken of the victim's injuries and the scene but these were not included or referred to in the file to the PPS. Evidence from the file seemed to suggest these had been mislaid. There were no house to house enquiries undertaken to provide evidence of an audible disturbance at the time of the incident. These issues were not referred to in the file or picked up by a supervisor despite this being a high risk case. A decision not to prosecute was made as the case did not meet the Evidential Test for prosecution.

¹³¹ The file review assessed the effectiveness of the supervision of the case at four key stages as well as an overall judgement as to whether the investigation was supervised effectively. An assessment was made only where the question was relevant for that case (for example if there was no handover of the case between teams this question was not included). The number of cases assessed therefore ranged from eighteen to 53 cases.

- 4.37 Previous reports have also highlighted the inconsistencies of supervision across the PSNI and its impact on the approach to victims, crime investigations and the quality of files submitted to the PPS. The 2015 CJJ report on file quality and disclosure¹³² noted at length issues of supervision and quality assurance of police files and made suggestions as to how the PSNI could address this. In the 2016 HMIC PEEL effectiveness report¹³³ (which included reviewing the PSNI's approach to people who were vulnerable including specifically victims of domestic abuse and CSE and missing children) also found that *'Supervisors' contribution to keeping people safe is mixed. The role of supervisors in the response to vulnerable persons in the PSNI differs dependent on the nature of the vulnerability and the corresponding systems and processes the service uses.'* In addition in the 2017 PEEL effectiveness report¹³⁴ HMICFRS highlighted supervision as an area for improvement, stating that *'The PSNI should improve its supervision of crime investigations, particularly in those cases investigated by uniformed officers.'*
- 4.38 The findings from this current inspection support this inconsistent approach to supervision. This body of evidence from both CJJ and HMICFRS continues to highlight the need for the PSNI to take action to address the quality of supervision of officers, particularly in relation to risk and investigations. Inspectors therefore await the outcome of the PSNI's work to address these recommendations.

132 CJJ, *An inspection of the quality and timeliness of police files (incorporating disclosure) submitted to the PPS, November 2015*. Available online at: <http://www.cjini.org/getattachment/9faaa7ad-b1a9-4d66-bd35-79ff20848c7c/picture.aspx>

133 HMIC, *PEEL: Police effectiveness: An inspection of the Police Service of Northern Ireland, 1–5 February 2016, August 2016*. Available online at: <https://www.justiceinspectors.gov.uk/hmicfrs/publications/peel-police-effectiveness-police-service-of-northern-ireland/>

134 HMICFRS, *PEEL: Police effectiveness: An inspection of the Police Service of Northern Ireland 2017, March 2018*. Available online at: <https://www.justiceinspectors.gov.uk/hmicfrs/publications/peel-police-effectiveness-2017-police-service-of-northern-ireland/>

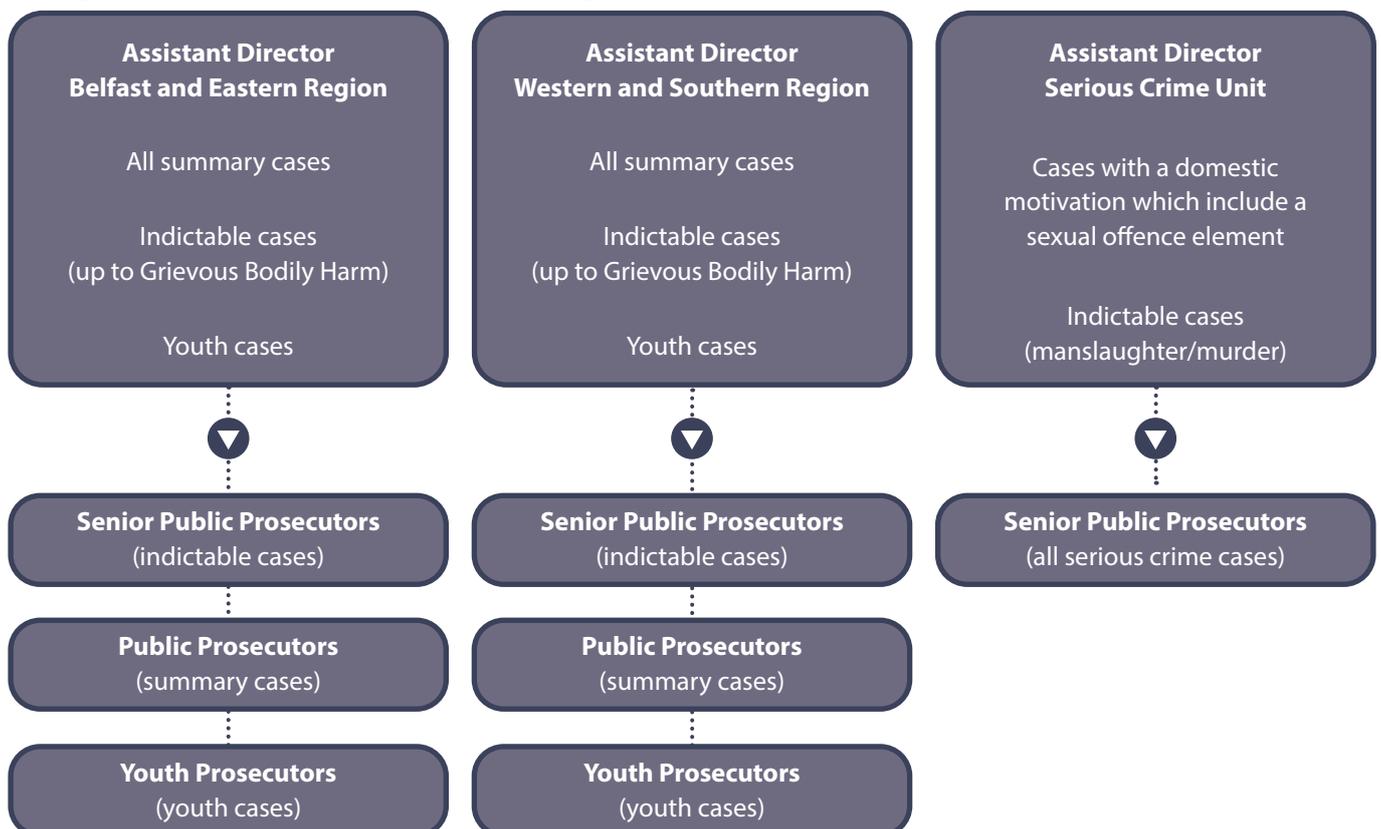
5

PPS decision making and case building

PPS structures and management

5.1 The decision making and court prosecution process for domestic violence and abuse cases was split across the two PPS regions and the Serious Crime Unit as outlined in Diagram 2. In general indictable cases were assigned to Senior Public Prosecutors and less serious offence categories to Public Prosecutors. However the PPS noted that, given the complex nature of these cases including the domestic history of the suspect, the complexity of repeat offending, evidential and public interest considerations etc., some Senior Public Prosecutor cases may be directed summarily and Public Prosecutor cases on indictment. It should be noted that in this inspection, the majority of the cases in the file reviews were summary (Magistrates' Court) cases allocated to the Regional Offices and there were no cases that were allocated to the Serious Crime Unit. In addition any cases which included a sexual offence were considered in the file reviews for the inspection of sexual violence and abuse and therefore excluded from this inspection.

Diagram 2 PPS decision making for domestic violence and abuse cases



- 5.2 As outlined in Chapter 2, the PPS did not have any specific objectives in its Business Plan regarding domestic abuse. Domestic abuse files were quality assured by Assistant Directors in line with the PPS Quality Standards¹³⁵. As indicated in Diagram 2 Public Prosecutors took decisions in the majority of domestic abuse cases and then dealt with those cases which proceeded to prosecution in the Magistrates' Court. Senior Public Prosecutors took decisions in indictable cases and then these were presented at court by Counsel who were on the PPS Prosecution Panel. Senior Public Prosecutors therefore tended to receive more files from PSNI DAAS Officers who dealt with the investigation of more serious offences, whereas Public Prosecutors received the majority of their files from Local Policing Teams.

Policy and training

- 5.3 The PPS Policy and Information Unit had policy and guidance responsibility for domestic abuse cases including the PPS Policy for Prosecuting Cases of Domestic Violence. Although the policy included a commitment to review it regularly it had last been updated in 2006. It had, however, been supplemented with a document entitled '*Domestic Violence and Abuse: Guidance for Prosecutors*' issued in September 2017, during the fieldwork for this inspection. This covered such a wide range of topics that it appeared to supersede much of the guidance in the 2006 policy. The PPS advised that, although consideration had been given to redrafting the 2006 Policy, due to ongoing work on the proposed Domestic Abuse Bill it had been decided as an interim measure to issue the guidance only, with a review of the full policy to follow at the appropriate time. There appeared to Inspectors to be a potential for confusion or duplication of effort for staff in looking for the relevant information in this approach.
- 5.4 The recent PPS guidance referenced the introduction of legislation in England and Wales to address coercive and controlling behaviour, the introduction of an 'Abusive Behaviour' offence in Scotland and the plans to introduce domestic abuse legislation in Northern Ireland. It did not though provide any general guidance about the characteristics of coercive and controlling defendants and how these could contribute to the cycle of domestic abuse or victim behaviours. However, it referred to coercive behaviours in domestic abuse cases involving victims from particular groups including young people, members of the LGBT community, those with disabilities and those from minority ethnic backgrounds. Whilst appreciating the PPS intends to issue a Service Instruction prior to the commencement of the new domestic abuse offence, this guidance appears to be a missed opportunity to raise awareness amongst staff about the nature of coercive controlling behaviours by perpetrators and how this can support the prosecution case. The guidance issued by the Attorney General for Northern Ireland in April 2018¹³⁶ may be helpful in addressing this gap.

135 PPSNI, *Prosecution quality standards, May 2015*. Available online at: [https://www.ppsni.gov.uk/Branches/PPSNI/PPSNI/Files/Documents/Publications/PPS%20Prosecution%20Quality%20Standards%20\(May%202015\).pdf](https://www.ppsni.gov.uk/Branches/PPSNI/PPSNI/Files/Documents/Publications/PPS%20Prosecution%20Quality%20Standards%20(May%202015).pdf)

136 Attorney General for Northern Ireland, *Guidance by the Attorney General for Northern Ireland pursuant to Section 8 of the Justice (Northern Ireland) Act 2004: No. 13 human rights guidance for the Police Service of Northern Ireland, the Public Prosecution Service, the Probation Board for Northern Ireland and the Northern Ireland Courts and Tribunals Service: Domestic Abuse and Stalking, April 2018*. Available online at: https://www.attorneygeneralni.gov.uk/sites/ag/files/media-files/Section%208%20Guidance%20in%20Relation%20to%20Domestic%20Abuse%20and%20Stalking%20-%20Final_0.pdf

- 5.5 Unlike the 2006 Domestic Violence Policy this more recent guidance was not available to the public on the PPS website. Inspectors would be of the view that the PPS should either incorporate this guidance into the existing policy and publish a single policy document on its website or publish this guidance as a supplementary document in order that the public and other organisations working in this area can understand the expectations the PPS has of its staff.
- 5.6 During the fieldwork for this inspection the PPS were delivering training to prosecutors and staff in relation to prosecuting cases of domestic abuse and the guidance outlined above¹³⁷. PPS staff were positive about this training and advised Inspectors that it provided further clarity about victim withdrawal issues, stating that in cases of domestic abuse *'it will be rare for the public interest stage not to be met'*¹³⁸.
- 5.7 The report of the first CJI inspection on domestic violence and abuse¹³⁹ noted that the PPS had appointed domestic violence specialists shortly before the fieldwork. The role was in its infancy and the specialists had not received specialist training. At the time of this current inspection there were still specialists in place but the general view was that they had not received any further training than that provided to all prosecutors. In one regional office a prosecutor had recently been appointed as a domestic abuse specialist but did not appear to have any additional expertise or training which made them any more specialist than the rest of the focus group Inspectors met with. The PPS advised that these individuals engaged with key stakeholders regarding ongoing developments and that they had professional knowledge and experience in dealing with these cases and queries which was disseminated to colleagues.

Decision making by the PPS

- 5.8 In making a decision about whether to initiate or continue with a prosecution, the prosecutor applies a two stage test, known as the Test for Prosecution, as set out in the Code for Prosecutors¹⁴⁰. Each stage of the test must be considered separately and passed before a decision to prosecute can be taken. The Test for Prosecution is met if:
- (i) the evidence which can be presented in court is sufficient to provide a reasonable prospect of conviction – the Evidential Test; and
 - (ii) prosecution is required in the public interest – the Public Interest Test.

137 PPS advised that, after the fieldwork for this inspection was completed, additional training sessions were held for those who had not been able to attend the initial training as well as briefings in respect of DASH forms.

138 PPSNI, *Domestic violence and abuse: Guidance for PPS prosecutors, September 2017. Internal document.*

139 CJI, *Domestic violence and abuse: A thematic inspection of the handling of domestic violence and abuse cases by the criminal justice system in Northern Ireland, December 2010. Available online at: <http://www.cjini.org/getattachment/1b651b43-657b-471b-b320-101fca7c6930/Domestic-Violence-and-Abuse.aspx>*

140 PPS, *Code for Prosecutors, July 2016. Available online at: [https://www.ppsni.gov.uk/Branches/PPSNI/PPSNI/Files/Documents/Code%20for%20Prosecutors/Code%20for%20prosecutors%20\(Interactive\)%20v3.pdf](https://www.ppsni.gov.uk/Branches/PPSNI/PPSNI/Files/Documents/Code%20for%20Prosecutors/Code%20for%20prosecutors%20(Interactive)%20v3.pdf)*

- 5.9 The Code for Prosecutors sets out the responsibilities of the prosecutor in all aspects of the case and explains in detail the application of the two stages of the Test. In terms of the Public Interest Test there are a number of factors the prosecutor may consider either for or against prosecution. Some factors are particularly relevant to offences of a domestic nature, for example in relation to the seriousness of the offence, where the victim had been put in fear or suffered personal attack and is vulnerable and where there are grounds for believing that the offence is likely to be continued, or repeated, for example, where there is a history of recurring conduct or where the seriousness of the conduct has escalated.
- 5.10 PPS data provided for this inspection which indicated the rate of prosecution and no prosecution decisions in relation to suspects flagged by the PSNI as having a domestic violence motivation in the last two financial years as contained in Table 2. This shows that the percentage of prosecuted cases had fallen slightly from 39.5% in 2015-16 to 36.2% in 2016-17.

Table 2: Prosecution decisions in relation to suspects flagged by the PSNI as having a domestic violence motivation 2015-16 and 2016-17

	2015-16	2016-17
Indictable Prosecution	150	154
Summary Prosecution	2,154	2,022
Diversion	214	231
No prosecution	3,861	4,244
Total	6,379	6,651
% Where Test Met	39.5%	36.2%

- 5.11 Data was also provided on the reason for no prosecution decisions for the last three calendar years as outlined in Table 3. This indicates a reducing proportion of cases which did not pass the Public Interest Test, which is positive and hopefully is at least in some way attributable to the new guidance for prosecutors and associated training received.

Table 3: Reasons for PPS no prosecution decisions 2015-17

	2015		2016		2017	
	No.	%	No.	%	No.	%
Did not pass Evidential Test	2,759	87.5%	3,132	86.9%	3,242	90.3%
Did not pass Evidential Test - decision not to compel witness	298	9.5%	376	10.4%	281	7.8%
Did not pass Public Interest Test	95	3.0%	97	2.7%	67	1.9%

- 5.12 As outlined previously, the PPS policy documentation in relation to domestic abuse set out the responsibilities of the prosecutor at each stage of the prosecution process including the Test for Prosecution. The guidance for prosecutors also set out the views and interests of the victim and the action to be taken if a victim withdraws support for the prosecution noting that *'Where the evidential stage has been met, but the complainant is not willing to support the prosecution, prosecutors should carefully consider the public interest given the domestic nature and serious impacts of such offending. It will be rare for the public interest stage not to be met.'* It also notes *'Careful consideration should be given to public interest factors, including the interests and safety of the complainant, other family members and any children or other dependents'*¹⁴¹.
- 5.13 The PPS guidance also highlights the case of McGuinness¹⁴² as particularly important, as a case in which the prosecution continued after the victim had reconciled with the defendant and withdrawn support for the investigation, using evidence from police statements and body-worn video. The guidance notes: *'In McGuinness, the court approved of PPS policy to pursue such cases stating at paragraph 29 "There will be instances where it may be a public interest to proceed in proceeding against the alleged assailant despite the withdrawal of the complaint"*. This case was also mentioned by several prosecutors during the Inspection as confirming the acceptance of body-worn video footage by the courts in cases of domestic abuse where the victim was unwilling to give evidence.
- 5.14 In considering the decisions made by prosecutors in the case file review, Inspectors assessed whether the Code for Prosecutors was applied correctly. Inspectors believed that the Code was applied correctly at the decision stage in 85.7% of cases (72 of 84 cases). Two cases had not yet been directed on and in a further two cases it was not possible to tell because the quality of the review by the prosecutor and record keeping was poor or missing.

141 PPSNI, *Domestic violence and abuse: Guidance for PPS prosecutors*, September 2017. Internal document.

142 See *McGuinness (Gerard) v The Public Prosecution Service for Northern Ireland*, [2017] NICA 30. Available online at: <https://judiciaryni.uk/judicial-decisions/2017-nica-30>

- 5.15 Issues were apparent in some cases where victims withdrew their statement after the report to police or did not attend at court and the PPS made a decision not to prosecute or discontinued the case. In several of these cases there were potentially other sources of evidence which could have been used, other than the victim statement, but there was no evidence in the files that they were explored. In the training session regarding the new guidance for prosecutors attended during the fieldwork by one of the Inspectors there was some confusion about the effect of victim withdrawal on the Public Interest Test rather than the Evidential Test. There did not appear to be sufficient consideration by prosecutors of the possibility of the case becoming an evidence-led prosecution proceeding without the injured party and building the case from the start as if the victim will withdraw. It is recognised that the impact of this training and the ruling of the Northern Ireland Court of Appeal in relation to the McGuinness case as outlined in paragraph 5.13 may assist in this regard in due course. Some examples of cases which should have considered the case proceeding without the injured party are outlined below.

Case example 5

On New Year's Day 2017 police attended the home of a woman who was crying and said she had been assaulted by her partner who had threatened to kill her. There was evidence of significant damage to the hall and landing and the woman was crying. The police took photos of the scene and the victim gave a statement. At the end of January police took a withdrawal statement from her in which she said she had told the truth but that she was worried about the impact of the investigation on her finances and that the defendant had moved out. The police explained that special measures may be available to her but she still declined to continue but said she was happy for the photos to be used.

In interview the defendant admitted punching the wall and damaging the house and apologised but denied assault and threats to kill. The man was charged with threats to kill, criminal damage and two counts of common assault.

The prosecutor noted the victim's withdrawal and the reasons for it and directed a prosecution. A summons was issued and served on the victim.

The court report did not properly record the outcome of the case. It stated that the victim attended and did not want to give evidence but the outcome letter sent to the victim stated that the case was dismissed and the defendant was found not guilty. In this case as the victim attended court due to the summons, a better outcome might have been achieved if the prosecutor had been able to deal sensitively with the woman to see if she might be willing to give evidence or, if there had been an appropriate scheme in place, an IDVA may have been able to encourage her.

Even in the absence of the victim's evidence, the prosecution should have proceeded on the admissions of the defendant and the police evidence of the damage at the scene.

Case example 6

A woman called her daughter on her phone who told her she was being held at a property by her partner. Police attended and she whispered to them that she wanted to leave. The officers waited whilst she packed some belongings and the defendant was observed to be aggressive and threatening. The woman said she had been prevented from leaving the bedroom. Two other men were present who said they would make a statement in support of the defendant. They failed to attend the police station to do so even though the police spoke to them again at a later date. The woman declined to give a statement to police.

The domestic history provided by police on the file noted six previous incidents, dating back to 2011, along with breaches of Non-Molestation Orders, and that the woman had also tried to leave the premises in the past. Police also advised the defendant had previously perpetrated domestic abuse against another victim. There were clearly risks in this case regarding the defendant being a repeat perpetrator and the woman being a repeat victim.

A decision was made not to direct a prosecution due to the lack of statement from the victim and a belief that two males at the scene said they observed nothing. In fact the two males did not give a statement at all, which undermined the statement of the defendant rather than the evidence from the victim. In making the decision the prosecutor did not appear to sufficiently consider the evidence of the police officers who observed the threats made by the defendant, the possibility of requesting a statement from the mother of the woman or from the police officers about the actions of the two males present who were not willing to make a statement in support of the defendant. There appeared also to be a lack of consideration of the ongoing risks to this victim or future victims. The evidence of the police officers, the mother and the res gestae of this incident, as well as details of the previous incidents should have been used to direct a prosecution without the statement of the victim and, even if the case had resulted in an acquittal, a restraining order could have been sought against the defendant.*

* Res gestae is "a statement was made by a person so emotionally overpowered by an event that the possibility of concoction or distortion can be disregarded", as set out in the common law exceptions retained under s.118 of the Criminal Justice Act 2003.

- 5.16 All the relevant policies (for example, the PPS policy on prosecuting cases of domestic violence, the policy on victim withdrawal contained therein, the Code for Prosecutors) were applied at the decision stage in 53.3% of cases (40) with a further 9.3% where it was not known due to the absence of appropriate notes. A significant feature of this was the approach when the victim withdrew support for the investigation or prosecution. There was sufficient relevant material on the file provided by the PSNI to enable the prosecutor to make a decision in 63.6% of cases (49); as outlined previously the DASH form was not included as a matter of course in the files, but in its place in some files was the risk level as assessed via the DASH form and the relevant domestic abuse history.

- 5.17 As outlined in Chapter 3 police files did not provide prosecutors with the full DASH form, except by request, and there was inconsistency in the level of detail and quality of risk information and assessment for the victim provided to prosecutors. Prosecutors voiced concerns about being left to make often significant decisions regarding risk, possibly without all the potential information being available to them. Cases which involved the same victim or perpetrator were not flagged by police and often patterns of behaviour were not properly evidenced. Prosecutors were not aware of the reasons why they were not provided with the full DASH form. Whilst in better files an appropriate level of detail from the DASH form was included, prosecutors often relied on a template of set questions which they requested answers to when a victim withdrew. Even the answers to these were sometimes assessed to be insufficient. Inspectors remain concerned that prosecutors are expected to make decisions which can have a significant impact on victim safety, without a sufficient amount of important risk assessment information being made available to them.
- 5.18 In the 'Without Witness' report¹⁴³ (for which the fieldwork was conducted at the same time as this inspection) CJI noted the need for the PSNI and the PPS to further develop the prosecution team approach in cases involving sexual offences. There are striking similarities between the issues highlighted in this report in respect of cases involving domestic violence and abuse and the cases involving sexual offences, particularly in relation for the need to adopt a case building approach whereby there is a focus on working together to build the case from the outset.
- 5.19 In domestic abuse cases the likely outcome is that the victim will withdraw support at some stage either immediately after or within days of the incident, whilst awaiting the decision of the PPS or prior to giving evidence in court. The PSNI and PPS therefore need to focus on building the case using sources of evidence other than the statement of the victim (for example *res gestae*, first complaint, witness statements from neighbours, family or friends, photographs and body-worn video evidence from the scene, medical evidence and photographs of injuries or police statements about the attitude of the defendant at the scene or admissions in interview, digital evidence from phones or social media and information about previous incidents of domestic abuse by the defendant). The judgement of the Northern Ireland Court of Appeal in the case of McGuinness (see paragraph 5.13) is important in this area. Inspectors are aware that the PSNI and the PPS were reviewing the Service Level Agreement between the two organisations after the conclusion of the fieldwork for this inspection and would hope that the findings of this report assists in that process.

143 CJI, *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>

Strategic recommendation 3

Inspectors recommend that **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.**

5.20 Inspectors would suggest the following elements form part of the implementation plan:

- building the case from the outset, fully implementing the PSNI and PPS policies and guidance regarding cases of domestic abuse;
- a review of the existing PSNI and PPS policies, procedures and guidance to ensure compliance with the Attorney General's human right guidance on domestic abuse and stalking¹⁴⁴;
- a review of how risk assessment information is provided by the PSNI to the PPS and used to inform prosecution decision making;
- ensuring, where appropriate, that related cases are flagged and prosecuted together and patterns of behaviour are used to show the ongoing abusive nature of the relationship;
- early and ongoing consideration of evidence gathered from body-worn video, photographic imaging, social media and digital technology;
- fully applying the relevant policies and procedures of both organisations in respect of dealing with victim withdrawal; and
- ensuring there is a joint process for learning lessons from serious or complex cases, particularly those that result in a no-prosecution decision or an acquittal at court.

Record keeping and quality assurance

5.21 The CJJ report on sexual violence and abuse¹⁴⁵ discussed, at length, the findings of previous inspection reports in relation to the keeping of records by prosecutors as well as the findings of the file review in relation to sexual offences cases. Inspectors raised concerns about the lack of records kept on prosecution files in relation to the rationale for the decision whether or not to prosecute and highlighted a number of benefits of appropriate record keeping. In addition it was highlighted that the failure to make notes on the file was in breach of the PPS Staff Instruction of July 2014 entitled '*Maintenance of Case Files*'.

144 Attorney General for Northern Ireland, *Guidance by the Attorney General for Northern Ireland pursuant to Section 8 of the Justice (Northern Ireland) Act 2004: No. 13 human rights guidance for the Police Service of Northern Ireland, the Public Prosecution Service, the Probation Board for Northern Ireland and the Northern Ireland Courts and Tribunals Service: Domestic Abuse and Stalking, April 2018*. Available online at: https://www.attorneygeneralni.gov.uk/sites/ag/files/media-files/Section%208%20Guidance%20in%20Relation%20to%20Domestic%20Abuse%20and%20Stalking%20-%20Final_0.pdf

145 CJJ, *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>

- 5.22 In relation to the file review of domestic abuse cases there were similar findings. Due to the absence of proper records and case strategy, Inspectors were only able to assess that the quality of decision making and post decision review was good in 4% of relevant cases (3 cases) and fair in 40% (30 cases) with 56% (42 cases) being assessed as poor. The recently issued guidance to prosecutors did note the need to '*create a detailed review on CMS [the Case Management System] to refer to all relevant issues (including the details of the relationship and nature of offending)*'. However this was obviously issued after the cases in the file review had been directed upon. An example from the case file review highlights how the limited approach to record keeping can impact on the eventual outcome of the case.

Case example 7

A young man was playing music at 5.30am and his mother asked him to turn the volume down. He became angry and assaulted her; pushing her, breaking a cabinet and chasing his brother. There had been previous incidents by the man against his mother but she had not called the police before. She made a statement but withdrew it five days later. There were photographs of the broken cupboard door and the man made admissions in relation to pushing his mother and the criminal damage. The case was therefore able to proceed on that basis and the prosecutor had appropriately endorsed this on the file so the victim was not required to give evidence.

At the first trial listing the victim did not attend so the case was adjourned. At the next listing the victim again did not attend and the Judge refused an adjournment. The court Prosecutor (who was not the directing officer) was advised by a Senior Prosecutor to offer no evidence.

This decision was not in line with the PPS policy approach to domestic abuse cases. The file clearly showed that the case was to proceed on the admissions of the defendant alone so it was unclear why the court Prosecutor did not do so. It must be assumed therefore that they did not expect to find a review note on the file, endorsing the decision to continue even in the absence of the victim's evidence, so did not think to check for one. This case clearly illustrates the implications of a widespread lack of record keeping.

- 5.23 In the inspection report on sexual violence and abuse¹⁴⁶ Inspectors recommended that *the PPS should issue further guidance for prosecutors on the requirements to record their decision making rationale in a review note when applying the Test for Prosecution. The review note should be proportionate to the complexity of the facts, issues and risks in the case. This should be issued within six months of this report. In addition, the PPS should develop a quality assurance process to assess compliance with this guidance.* Actions to address this recommendation will clearly be beneficial to the approach to cases of domestic abuse as well.

¹⁴⁶ CJI, *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>

Case progression and timeliness of decision making

- 5.24 The file review indicated that the time taken from the submission of the file by police to the direction by the prosecutor was timely with 70.9% (56) taking a maximum of nine days and 88.6% (70) taking a maximum of 19 days. In 93.9% of cases there was compliance with the PPS Key Performance Indicators for timeliness in prosecution decisions¹⁴⁷.
- 5.25 The directing prosecutor exercised effective case progression in 72.4% of relevant cases (21 of 29) with a further two where it was not possible to tell due to the absence of an audit trail. Overall the prosecution dealt promptly and efficiently with incoming communications, correspondence and queries in three-quarters of relevant cases (76.2%; 16 of 21). There was continuity of prosecutor in 83.3% of applicable cases (25 of 30 cases).

Victims and witnesses

- 5.26 There was compliance with the domestic violence policy in respect of victim withdrawal in only 25% of applicable cases (5 of 20) with a further two where it was not possible to tell. Of the 18 cases involving withdrawal of victim support, the police provided all pertinent information in only a third of applicable cases (6 of 18). There were four cases which proceeded against the victim's wishes and a further three where the records meant it was not known. The Victim's Code, Charter and other policy requirements were complied with in 42.4% of applicable cases (25 of 64 cases) with a further five cases where it was not known.
- 5.27 All necessary steps were taken throughout the case to protect the victim, witnesses and public from harm by identification and management of risk, in 42.2% of applicable cases (27 of 57) with a further 10 where it was not possible to tell the steps taken from the information on the file.

Victim communications and consultation

- 5.28 In common with the inspection of sexual violence and abuse and previous CJI reports, the approach to communication with victims of domestic abuse was found to be in need of improvement. There was communication with the victim in 81.3% of cases (65 of 80); this was invariably by letter but there were instances where telephone calls were made as well. There was an adequate written record in 88.7% of cases. However where it was necessary to communicate the prosecutorial decision, in only 37.7% of applicable cases was this clearly set out (23 of 61). Written communications were suitably empathetic in only 18.3% of applicable cases (11 of 60). The quality of letters sent by the Victim and Witness Case Unit was fair in 17% of cases and poor in 83%. This was invariably due to the quality of the template and the inappropriateness of certain paragraphs, confusing and contradictory statements regarding outcomes or the inaccessibility of the language.

147 See PPSNI, *Annual Business Plan 2017-18, August 2017*. Available online: <https://www.ppsni.gov.uk/Branches/PPSNI/PPSNI/Files/Documents/Publications/Corporate%20and%20Business%20Plans/Annual%20Business%20Plan%202017-18.pdf>

- 5.29 The Victim and Witness Care Unit raised concerns regarding the information about victims which was inputted by the PSNI and transferred to them, in respect of there being inaccurate addresses or names. In particular in these types of cases the Victim and Witness Care Unit and some victims in the focus groups raised concerns about the victim and defendants having the same address, or the victim's address being confused with that of the defendant, thus placing them at greater risk. One example of where a template letter to a victim who withdrew from the process at an early stage was not appropriate is highlighted below.

Case example 8

A woman made an emergency call to the police and alleged that she had been head-butted and grabbed by the throat, which had marked her face and chin. The victim did not want to proceed with the investigation even before the defendant gave a no comment interview. It was apparent from the file that there had been no attempt by police to prove the assault by looking for other sources of evidence than the victim; the police file did not provide the DASH form to the prosecutor and there was no evidence that the previous history of domestic violence was considered. There was no medical examination conducted, her injuries were not photographed, and there was no body worn video footage or consideration about using the recording of the 999 call to the police.

The prosecutor directed no prosecution. The victim was not engaged in the process at all but a standard letter was sent to her by the PPS on receipt of the full file from the police. This confirmed the PPS had received the file and would decide whether or not to prosecute. This was sent to her home address, where the defendant could have opened it and assume the victim had engaged with the investigation, which put the victim at further risk. A further letter, sent when the decision was made not to prosecute, stated that she 'may be disappointed to hear' the decision, despite the fact she had not engaged from the outset. It would have been more appropriate to send a letter tailored for disengaged victims which accepts they are not ready to engage with the justice system on this occasion but is empathetic, acknowledges they may want to engage in the future and signposts them to support outside the criminal justice process.

- 5.30 In these types of cases, where so many include repeat victims who may withdraw their support on a number of occasions, it is particularly important to avoid any suggestion that the victim is being blamed for a no prosecution decision and to offer support for the future should the victim wish to engage with this case or another case in the future. The 'Without Witness' report¹⁴⁸ recommended 'the PPS undertake further work within six months of this report to fully deliver the standards contained in the Victim Charter and in the PPS Victim and Witnesses Policy to ensure communication with victims is more empathetic, understandable, accurate, consistent and appropriate for the needs of the recipient'. The PPS have previously worked with stakeholders to develop letter templates, but it is clear that there is more work to do in this area. Improvements in communications with victims will clearly also be of benefit to victims of domestic abuse.

148 CJI, *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>



Trial and court process

Court listings

- 6.1 In CJI's 2010 inspection report¹⁴⁹ it was highlighted that The Specialist Domestic Violence Court (SDVC) Programme had commenced in England and Wales in April 2006 and that by April 2008 there were 98 such courts accredited by the national programme (of 356 Magistrates' Courts in England and Wales). Inspectors visited Leeds at that time and spoke to practitioners in West Yorkshire Police and HALT, the local IDVA service, to learn about the benefits of this model. As a result CJI recommended that 'The Protection and Justice Sub-Group of the Tackling Violence at Home Regional Steering Group should evaluate the feasibility of developing a Specialist Domestic Violence Court in Northern Ireland for inclusion, if appropriate, in the forthcoming Action Plan'.
- 6.2 For this inspection Inspectors again returned to Leeds and spoke to HALT but also to representatives from the West Yorkshire and Humberside Area of the CPS. The experience as described in Leeds is outlined below.

The Specialist Domestic Violence Court had been in place in Leeds since 1999. There were well established partnerships between West Yorkshire Police, CPS West Yorkshire and Humberside and HALT, who provided the IDVA service.

In June 2015 all criminal justice agencies in England and Wales adopted the Transforming Summary Justice initiative, which aimed to improve how cases were dealt with in the Magistrates' Courts. Domestic abuse cases had been excluded from this initiative when it was introduced but in Leeds the CPS had decided to introduce the concept to their domestic violence court. First hearings were held within 14 days for guilty pleas and within 28 days for not guilty pleas with a trial held within another 28 days.

Prosecutors described the first hearing as a 'positive event' with all parties ready to deal with the case and significant scrutiny from the Magistrate, rather than a request for an adjournment. There was good liaison with the police and agreement for a number of actions including how police dealt with cases, looking after victims and getting cases through court more effectively. There was also good gatekeeping by the police in getting the right cases to the CPS and good engagement with victims.

As a result they had seen the conviction rate for domestic abuse cases rise to over 75%; withdrawal rates becoming less than 2% and adjournments that were in single digits. The IDVA provider emphasised the benefits for victims of a faster process in terms of their safety.

149 CJI, *Domestic violence and abuse: A thematic inspection of the handling of domestic violence and abuse cases by the criminal justice system in Northern Ireland*, December 2010. Available online at: <http://www.cjini.org/getattachment/1b651b43-657b-471b-b320-101fca7c6930/Domestic-Violence-and-Abuse.aspx>

- 6.3 In the majority of Magistrates' Courts in Northern Ireland domestic abuse cases were listed amongst all other types of case. However, in Londonderry Magistrates' Court there was a specific domestic violence court listing arrangement, which was presided over by District Judge McElholm¹⁵⁰. This court had been in operation as a pilot since November 2011, partially achieving the recommendation above. All domestic abuse cases were clustered to the appropriate court list on designated days. A review of the pilot was conducted in 2014 which found positive outcomes for victims as well as the justice organisations, particularly in relation to the speed in which cases appeared before the court.
- 6.4 As part of the fieldwork Inspectors attended a contest day at the Londonderry Domestic Violence Court and were able to speak to District Judge McElholm and to the prosecutor. The benefits of the court were clear to Inspectors; there was evidence of body-worn video footage being shown to the District Judge; of a case where a victim did not appear in response to a summons and where a warrant was issued; a case where a restraining order was considered on conviction; and a case where a victim attended and was supported by the police and the Witness Service.
- 6.5 A Public Governance Review conducted in Northern Ireland by the Organisation for Economic Co-operation and Development¹⁵¹ looked at the Domestic Violence Listing Court and made positive comments about it. It highlighted however the possibility of expanding the court to hear civil matters from the family court as well as criminal matters (see Chapter 7 for further information about issues raised by victims about the family court) and encouraged the development of a perpetrator programme within this integrated court. It also suggested expanding the concept of the court geographically to other courts with similar volume, for example Belfast Laganside Court.
- 6.6 The review of family and justice led by Lord Justice Gillen¹⁵² also reported positively about the Londonderry Domestic Violence Court. It noted that '*We support the idea, therefore, that the excellent work which has already been undertaken in Londonderry should be further enhanced, with a view to developing the Domestic Violence Listing Arrangement (DVLA) into a fully-fledged problem solving domestic violence court and extending such an approach to other geographic areas within Northern Ireland.*'
- 6.7 At the time of the inspection however there had been no further roll-out of the domestic violence court across Northern Ireland. The perpetrator programme had been developed but was delayed in its introduction and consequently was not in place until after the fieldwork

150 Inspectors were also advised that a similar listing arrangement was in place in Dungannon Magistrates' Court but this was an informal arrangement and not part of any wider DOJ strategy or formal pilot.

151 Organisation for Economic Co-operation and Development, *Northern Ireland (United Kingdom): Implementing Joined-up Governance for a Common Purpose, 2015*. Available online at: https://read.oecd-ilibrary.org/governance/northern-ireland-united-kingdom-implementing-joined-up-governance-for-a-common-purpose_9789264260016-en#page313

152 Gillen, LJ, *Review of civil and family justice: The review group's draft report on family justice, August 2016*. Available online at: <https://judiciaryni.uk/sites/judiciary-ni.gov.uk/files/media-files/Preliminary%20Family%20Justice%20Report%20published%204%20Aug%2016.pdf>

for this inspection has concluded¹⁵³. In the vast majority of courts therefore the issues that CJI raised in its 2010 inspection report continued, with victims of domestic abuse being expected to attend court amongst the myriad of other volume crime cases and not being able to fully avail of appropriate information and specialist support from PSNI DAAS officers, PPS prosecutors or victim support organisations such as Women's Aid or Men's Advisory Project (in the absence of an IDVA service). For the criminal justice partners, this also meant that it was impossible to have specialist police officers or prosecutors attending court on particular days, where their focus could be on dealing with the domestic abuse cases appearing before the court and ensuring time was available to consult with victims appropriately.

- 6.8 Inspectors consider the delay in rolling out a listing arrangement to be a significant missed opportunity as a basic first step to speed up and improve the approach to cases of domestic abuse at court in Northern Ireland. Whilst acknowledging the benefits of the perpetrator programme and considerations around an integrated civil and criminal court, the experience in Leeds (see p81) demonstrates what can be achieved purely based on a listing arrangement where all criminal justice partners work together. Inspectors believe that such a listing arrangement would bring benefits to the PSNI and PPS and their justice partners, organisations who support victims of domestic abuse, as well as for victims and witnesses who attend court to give evidence. This need for this listing arrangement will be returned to in Chapter 7 of this report (see paragraph 7.12).

Case management and disclosure

- 6.9 In the file sample the court prosecutor exercised effective case management in 57.6% of relevant cases (19 of 33) with a further two where it was not known. Any decision to discontinue was made and put into effect in a timely manner in 68% of cases (17 of 25).
- 6.10 The overall time of the case from receipt of the file until the eventual outcome was in over three-quarters of cases (76.7%; 66) under 51 days with 22.1% (19) taking between 51 and 100 days, and one further case exceeding 100 days. This may reflect the fact the file sample consisted of many timely guilty pleas (16), no prosecution cases (25) and those that were discontinued (27); only seven were full trials and five late guilty pleas. Of the 20 cases which took more than 51 days the majority (12; 60%) resulted in a discontinuance. The outcomes for the remainder were two convictions (10%), one acquittal (5%), two late guilty pleas (10%) and three timely guilty pleas (15%). Five cases in the sample took over 70 days, the longest of which took 89 days. Even at the Londonderry Domestic Violence Court Inspectors were advised that between the first appearance in court and the contest was usually between nine and 12 weeks.
- 6.11 Inspectors were told of problems in particular in accessing medical reports on occasions where victims had attended hospital (most usually Emergency Departments) with injuries inflicted during a domestic incident (in particular getting statements from doctors) often led to delays, despite a protocol that they should be provided within one week. Inspectors were

153 During the finalising of this inspection report in October 2018 it was indicated by the media that only a handful of individuals had signed up to the perpetrator programme (UTV Live, 26 October 2018).

advised that in practice it could take a year to get a print-out record of a victim's attendance at an Emergency Department. Whilst the issue of delays in the accessing of medical reports in all types of cases of violence with injury was reported on over 10 years ago by CJI and more recently by the Northern Ireland Audit Office¹⁵⁴ this information is particularly important in cases of domestic abuse with injury where it can provide other sources of evidence should the victim withdraw. In addition, the fact that the victim has attended hospital suggests the level of injury suffered is significant which means that it is likely the domestic violence against them is escalating and could form the basis of serious criminal charges.

- 6.12 The 2015 CJI inspection on file quality and disclosure recommended that *'the PPS and the PSNI should agree the circumstances in which it is necessary to obtain medical evidence. They should jointly approach the Health and Social Care Board with a view to agreeing a protocol or Service Level Agreement about the arrangements for its timely provision and the potential for using the hearsay provisions of The Criminal Justice (Evidence) (Northern Ireland) Order 2004'*. Inspectors were advised, following the completion of the fieldwork for this inspection, that this issue was being taken forward under the auspices of the Working Together project by the PSNI and the PPS with the Medical Directors of the Health and Social Care Trusts. Inspectors look forward to the outcomes of this work.
- 6.13 In common with cases of sexual offences the figures for guilty pleas for domestic abuse cases are low when compared to overall figures. Judicial statistics¹⁵⁵ indicate that in 2016, 36% of all defendants pleaded guilty on all charges in the Magistrates' Court and 38% in the Crown Court, whereas PPS statistics provided to CJI regarding domestic related offences indicate figures of 27% for 2015-16 and 26% for 2016-17 respectively in the Magistrates' Court and 18% and 19% for 2015-16 and 2016-17 respectively in the Crown Court. As with sexual offence cases this inevitably means the prosecutor is preparing the case in anticipation of a contest from the outset.
- 6.14 A key issue in these types of cases is the engagement of the victim as their statement is usually the primary source of evidence. The longer the case continues the more likely the victim no longer wishes to pursue the case given pressures on them socially, financially or emotionally and therefore there is a greater chance of withdrawal. It was suggested to Inspectors by victims' groups that in many cases therefore, defendants will not enter a plea until they are sure that the victim is intending to or has attended court. Inspectors witnessed this in action in a visit to the Domestic Violence Court in Londonderry as outlined in the Case Example 9.

154 See for example CJI, *Avoidable delay: A thematic inspection of delay in the processing of criminal cases in Northern Ireland, May 2006*. Available online at: <http://www.cjini.org/getattachment/ed9d97d7-a15f-4fa5-90d1-3e3867124c21/Avoidable-Delay-May-2006.aspx> and Northern Ireland Audit Office, *Speeding up justice: avoidable delay in the criminal justice system, March 2018*. Available online at: <https://www.niauditoffice.gov.uk/sites/niao/files/media-files/Speeding%20up%20Justice.pdf>

155 NI Courts and Tribunals Service, *Judicial Statistics 2016*, January 2018. Available online at: <https://www.justice-ni.gov.uk/sites/default/files/publications/justice/Judicial%20Statistics%202016%20-%20revised.pdf>

Case example 9

Inspectors attended the Londonderry Domestic Violence Court in June 2017. A contest was listed where the defendant was charged with assault occasioning actual bodily harm and common assault against his (now) ex-partner as well as assault against police when he was being arrested. The assault had occurred in December 2016. Due to the seriousness of the charges he had been remanded into custody in Maghaberry (Prison) after his first court appearance.

The victim had attended court to give evidence and sat through the rest of the court business prior to the contest. When the defendant was brought up to the court his solicitor asked if he could be re-arraigned on the charges and he pleaded guilty to them all. He also waived his right to a pre-sentence report. The judge sentenced him to 12 months and six months in custody to run concurrently for the two assaults on his ex-partner and four months concurrent for the assault on police. With 50% remission and time served on remand, he would be released from prison the following day.

- 6.15 Disclosure is an issue which has previously been discussed at length in CJI's 2015 report on file quality and disclosure¹⁵⁶ and was subsequently highlighted as an issue in sexual offences cases in CJI's 2018 sexual violence and abuse report¹⁵⁷. Similarly in the cases examined during the file review for this inspection disclosure was not handled well. The quality was rated as fair in 21.4% of cases (3) and poor in 78.6% (11). Issues were apparent in the police approach to listing sensitive and non-sensitive material appropriately. In addition prosecutors did not appear to advise on police errors and ask for them to be corrected. In some cases disclosure documents were not endorsed appropriately by prosecutors, in accordance with the relevant guidance. Previous recommendations made by CJI in the 2015 inspection had not yet been implemented.

Victims and witnesses at court

- 6.16 The attendance of victims and witnesses was secured appropriately in only four of 14 cases, with a further four cases where it was not known from the information on the file. The victim was informed of their entitlement to make a Victim Personal Statement in 14 of 18 relevant cases with a further 10 cases where it was not known. This information was invariably provided in a template letter which outlined the prosecutor decision to the victim.
- 6.17 Facilities at court for victims were raised as an issue, particularly in Magistrates' Courts and older courthouses where victims could be sitting in close proximity to defendants and their supporters or have to walk past them from the witness room to get to the court. Women's Aid workers endeavoured to attend court with those women who had availed of their services but the volume of cases and high numbers of adjournments meant that this was often a challenge. Victims were positive about the Victim Support Northern Ireland Witness Service that was

156 CJI, *An inspection of the quality and timeliness of police files (incorporating disclosure) submitted to the PPS*, November 2015. Available online at: <http://www.cjini.org/TheInspections/Inspection-Reports/2015/October---December/File-Quality-and-Disclosure>

157 CJI, *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>

available (see Chapter 7) but obviously this did not offer continuity for the victim in terms of the worker they were already being supported by. In Londonderry Magistrates' Court victims could give evidence remotely from the NSPCC offices if special measures was granted which meant they did not need to set foot in the courthouse. There were plans to further extend remote access provision but this had been delayed by technical difficulties¹⁵⁸.

Special measures

- 6.18 In common with the findings of the CJI sexual violence and abuse inspection there appeared to be a view across PPS prosecutors that the victim having to become involved in the criminal justice system and giving evidence in court would cause them more harm, in terms of stress and exacerbating mental health issues, than a prosecution being taken against the perpetrator and the victim being safeguarded by appropriate agencies. From the views of victims (see further in Chapter 7) it was clear to Inspectors that being able to give evidence against their abuser was a significant healing factor for some victims who had managed to escape from the cycle of domestic abuse.
- 6.19 In addition some victims do not wish to be seen to be co-operating with the prosecution process so them being summonsed or even compelled to attend court under a warrant helps safeguard them against further abuse. As will be discussed further in Chapter 7 the lack of an IDVA scheme means that the views of victims are not heard sufficiently during the process.
- 6.20 There was evidence from the file review and from discussions with prosecutors that greater consideration of the use of special measures as well as ensuring these are tailored to the needs of the victim should be made in these types of cases to encourage or support victims to attend court. There was evidence in the file of appropriate consideration of special measures in only two of the 16 relevant cases in the sample and appropriate use in only one of these cases. The only application made was not timely or of good quality.
- 6.21 Some prosecutors suggested that special measures were not relevant in most cases as the victim was not in fear or intimidation of the defendant; they believed it was more based on the fact they were afraid of giving evidence in court. They expressed frustrations that, in their view, police advised 'everyone' that they could have special measures without proper explanation that they are granted by the court after an application is made. Inspectors also heard from prosecutors that medical evidence would often be required to support a special measures application. Similar to victim supporters (see Chapter 7), prosecutors talked about instances of victims having turned up on the day of court and the special measures application had not been made. On one occasion it was recalled that the victim agreed to proceed anyway and was said to have done well.

158 Inspectors were advised after the fieldwork for this inspection had concluded that these difficulties had been addressed and that the two links in the building had been working effectively since July 2018.

- 6.22 It is Inspectors' view that this was not an acceptable practice. Both victims and supporters explained that even an oversight risked putting unnecessary pressure on the victim. Inspectors believe such views about special measures shows a lack of appreciation of the cycle of abuse that victims are subjected to and that, even if they have been in a relationship with someone for decades, there is a real fear of coming face to face with them in a courtroom.
- 6.23 The Victim Charter¹⁵⁹ specifically highlights the requirement for victims of domestic abuse to have particular attention paid to them in the context of an individual needs assessment by the PSNI or PPS Victim and Witness Care Unit. In addition, in paragraph 48, it highlights '*You are considered to be an **intimidated victim**, when giving evidence if the quality of your evidence is likely to be affected because of your fear or distress about testifying.You may also be considered to be intimidated, when giving evidence, if you: ...have experienced domestic violence*'. This means therefore that the prosecutor would be required to give consideration to making a special measures application.
- 6.24 Whilst acknowledging that a proper application has to be made to the court, the practice of seeking medical reports and additional statements from victims as a default practice increases delay, cost and anxiety of victims. Previous CJI inspections, for example the 2011 inspection of the care and treatment of victims and witnesses¹⁶⁰, have highlighted issues about the use of special measures by the criminal justice system. Inspectors believe however that there are particular issues which are relevant when considering the use of special measures for victims of domestic abuse.

Operational recommendation 3

Inspectors therefore recommend that **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.**

- 6.25 Inspectors suggest that this review should consider the following:
- the number of cases where appropriate special measures applications should have been made but were not and the reasons for this;
 - numbers of cases where applications were refused and the reasons for this;
 - numbers of cases where equipment and facilities in the court did not enable the most appropriate special measures to be used and the reasons for this; and;
 - numbers of cases where arrangements for special measures applications granted were not in place on the day of contest and the reasons for this.

159 Department of Justice, *Victim Charter: A Charter for victims of crime*, December 2015. Available online at: <https://www.justice-ni.gov.uk/sites/default/files/publications/doj/victim-charter.pdf>

160 CJI, *The care and treatment of victims and witnesses in the criminal justice system in Northern Ireland*, December 2011. Available online at: <http://cjini.org/getattachment/c3a0fb11-e230-4d73-97e9-002c200e277a/picture.aspx>

Pleas

- 6.26 The victim was consulted prior to a change of charge or acceptance of plea in only a third of cases (3 of 9). The police were consulted before reaching a final decision in 53.8% of cases (7 of 13) with a further case where it was not possible to tell. There were only two cases where a plea to a different charge or a basis of plea was accepted; in one of these it was not adequately recorded and signed by the parties.

Options for sentencing

Pre-sentence reports

- 6.27 In common with other offences probation officers produced pre-sentence reports for the court. All probation staff had received mandatory domestic violence awareness training and refresher training was available. The nature of the offences determined what level of report is prepared for example whether it was a specific domestic violence report. Specific staff were trained to deal with domestic abuse cases and in these cases the Spousal Assault Risk Assessment 3 tool was completed to inform the assessment.

Perpetrator programmes

- 6.28 The PBNI delivered the 'Building Better Relationships' programme to those sentenced for a domestic-related offence and who were assessed as suitable by a probation officer using the Spousal Assault Risk Assessment 3 tool. An alternative programme, the 'Respectful Relationship Intervention' was also available for those who were lower risk and this programme could be adapted for female perpetrators.
- 6.29 In July 2014 the PBNI were awarded funding by the DoJ and the DoH (under the Tackling Violence at Home strategy) to develop an intervention programme to address domestic abuse for alleged perpetrators. The 'Promoting Positive Relationships' programme was designed for adult males, who had demonstrated the potential to be abusive in intimate partner relationships and whose children were assessed at risk by Social Services. This programme had been delivered by probation staff to non-adjudicated perpetrators (i.e. those who had not been found guilty of a criminal offence) who were referred by Health and Social Care Trusts. Originally the programme had been delivered in the Western and South Eastern Trusts but funding had been cut. Since the conclusion of the fieldwork for this inspection, a second programme had been delivered by the PBNI in the Western Trust, funded by DoJ. Plans to continue delivering this programme in 2019-20 and long-term funding were still under consideration.
- 6.30 As noted above the PBNI had been asked to develop and deliver a perpetrator programme to support the work of the Londonderry Domestic Violence Court. The 'Promoting Positive Relationships' programme was to be delivered from January 2018 (after the fieldwork for this inspection had concluded). This would be offered to those defendants who pleaded guilty and were willing to undertake the programme and were assessed by probation staff to be suitable. Partner link workers would support the partner or former partner of the programme participant. This was to be a one year pilot programme at Londonderry Magistrates' Court.

During the programme weekly updates would be given to the Judge to give feedback on the defendant's progress. The incentive for the individual to successfully complete the programme was that progress on the programme would be taken into account when determining an offender's sentence. Inspectors welcome the introduction of this programme and look forward to seeing the results in due course.

Sentencing guidance

- 6.31 In England and Wales in March 2017 the Sentencing Council launched a consultation on 'Draft Guidelines for Intimidatory Offences and Domestic Abuse'¹⁶¹. This proposed to introduce sentencing guidelines for stalking, disclosing private sexual images and controlling or coercive behaviour offences ('intimidatory offences') and update the guidance for domestic abuse. The consultation was described as '*a welcome but overdue step towards improving the criminal justice response to these offences*' by HMIC and HMCPSI¹⁶². In May 2018 the Sentencing Council published definitive guidance on domestic abuse¹⁶³. This provided overall guidance on aggravating and mitigating factors when sentencing any offences in a domestic context.
- 6.32 In Northern Ireland sentencing guidance for Magistrates' Courts was available on the Judiciary NI website¹⁶⁴. This contained guidance for each group of offences, for example assault offences, harassment and domestic offences (including breaches of non-molestation orders and harassment injunctions). The offences of Assault Occasioning Actual Bodily Harm and Grievous Bodily Harm included specific reference to offences which occurred in a domestic context.
- 6.33 As noted earlier in this report there is an intention to introduce legislation in Northern Ireland to address coercive and controlling behaviour under a domestic abuse offence. Given the development of these new offences and the fact that domestic abuse already comprises a wide range of different offences from harassment through to murder it may be helpful, when developing sentencing guidance for the new domestic abuse offence, to use the opportunity to develop a set of guidance for all domestic abuse offences in one document, as has been produced in England and Wales. This will aid understanding across criminal justice practitioners, victims and their advocates and the general public as to how sentences are determined.

Restraining orders

- 6.34 Restraining orders, imposed by a criminal court, prohibit perpetrators from doing anything specified in the order, for the purposes of protecting victims or potential victims. Section 5 of the Protection from Harassment (Northern Ireland) Order 1997 enables a criminal court to make a restraining order following a conviction. Since 2009, section 13 of the Domestic Violence, Crime and Victims Act 2004 extended the power to impose orders for any criminal offence, and

161 Sentencing Council, *Intimidatory Offences and Domestic Abuse Guidelines Consultation*, March 2017. Available online at: <https://www.sentencingcouncil.org.uk/wp-content/uploads/Intimidatory-offences-Consultation-Paper-WEB.pdf>

162 HMIC & HMCPSI, *Living in fear - the police and CPS response to harassment and stalking*, July 2017. Available online at: <https://www.justiceinspectorates.gov.uk/hmicfrs/publications/living-in-fear-the-police-and-cps-response-to-harassment-and-stalking/>

163 Sentencing Council, *Overarching Principles: Domestic Abuse Definitive Guideline*, February 2018. Available online at: <https://www.sentencingcouncil.org.uk/publications/item/overarching-principles-domestic-abuse-definitive-guideline/>

164 See <https://judiciaryni.uk/sentencing-guidelines-magistrates-court>

on acquittal as well as conviction.

- 6.35 In the police file review there was evidence that consideration was given to applying for a restraining or harassment order in 10 of the 30 cases in the sample (33.3%). In a quarter of the relevant cases there was evidence that an order was actually applied for (26.3%); where this was not done and the reason was recorded in four cases this was because of the victim's views and in one it was a police decision. However there was no evidence from the prosecution case file review that restraining orders were being sought on conviction or acquittal, either in the police Summary of Case form, in the prosecutor's notes when making the decision or on court reports. Although, on the basis of the views of the victim and human rights considerations the prosecutor may decide not to request a restraining order, Inspectors would still expect to see these considerations documented on the prosecution file¹⁶⁵.

165 The topic of restraining orders was included in training to prosecutors that was being delivered at the time of this inspection but it was too early to assess the impact of this



The experiences of victims and their supporters

Support

- 7.1 Victims of domestic abuse spoke to Inspectors about how they had experienced the criminal justice process. Inspectors also met with people who worked for stakeholder organisations and had supported many victims in their journey through the criminal justice system. Those victims who took part were being supported by specialist domestic abuse organisations and had been in contact with the criminal justice system. While they were not representative of all domestic abuse victims, important learning was communicated in the experiences they voiced, which was also supported by the findings from Inspectors' fieldwork with the criminal justice agencies. Their accounts reflected that when domestic abuse was reported the support from criminal justice agencies was not always consistent either between the different agencies (the PSNI compared to the PPS), or in relation to different people working within them.
- 7.2 DoJ research with victims of domestic violence¹⁶⁶ reported a 'broad consensus' that the police had signposted to support organisations. Inspectors heard from some victims, however, that the police did not provide information about relevant organisations and it was instead a solicitor who provided this or they had accessed services themselves. Those that spoke to Inspectors reflected positively on the support they received from specialist voluntary organisations once referred such as Women's Aid. Victim Support was also highlighted as an important source of help particularly at the stage of attending court. A few reported feeling 'forgotten about' once court was over and there was a broad view that Women's Aid was the only organisation that supported 'the whole way through' including after the court stage had concluded. Examples of comments included that 'I would have been lost without them', and they were 'the key support that allowed us to put up with the justice [system]'.
- 7.3 Inspectors heard examples of good working relationships between the police and victim supporters particularly in respect of Criminal Justice Workers. These were staff from Women's Aid, who had been co-located with local policing districts. The PSNI and Women's Aid described this as a positive relationship with one interviewee commenting that co-located working reflected a huge amount of trust between both organisations. As discussed earlier in this report, the Criminal Justice Worker role had moved to sit with local policing teams having previously been located in Public Protection Units. This was welcomed because the role had

166 DoJ Analytical Services group, *Research into the experiences of victims of domestic violence: Summary of key findings*, March 2016. Available online at: <https://www.justice-ni.gov.uk/publications/research-experiences-victims-domestic-violence-summary-key-findings>

been intended for lower and medium risk cases, which were responded to within Districts rather than by DAAS officers. It was said that the role's success was not necessarily judged on whether the case went to court but on whether the victim felt safer and this was also a welcomed development.

- 7.4 Funding for the Criminal Justice Worker role was sought by Women's Aid local groups and in some areas included funding from the local PCSP and other sources. Inspectors heard that in practice funding was problematic and as a result there was a risk of a postcode lottery in accessing the service. It was reported that the police in one area withdrew its part of the role's funding and in another instance three funders had to be sought for one post. The service did not therefore feel embedded in criminal justice work and lacked long term resource. The DoJ research with victims also reported support for this service as well as funding concerns. In its response the DoJ stated that 'expansion' would be conditional on funds and how these could best be used in a context of resource pressures, and also consideration of whether there was overlap with other services¹⁶⁷. Inspectors did not encounter overlap in criminal justice support services for domestic abuse. There was, however, examples of support services having been stretched to cover gaps in assistance that they had not been funded to provide (see below for example in respect of prosecution, trial and MARAC support).
- 7.5 There was strong support from victims and their supporters for an IDVA service to support medium and high risk domestic abuse victims within the MARAC process (discussed earlier in this report). At the time of fieldwork, an established support service for high risk victims in the form of IDVA services had existed in England and Wales in some form for almost 15 years with a measurable impact on the safety of domestic violence victims¹⁶⁸. The IDVA role provided a link between the victim and the equivalent MARAC meeting, which included support for the police process but also liaison with other agencies that contributed to safety such as housing and health. As noted previously Inspectors visited the Leeds IDVA service. The Local Authority there had tendered for an IDVA service that would be open to all and gendered in its response. A consortium of domestic abuse organisations applied for and won the tender and, at the time of Inspectors' visit, had been funded to provide the service for at least five and up to a maximum of eight years.
- 7.6 The DoJ/DoH Strategy¹⁶⁹ cited provision of IDVAs in some parts of the UK and indicated an intention to consider how best to provide advocacy services to victims in the Strategy's future action plans (para. 4.60). This did not form a specific action within the Strategy's 'Year One Implementation Plan', however, an action to 'review Multi-Agency Risk Assessment Conferences' did (action five). The resultant review assessed compliance with Safe Lives principles, Principle

167 DoJ, *Research into the criminal justice experiences of victims of Domestic Violence and Abuse: Department of Justice Response, March 2016*. Available online at: <https://www.justice-ni.gov.uk/publications/research-experiences-victims-sexual-abuse-and-violence-doj-response-paper-and-action-plan>

168 Howarth, E., Stimpson, L., Barran, D., and Robinson, A. *Safety in Numbers: A Multi-Site Evaluation of Independent Domestic Violence Advisor Services, November 2009*. Available online at: http://www.safelives.org.uk/sites/default/files/resources/Safety_in_Numbers_full_report.pdf

169 DHSSPS and DoJ, *Stopping Domestic and Sexual Violence and Abuse in Northern Ireland A Seven Year Strategy, March 2016*. Available online at: <https://www.health-ni.gov.uk/sites/default/files/publications/dhssps/stopping-domestic-sexual-violence-ni.pdf>

4 of which was related to independent representation and support for victims. The review found this to be one of two principles with the lowest levels of reported adherence and noted that '[a]ll focus groups stated that there was a need to introduce an Independent Domestic Violence Advisor (IDVA) service within Northern Ireland to ensure there is a consistent and ongoing support for victims'¹⁷⁰. In addition a review conducted by SafeLives, which reported in May 2016¹⁷¹ highlighted the lack of an IDVA service referring to it as a '*fundamental weakness in the MARAC process*'.

- 7.7 CJJ previously recommended the introduction of an IDVA service in the 2010 inspection report on domestic violence and abuse¹⁷². The report recommended that plans for a properly resourced IDVA service to provide advocacy and support for all victims of domestic violence and abuse should be developed by the DoJ as a matter of urgency to complement the roll-out of the MARAC process. The CJJ follow-up review¹⁷³ found that funding, which had been promised, was withdrawn at a late stage and that there was little likelihood of an IDVA service being resourced appropriately in the near future.
- 7.8 Since this recommendation was made the Domestic Violence and Abuse Disclosure Scheme had been introduced in March 2019. The lack of IDVAs was also highlighted as a significant gap in risk management and safety planning under the scheme. This was clearly the case for those who suspected their partner had a history of domestic abuse but was particularly the case where someone other than the current partner had made the request. The 'power to tell' part of the scheme is triggered when the PSNI receive indirect information or intelligence about a person thought to be at risk from a partner, and where, after appropriate checks are made, the PSNI judge that a disclosure should be made to safeguard that person. The individual is therefore potentially placed at significant risk and no doubt will experience a period of shock and fear which they need support to deal with. With the lack of an IDVA scheme the PSNI are again reliant on signposting the individual to Women's Aid, Victim Support Northern Ireland, Men's Advisory Project or other support organisations who are not appropriately funded for this work.
- 7.9 Inspectors continue to support the introduction of an IDVA service without delay. Whilst statutory bodies in Northern Ireland have failed to provide provision for a basic IDVA scheme to support victims of crime and the MARAC process, other jurisdictions have moved on beyond this. The changes to funding for IDVA services in Leeds to enhance the consistency and longevity of delivery is described in paragraph 7.5. In Scotland the Violence Reduction Unit had developed preventative programmes and initiatives to identify those who have potentially been abused before they even report to the justice system¹⁷⁴.

170 Duncan, L. DoJ Analytical Services Group, *Review of MARAC 2017: Research and Statistical Bulletin 30/2017, October 2017*. Available online at: <https://www.justice-ni.gov.uk/publications/r-s-bulletin-30-2017-review-marac>

171 SafeLives, *MARAC development report for Northern Ireland: Observation report with recommendations for improving effectiveness of Marac processes in Northern Ireland, May 2016*. unpublished report.

172 CJJ, *Domestic violence and abuse: A thematic inspection of the handling of domestic violence and abuse cases by the criminal justice system in Northern Ireland, December 2010*. Available online at: <http://www.cjini.org/getattachment/1b651b43-657b-471b-b320-101fca7c6930/Domestic-Violence-and-Abuse.aspx>

173 CJJ, *Domestic violence and abuse: A follow-up review, October 2013*. Available online at: <http://cjini.org/getattachment/34118bcc-00c5-4071-bf2f-5397e6b20332/picture.aspx>

174 See <http://actiononviolence.org/vru-projects>

- 7.10 Inspectors appreciate the challenging funding landscape but there is clear evidence that IDVA schemes lead to cost savings overall, in terms of reduced attendance at hospital emergency departments, police response to incidents, court costs, economic inactivity and so on. One economic analysis¹⁷⁵ in 2013 placed the cost savings of IDVA services at £46,709 per victim, based on 2011 prices, and noted '*Due to the high effectiveness of IDVA the cost savings associated with reduced domestic violence outweigh the incremental cost of providing IDVA*'. In addition IDVA involvement leads to savings in criminal justice services alone of nearly 23%. One mechanism suggested to Inspectors as a possible funding stream was that PCSPs could make a proportionate contribution of their budget to fund IDVA services. As the purpose of the PCSPs is community safety and the prevention of crime and most have actions relating to preventing domestic abuse in their annual plans, this would provide them with the opportunity to contribute to a proven method of supporting victims and reducing future domestic abuse. Inspectors believe this suggestion is worth further exploration between the DoJ, the Northern Ireland Policing Board and PCSPs. Whatever the funding mechanism however, it is clear that there is a need for long-term, sustainable funding for an advocacy service to provide permanency to the role and certainty for victims and their supporters.
- 7.11 After the conclusion of the fieldwork for this inspection the DoJ was developing plans for a stream-lined advocacy service to cover adult and child victims of both sexual and domestic violence and abuse and were in discussions with key stakeholders as to how to progress this as well as securing funding for the service. It was unclear whether the DoH would be able to contribute to this funding. Inspectors believe that the development of an IDVA service in Northern Ireland should be in addition to longer term funding for the Criminal Justice Worker role embedded within PSNI Local Policing Teams, which should not overlap with the role of an IDVA. Despite CJJ's previous recommendation and the actions within the DoJ/DoH action plans, there had been no significant progress made by the Strategic Delivery Board in delivering an IDVA scheme to date.
- 7.12 Inspectors believe that it is now imperative that the justice system takes the lead on delivering on the two key issues of a domestic abuse listing arrangement at court and an IDVA scheme.

175 National Institute for Health and Care Excellence, *Economic analysis of interventions to reduce incidence and harm of domestic violence, final report, July 2013*. Available online at: <https://www.nice.org.uk/guidance/ph50/evidence/economic-analysis-domestic-violence-final-report-for-consultation-pdf-430410637>

Strategic recommendation 4

It is therefore recommended that **the Criminal Justice Board, in conjunction with 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.**

Engagement with the criminal justice system

- 7.13 Once people reported their experience of domestic abuse to the police, complex and overlapping reasons influenced the decision about whether or not to engage or withdraw from the criminal justice process. Inspectors heard that a decision to withdraw could be related to a preference for immediate protection over prosecution, or not wanting to negatively impact the perpetrator or fear in relation to this, especially if there were children involved. Some also feared that their ability to parent their children would be questioned. Attrition was strongly attributed to a failure of the criminal justice system to take due cognisance of victims' needs. Supporters said that as a result of this some victims had experienced re-traumatisation or had withdrawn due to a lack of confidence that the system would prevent this from occurring.
- 7.14 Victims who spoke about engaging with the system called for people to 'speak to us rather than send letters we don't understand'. Comments to Inspectors included that 'I wouldn't advise anyone to go through it'; 'the criminal law let me down', and 'made me feel to blame'. Delay was a significant influence in this respect. It was described as having an emotional and practical impact, for example, adjournments and rescheduling had childcare implications that victim supporters said were not always considered. Inspectors heard that communication about delays and the reasons for delay was haphazard and ill-timed. In the time between the offences occurring and reaching court some victims had 'moved on' or returned to abusive relationships. There were examples of delay impacting on the victim's protection. One interviewee explained that a Non-Molestation Order was refused because the defendant had not assaulted her in over a year, however, a criminal justice outcome was still awaited. For another there was a request to dismiss the Non-Molestation Order even though the defendant had not been responding to criminal court summons.
- 7.15 Inspectors also heard from victims who described disparate systems of family and criminal justice despite their experiences of each being intertwined. Inspectors were told about the scenario where a victim of domestic abuse permitted special measures in the criminal court might feasibly attend a family court hearing the following day with no such measures in place. Similarly child contact issues frequently arose within families who were involved in the criminal justice process. In some cases arrangements had to be made for child contact which necessitated contact between the perpetrator and victim, potentially undermining the requirements of a Non-Molestation Order or bail conditions.

- 7.16 Victim supporters' also reported disconnect between different but related court processes as having impacted victim withdrawal. The family, civil and criminal courts were likened to 'three planets' in only one of which the individual was acknowledged as a victim. It was said that victims often felt at fault in all but especially the family court system, which did not always appear to appreciate the controlling dynamics of domestic abuse. Inspectors heard that on one occasion the victim had to sit beside the perpetrator in the family court despite having support from Victim Support Northern Ireland to cope with the criminal process. Victim supporters also spoke about subtle forms of abuse in child contact centres the set-up of which had facilitated the continuation of harassment. As one interviewee noted there appeared to be a conflict between what different courts had ordered. Inspectors were told that this experience of being re-victimised and the instinct for self-protection had influenced decisions to disengage from the criminal process. As mentioned previously CJI does not have the remit to inspect the family court but it is clear that there continue to be issues for victims in navigating the civil and criminal matters in cases of domestic abuse, which a fully integrated domestic violence court may be able to address.
- 7.17 In *'Without Witness'*¹⁷⁶ CJI reported that some victims of sexual violence and abuse felt the need to engage their own solicitor to assist them in navigating the criminal justice process. Similarly in meeting with victims of domestic violence and abuse and reviewing case files, Inspectors were struck by the number of victims who felt the need to engage their own solicitor. Many victims reported seeking the services of a solicitor to apply for a Non-Molestation Order either at the suggestion of the police or with support from Women's Aid. They also reported then using their solicitor to assist them in understanding the criminal justice process, in checking on the progress of the investigation and the prosecution decision and in advocating for them when they did not agree with or understand the decisions made. Finally, some used the services of a solicitor to help them understand the outcome at court, both in respect of convictions and acquittals.
- 7.18 In some cases individuals will receive legal aid to pay for this advice but in others the victim will be required to pay from their own funds. This can be exploited by the perpetrator to continue abusing the victim financially and is an equality issue. Several free services were provided by Victim Support Northern Ireland (for example community, witness and compensation services) however victims spoken to did not appear to be aware of these. Inspectors believe it is not acceptable that victims of domestic abuse should have to rely on public or private funds for advocacy and support when appropriate communication should be available from the criminal justice system or a statutory IDVA scheme.

176 CJI, *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>

- 7.19 New developments in terms of legislation, policy and practice were welcomed by victims and their supporters, which it was hoped would improve the experience for victims. However the absence of the Northern Ireland Assembly and delays in the implementation of new practices, particularly comparing this to other jurisdictions, was a source of frustration and disappointment.

Reporting and initial response

- 7.20 Victim supporters advised that the police response particularly to emergency calls had improved since CJI completed its last domestic abuse inspection in 2010. One support organisation reported that the response was 'beyond good' at times. Supporters said that they had been hearing less complaints from victims about police response times and some victims also agreed that the response to 999 calls was good. But this was not universally the case and a few recalled a delayed response time despite having a 'red flag' against their address to indicate they were at high risk of domestic violence. In smaller or rural areas issues related to a reduction in police resource and Inspectors were informed that on one occasion the caller who had been reporting a concern on behalf of the victim was informed that 'all cars were out'.
- 7.21 Supporters and victims reported that police responsiveness was still dependent on the individual officer with some perceived to have been more empathetic than others. Victim supporters said there was 'huge variation' but stressed that police attitudes had improved overall and they did not wish to come across as largely negative in this respect. Feeling believed, being taken seriously, and proactive arrest was reported by some victims. But there were still a few who talked about 'feeling like a perpetrator' as a result of the officer's response (for example, 'you answered the phone so what did you expect?'). Reports of treatment on reporting to police stations were less positive than the 999 call out response. Inspectors heard examples of the victim being asked to wait outside where there was a risk of being seen by the perpetrator, or having been asked to wait with security guards.
- 7.22 Inspectors were told that harassment was not well understood and that incidents were not being linked. Some said that the absence of laws to criminalise coercive control was problematic, as this had contributed to the seriousness of repeat behaviour not being appreciated. These behaviours had included leaving flowers, phoning the victim to ask 'how are you?', unplanned arrivals at school, leaving notes, and posting comments on social media. One victim said that before being assaulted she had thought 'how far has it to go before the police take notice?'. Another described being told by officers to approach the civil courts, as there was no criminal law to cover trackers placed on her car or malicious posts on social media. Victim supporters described receiving lower risk referrals from the police which on further reading of the details of the case they considered to be high risk. Others reported that the police in some areas had been 'bending over backwards' to assist but there was a gap for the officers in terms of legal tools they had available.

- 7.23 Reports about police use of the DASH risk assessment checklist were mixed. As noted in Chapter 3 there appeared to be a lack of awareness by victims about the purpose of DASH, whether it had been completed and the outcome of it. There were instances of women receiving contact about MARAC and not being aware of what this was.

Investigation and case building

- 7.24 Inspectors heard less from victims about the investigation and case building role of the police. This was not necessarily unexpected as victims and their supporters had explained that instances of harassment and behaviour perceived as 'lower level' had not always been pursued. Those who had experienced contact from DAAS officers, their cases having been assessed as high risk, provided positive feedback. Investigation of cases viewed by police as lower risk was said to be less effective.
- 7.25 One victim reported that, over several years of reporting to the police, the most recent Investigating Officer reviewed her case, linked the reported incidents and ultimately pursued a harassment case, where other officers had previously had only dealt with individual incidents. Another recounted that despite obvious physical injuries the police did not record any crime or incident and instead arrested her for verbally fighting back. She reported subsequent police contact on numerous occasions and then 'gave up.' An improvement in respect of the most recent police response was perceived, as photos of bruising had been taken. On a follow-up call from an Investigating Officer it was explained that the case would be progressed without the need for her to give evidence. It was the victim's understanding that the previous reports to police were not being linked. Inspectors heard from a further victim that when she first reported domestic abuse in 2016 she did not wish to make a statement. She was never asked on subsequent occasions. It was reported that the suspect was always arrested and moved on but the police did not take photos or gather evidence and there had been no follow-up from a DAAS officer. The victim was aware that she was on MARAC but had received no information or been asked any views about this.
- 7.26 Where a statement was taken, Inspectors heard mostly positive feedback about this. One reported that she had been able to give a statement at home and a friend gave witness evidence there too, which was described as reassuring. Some perceived a difference in the response between male and female officers and, where this was thought to have been the case, females officers were said to have been more empathetic in their approach. Where an ABE had been completed it was generally said to have been sensitively done. One victim reported that the officers conducting the ABE had been fantastic; good at explaining everything and very prompt.

Prosecution and trial

- 7.27 Reports by victims and their supporters about the experience of prosecution and attending court point toward improvements being required. Inspectors heard how the treatment of victims at this stage of the criminal process risked replicating the power dynamics evident in patterns of domestic abuse. This was apparent in victims' accounts of delay and their perceptions of how they had been treated in relation to this. Timely information about delays and the reasons for them were lacking. Several victims and supporters reported that notice of an adjournment was provided 24 hours before the court date or on the day of attendance. Supporters said it was not uncommon for multiple contests to be listed on one day making it inevitable that one or more of these cases would not be heard.
- 7.28 Victim supporters were positive and complimentary about the Domestic Violence Magistrates' Court in Derry/Londonderry. However, some expressed frustration that it had been 'piloted' for many years and there were calls for those responsible to roll it out to other appropriate areas. As one interviewee who had been supporting victims in a rural area explained 'we don't have a court or a criminal justice worker or an IDVA and not even necessarily a police station. [They are] ironing out kinks in a pilot when some women have nothing'.
- 7.29 Long waits on the day of court were compounded by reports of inadequate court facilities. Inspectors were told that in one case the young person waited a significant part of the day but was unable to use toilet facilities as these were located in the main waiting area where the defendant was seated. Other examples were recounted of victims encountering the defendant and their supporters in waiting areas, in one instance being shouted at by the defendant with no-one available to support or intervene.
- 7.30 Reports of little or inaccessible information contributed to a sense of power imbalance. Few victims reported receiving a phone call or meeting with prosecutors. In one instance where this had occurred it was reported that the PPS had handled the meeting to discuss the victim's evidence effectively. It was felt that the need or desire for meetings might have been reduced if letters had been appropriate. Victims talked about letters they did not understand and some reported feeling they needed a solicitor to navigate the prosecution and court process. Victim supporters said that the reasons provided for prosecution decisions within PPS letters remained vague and risked being perceived as cold or communicating a message of 'we don't believe you'. This it was feared had an impact on future engagement.
- 7.31 Inspectors were informed that PPS letters were especially difficult for young people to understand and, for those whose first language was not English. It was noted that for one Criminal Justice Worker explaining letters from the PPS had become a key part of her role. In relation to information provision, the DoJ response to its research with domestic abuse victims highlighted relevant sections of the Victim Charter, relevant guidance to the PPS and panel counsel, and training regarding this issue. There was, however, no indication about how the impact of these developments would be assessed. Inspectors note that victims participating in the inspection spoke about experiences that had occurred before and after these measures had been introduced but appreciate there may not have been sufficient time for these to bed in.

Case example 10

Having reported her experiences of serious domestic abuse to the police and engaged with the police investigation, a case was reported to the PPS. The victim described receiving a letter from the PPS stating that there was a 'case to answer,' which she said was signed 'yours sincerely computer signature.' There was, she recalled, no information on what to do if she required help.

The case was delayed on three occasions and she had to contact her solicitor to find out why. She perceived delay as an intimidation tactic by the defendant and stated that 'he would have snapped me with delays had it not been for the support of Women's Aid.'

When the date was finally agreed she received 24 hours' notice. She recalled discussions between the prosecution and defence legal teams at court, which took place in close enough proximity for her to hear some of their conversation but she was not a party to it. She described how they 'kept it going to the last minute' and then the prosecution counsel informed her that the defendant would plead guilty, 'I was told I didn't have to go in [to court] but I wanted to.'

The implications of the guilty plea were not explained 'it gripes me now, no-one explained that he would receive a suspended sentence' and 'if I'd known that I would have went to court'. In respect of the Prosecuting Counsel she said, 'I didn't know how to get back [in contact] to say I didn't agree with what you said, she took my voice away'. In court she recalled that the judge thanked the offender for not making her testify.

The victim said that 'no-one came to me' after the sentence was delivered and felt that once there was a guilty plea she was 'dropped'. She described not understanding what had happened, 'now my case has gone through court and closed there's no way back, I'd like to understand different parts of my case and why things happened but it's done now.'

She received a letter from the PPS, which she recalls as stating it to have been pleased the case had concluded, and that 'we got the outcome we wanted'. The sentence was outlined in the letter but the victim did not understand what this meant. She said it was again signed 'computer signature' and asked why it had not been signed by the Prosecutor.

Asked about the justice system the victim said 'I wouldn't go back, everything is a backhanded slap in the criminal justice system'. She was still searching the Internet to find out what the sentence meant.

- 7.32 On the whole Inspectors heard that victims' experience of the process around guilty pleas was problematic. One victim said that the case took over a year and half to reach court although the communication from the PPS was good. A date and time to attend court on a Monday was provided but on the Friday before this the defendant pleaded guilty. When the victim arrived at court the Victim Support worker informed her about the guilty plea. She had not had the opportunity to be part of the decision making or hear the plea. As the victim explained, 'hearing him plead guilty was a big part of my healing and they took that away from me.' Others questioned the legitimacy of sentences having been reduced as a result of a guilty plea, 'why should he get a reduced sentence, he still [did] it to me.'
- 7.33 Experience of the prosecutor at court was generally reported to have been brief, for example, 'a two minute introduction' and there was often inadequate time or physical space for victims and the court lawyer to meet. Supporters stated that this would have been acceptable if explaining the case strategy had not been part of the court lawyers' role but that somebody should have been required to do it. It is important to note that it is the court prosecutor's role to explain the court process and that they cannot explain case strategy as to do so could be considered witness coaching by the defence, influencing the evidence due to be given. This therefore means that false expectations may be held by victims and their supporters, which should be addressed by court prosecutors whilst explaining the court process. Some victims supporters described having staff sitting in court for a full day even though they were not court workers and had received no funding for a court worker role.
- 7.34 Inspectors heard from victim supporters a sense that courts had not reflected an understanding of the dynamics of abuse in how they dealt with harassment. There were reported examples of victims being asked how quickly they brought the abuse to the authorities' attention with the suggestion that they had not really been fearful because reporting had been delayed. Responding to text messages about children had weighted their views against the victim without appreciating that it might have been part of the safety plan to reply. In other instances permitting child contact was said to have negatively impacted the victim's harassment case even though the contact was agreed by the family court.
- 7.35 Supporters felt victims had been treated harshly for behaviour courts deemed contributory whereas supporters viewed the behaviour as having been associated with controlling abuse. For example, Inspectors were told about one case involving an attempted stabbing where the victim was said to have met her ex-partner following his repeated requests. As a result the Non-Molestation Order had been dismissed and this was mentioned on each subsequent court appearance. Supporters said there had been no understanding of the fear associated with abuse and the influence this likely had on the victim's decision to meet. Victims supporters also said that the system was 'quick to dismiss' breaches of a Non-Molestation Order because it did not adequately grasp the dynamics of abuse.

Particular groups

- 7.36 Victims' supporters called on the system to consider different groups of victims and how issues specific to them could be addressed. Inspectors were told about examples of criminal justice agencies tailoring services to meet the specific needs of some particular groups. For example, one organisation had trained peer supporters who in turn provided training to police officers on responding to older victims of domestic abuse. Inspectors heard that specific issues for older victims included vulnerability to financial abuse by family members, mostly adult children rather than a partner. Doubts were expressed about whether neglect and manipulation experienced by older people was being understood and responded to as domestic abuse. The particular impact of delay on older people was also emphasised. One stakeholder highlighted that older people who had experienced 'elder abuse' were over twice more likely to die prematurely than those who had not experienced this¹⁷⁷.
- 7.37 A shift in seeing children as more than just witnesses of domestic abuse was reported by some. However, there was said to be disconnect between this understanding and its reflection within strategy and practice. Inspectors heard that in practice services were not responsive to the specific needs of children and tended to be a second thought. Organisations supporting children stated that criminal justice funders had not provided the money to deliver these services and they had instead sought pockets of money from elsewhere. Victims reported a need for greater awareness among officers about the impact on children of living with domestic abuse and how this might affect their behaviour, including behaviour that could be viewed as challenging.
- 7.38 Most supporters highlighted the gendered nature of domestic abuse. There was recognition of the harm and trauma caused to men and women victims, as well as broad agreement that a greater proportion of funding should be available for female victims. For women, it was acknowledged that the extent of abuse and seriousness of injuries was greater. But it was considered that gender neutrality signalled by the DoJ/DoH Strategy had resulted in major shortcomings in funding and service delivery and had not helped anyone appropriately, male or female. One support organisation for men reported being hugely underfunded despite it being expected to receive the relevant referrals from criminal justice agencies and attend MARAC meetings. It stressed that it was not, however, calling for monies from the pot of funding for women, regarding it as also under resourced. Those supporting LGBT victims told Inspectors that LGBT people had not subscribed to a 'gender neutral definition' of domestic abuse stressing that gender related issues existed in same sex relationships as well.

177 See the World Health Organisation Fact Sheet on Elder Abuse, 8 June 2018 (<http://www.who.int/news-room/fact-sheets/detail/elder-abuse>), which cited a 13 year follow-up study evidencing premature death among victims of elder abuse: Lachs, M.S., Williams, C.S., O'Brien, S., Pillemer, K.A., Charlson M.E., (1998) *The Mortality of Elder Mistreatment, The Journal of the American Medical Association*, 280(5): 428-432, (<https://www.ncbi.nlm.nih.gov/pubmed/9701077>)

- 7.39 Police training which included a scenario based exercise with a male victim was welcomed by men's support organisations. However, as outlined in Chapter 3, others questioned its appropriateness as the sole practical scenario being used. Examples of myths and stereotypes impacting police attitude and decision making were told including instances of serious physical violence being responded to and recorded as an assault without recognising the domestic abuse element or domestic context. Inspectors heard a similar concern in respect of same sex couples where it was said that police had not always recognised the existence of a relationship and had therefore not applied a domestic abuse response.
- 7.40 No recourse to public funds continued to be a problem for some Black and Ethnic Minority victims with one support organisation reporting an increase in instances of having to turn people away from its accommodation due to the victim not being entitled to access public funds. This had become more complex because the availability of immigration knowledge among colleagues from non-governmental organisations was said to have reduced. This had been due to cuts in immigration related advice services and the closing of the Northern Ireland Council for Ethnic Minorities. Access to interpretation was not always problematic, but organisations receiving referrals from the police reported receiving limited information in this respect, for example, some said nationality was not recorded or there had been no information to indicate if an interpreter was needed. This risked delays, which potentially impacted on risk and victim withdrawal.
- 7.41 Support groups working specifically with people with disabilities reported that awareness of specific needs among criminal justice agencies required improvement. One organisation said that its service users had been reporting instances of police being fearful about how to respond to a person with a disability. The 'plausible perpetrator' scenario was also highlighted as a particular concern for some people with disabilities. Supporters were concerned about instances of police being told by the perpetrator that the victim 'did not properly understand' what had happened. There was a fear that this could influence police thinking.
- 7.42 Inspectors heard a view that the PPS understanding of communication issues and the impact of this on giving evidence could be improved. Some concerns were expressed that the need for Registered Intermediaries, for example, were not sufficiently considered in relevant cases from the outset by the PPS. Victims said there was a need for greater knowledge among criminal justice personnel about mental health and post-traumatic stress and how it might affect victims' behaviour and people's perceptions of this, as well as how victims might perceive their criminal justice experience. One victim talked about difficulties 'looking people in the eye' and explained that attention to small details would have helped, for example, if someone had asked if she was ok or required a break. Physical accessibility in respect of court buildings remained an issue and, with the current infrastructure, there was uncertainty about whether changes could be made to accommodate this.



Appendices

Appendix 1: Data provided by criminal justice organisations

Table A1:1 Recorded crime in Northern Ireland overall and for sexual and domestic offences¹⁷⁸

Note: This table mirrors that presented in Table A1:1 in Without Witness¹⁷⁹ however the figures have been updated to reflect more recently published crime statistics by the PSNI (in October 2018) and therefore there are slight changes in the totals. It should also be noted that these more recently published figures report crime statistics for the year 2017-18, however figures here relate to crime data relating to the period of the fieldwork for this inspection and the preceding years.

	2014-15	2015-16	2016-17
Overall number of recorded crimes	103,177	104,926	98,014
Number of sexual offences	2729	3030	3150
Proportion of crimes which were sexual offences	2.6%	2.8%	3.2%
Number of domestic offences	13,357	14,061	13,930
Proportion of crimes which were domestic offences	12.9%	13.4%	14.2%
Total number of sexual and/or domestic offences*	15,637	16,565	16,496
Proportion of crimes which were sexual and/or domestic offences	15.1%	15.8%	16.8%

*This figure was calculated by subtracting the number of recorded sexual offences with a domestic motivation from the number of overall crimes with a domestic motivation and adding to the number of overall sexual offence crimes.

178 PSNI, *Trends in Police Recorded Crime in Northern Ireland 1998-99 to 2017-18, Annual Bulletin* published 31 October 2018. Available online at: <https://www.psnipolice.uk/globalassets/inside-the-psni/our-statistics/police-recorded-crime-statistics/documents/police-recorded-crime-in-northern-ireland-1998-99-to-2017-18.pdf>

179 CJI, *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>



Table A1:2 PPS caseload overall and for cases received for a decision involving a sexual offence and involving offences with a domestic motivation*

	2014-15	2015-16	2016-17
Overall number of PPS cases received for decision	45,383	43,914	43,946
Number of PPS cases received for decision which involved sexual offences	1,339	1,245	1,312
Proportion of PPS cases for decision which involved sexual offences	2.95%	2.84%	2.99%
Number of PPS cases received for decision which involved offences with a domestic motivation*	5,117	5,406	5,567
<i>of which involved a sexual offence</i>	99	96	119
<i>of which did not involve a sexual offence</i>	5,018	5,310	5,448
Proportion of PPS cases received for decision which involved offences with a domestic motivation*	11.28%	12.31%	12.67%
Total number of PPS cases received for decision which involved sexual offences and/or** which involved offences with a domestic motivation*	6,357	6,555	6,760
Proportion of PPS cases received for decision which involved sexual offences and/or which involved offences with a domestic motivation*	14.01%	14.93%	15.38%

Table note:* Figures relating to cases involving offences with a domestic motivation were flagged by PSNI

**The figure relates to the cases received for decision involving offences with a domestic motivation which did not involve a domestic offence plus cases for decision which involved sexual offences.

Table A1:3 Outcomes that have since been assigned to crimes with a domestic motivation during 2015-2016 and 2016-2017¹⁸⁰

Outcome group	Percentage of crimes assigned each outcome type			
	2015-16		2016-17	
	All crimes	Crimes with a domestic abuse motivation	All crimes	Crimes with a domestic abuse motivation
Charge/summons	20.7	27.1	19.3	24.2
Taken into consideration	0.0	0.0	0.0	0.0
Out-of-court (formal)	3.8	2.2	3.1	1.9
Out-of-court (informal)	4.0	1.9	4.1	1.7
Prosecution prevented or not in the public interest	0.9	1.3	1.1	1.7
Evidential difficulties (suspect identified; victim supports action)	9.4	17.3	8.3	15.9
Evidential difficulties (victim does not support action)	18.4	43.1	20.0	43.6
Investigation complete - no suspect identified	40.0	2.1	38.0	1.7
Action undertaken by another body/ agency	0.7	2.3	0.9	3.1
Total offences that have since been assigned an outcome	98.0	97.4	94.7	93.7
Offences not yet assigned an outcome	2.0	2.6	5.3	6.3
Total offences %	100.0	100.0	100.0	100.0
Total recorded crime - all offences	105,023	14,073	98,076	14,073

180 Data taken from PSNI website and document spreadsheet for *Outcomes of Crimes Recorded by the Police in Northern Ireland 2015/16 and 2016/17*. Available online at: <https://www.psnipolice.uk/globalassets/inside-the-psni/our-statistics/police-recorded-crime-statistics/documents/police-crime-outcomes-in-northern-ireland-2015-16-to-2016-17.ods>

**Table A1:5 Overall conviction rates in Northern Ireland and England and Wales¹ for domestic abuse related-offences for 2015-16 and 2016-17**

	Northern Ireland ^{181 & 182}	England and Wales ^{183 & 184}
2016-2017		
Crimes with a domestic motivation recorded by the police	13,930	488,049 ²
Defendants convicted of a crime with a domestic motivation	1,319	70,853
Overall proportion of cases of a crime with a domestic motivation resulting in a conviction	9.5%	14.5%
2015-2016		
Crimes with a domestic motivation recorded by the police	14,061	421,185
Defendants convicted of a crime with a domestic motivation	1,252	75,235
Overall proportion of cases of a crime with a domestic motivation resulting in a conviction	8.9%	17.9%

Table Notes

- 1 Published figures are unavailable for domestic abuse-related offences/crimes with a domestic motivation in Scotland.
- 2 It should be noted that there was a drop in referrals from the police to CPS for domestic related-offence in 2015-2016 which had an impact on the volumes of prosecutions and convictions in 2016-2017. The CPS reported in their 2017 Violence Against Women and Girls report (see reference below) that they worked closely with the police and HMIC to identify the reasons for the fall and are addressing ways to ensure referrals are made appropriately.
- * It should be noted that PPS figures in this table relate to decisions for suspects which were flagged by the PPS (not necessarily the PSNI) as having a domestic abuse motivation.

181 PSNI, *Quarterly update, period ending 31 March 2017, providing figures for 2016/17*, May 2018. Available online at: <https://www.psnipolice.uk/globalassets/inside-the-psni/our-statistics/domestic-abuse-statistics/2016-17/q4/quarterly-domestic-abuse-bulletin-period-ending-mar17.pdf>

182 Figures on conviction rates provided by PPS for the purposes of this inspection.

183 Office for National Statistics, *Domestic abuse in England and Wales: year ending March 2017*, November 2018. Available online at: <https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/bulletins/domesticabuseinenglandandwales/yearendingmarch2017>

184 CPS, *Violence against women and girls report: Tenth edition 2016-17*, November 2017. Available online at: https://www.cps.gov.uk/sites/default/files/documents/publications/cps-vawg-report-2017_0.pdf

Appendix 2: Methodology

Desktop research and development of inspection Terms of Reference and question areas

Research literature and guidance documentation was reviewed in relation to sexual violence and abuse. Other relevant documents included Department of Health/Department of Justice Stopping Sexual and Domestic Violence and Abuse in Northern Ireland Strategy and Action Plans, Northern Ireland research reports, crime statistic reports and reports from other jurisdictions.

Document review

A review was undertaken of the documentation collated to cross-reference information against the topic areas and later obtained during the fieldwork. This was used also to inform interview questions during the fieldwork phase.

Fieldwork

This inspection was conducted in tandem with the inspection of the criminal justice system's approach to dealing with sexual violence and abuse. Unless in a specific role related to either domestic abuse or sexual abuse interviewees therefore were usually asked about both issues. The full list of fieldwork interviews is outlined below, but some interviewees will have focused more solely on one topic.

One-to-one and focus groups interviews were conducted with a range of personnel within the relevant agencies. Interviews were also conducted with stakeholders from across the business community. Representatives from the following areas were interviewed during the fieldwork:

Department of Justice:

- Community Safety Division; and
- Criminal Policy Branch.

Forensic Science Northern Ireland:

- Lead Scientist and Reporting Officer, Biology.

Northern Ireland Court Service:

- Operational Policy Branch.

Probation Board for Northern Ireland:

- Assistant Director, Head of Interventions.



Public Prosecution Service for Northern Ireland:

- Assistant Director, Belfast and Eastern Region;
- Assistant Director, Southern and Western Region;
- Assistant Director, Serious Crime Unit;
- PSNI Liaison Officer;
- Public Prosecutors, Youth Specialists, Belfast and Eastern Region;
- Senior Public Prosecutors, Serious Crime Unit;
- Senior Public Prosecutors, Belfast and Eastern Region;
- Senior Public Prosecutors, Southern and Western Region;
- Junior Counsel instructed by PPS in sexual cases x2;
- Senior Counsel instructed by PPS in sexual cases x2; and
- Victim and Witness Care Unit staff (Belfast and Foyle Chambers).

Police Service of Northern Ireland:

- ACC Crime;
- ACC District Policing Command;
- Detective Chief Superintendent, Public Protection Branch;
- Detective Superintendent, Child Abuse and Rape Crime Lead, Public Protection Branch;
- Detective Superintendent, Domestic Abuse and Vulnerable Adult Lead, Public Protection Branch;
- Detective Chief Inspector, Child Abuse and CSE lead, Public Protection Branch;
- Detective Chief Inspector, Domestic Abuse and Vulnerable Adult Lead, Public Protection Branch;
- Detective Chief Inspector, Rape Crime, Public Protection Branch;
- District Commander in three police districts (Belfast, Fermanagh and Omagh, Foyle);
- District Inspector Lead for domestic abuse in three police districts (Belfast, Fermanagh and Omagh, Foyle);
- Detective Inspectors (Urban and Rural), Rape Crime Unit;
- Detective Inspectors focus group, Child Abuse Investigation Unit;
- Detective Inspector, Domestic Abuse and Vulnerable Adult Policy lead;
- Detective Inspector, Child Abuse Investigation Unit policy lead;
- Detective Constables, Domestic Abuse and Vulnerable Adults focus group;
- Detective Constables, Child Abuse Investigation Unit focus group;
- Detective Constables and Sergeants, Rape Crime Unit focus group;
- Detective Sergeants, Domestic Abuse and Vulnerable Adults focus group;
- Detective Sergeants, Child Abuse Investigation Unit focus group;
- Central Referral Unit focus group;
- Local Policing Team Constables and Sergeants in three police districts (Belfast, Fermanagh and Omagh, Foyle);
- Foundation Trainers, domestic abuse and sexual offence training, Police College;
- Crime Trainers, sexual offences and Joint Protocol training, Police College;
- Call handler focus group (Urban and Rural Contact Management Centres); and
- Dispatcher focus group (Urban and Rural Contact Management Centres).

Youth Justice Agency:

- Assistant Director, Northern Area; and
- Assistant Director, Western Area.

Stakeholders:

- Action on Elder Abuse;
- Age NI;
- Ballymena Inter-Ethnic Forum;
- Belfast Solicitor's Association;
- Chairs of the Domestic and Sexual Violence Partnerships, Health and Social Care Trusts;
- Childline;
- Children in Northern Ireland;
- Cithrâh Foundation;
- Crown Court Judges x2;
- Disability Action;
- District Judge x1;
- Independent Sexual Violence Advocate (VSNI);
- Law Society of Northern Ireland;
- Men's Aid;
- Men's Action Network;
- Men's Advisory Project;
- Nexus;
- Northern Ireland Policing Board;
- Northern Ireland Rural Women's Network;
- NSPCC;
- Rainbow Project;
- Stalking NI;
- The Rowan Sexual Assault Referral Centre;
- Victim Support Northern Ireland; and
- Women's Aid Federation and representatives from local groups.

In addition CJI Inspectors held focus groups and one-on-one interviews with victims of domestic and sexual violence and abuse who had engaged with the criminal justice system arranged via victim support organisations at the following locations;

- Antrim, Ballymena, Carrickfergus and Newtownabbey Women's Aid (Antrim);
- Belfast and Lisburn Women's Aid (Belfast);
- Cithrâh Foundation (Carrickfergus);
- Fermanagh and Omagh Women's Aid (Enniskillen); and
- Nexus Client Forum (Belfast).



Inspectors attended MARAC meetings in the following locations:

- Newtownards (covering cases referred from Down and Lisburn);
- Portadown (covering cases referred from Banbridge and Craigavon);
- Omagh (covering cases referred from Omagh and Enniskillen); and
- Ballymoney (covering cases referred from Ballymena and Ballymoney).

Inspectors also visited/spoke with the following for comparative purposes in other jurisdictions:

- CPS Yorkshire and Humberside, Leeds;
- HALT, Leeds (Leeds IDVA provider);
- SafeLives domestic abuse charity; and
- Scottish Violence Reduction Unit.

Case file reviews

PSNI

A review was conducted of PSNI investigation files with support from HMICFRS. A question set was developed based on that used by HMICFRS for their PEEL effectiveness (vulnerability) inspection. This was used to review 66 investigation files encompassing offences with a domestic motivation. The files related to reports to police received between 1 January 2016 and September 2017. A random sample was chosen from a full list of reports to police provided by the PSNI. Further details can be found in Appendix 3.

PPS

A review was conducted of prosecution files with support from HMCPSI. A question set was developed based on that used by HMCPSI for previous inspections in England and Wales and was similar to that used for the case file review of sexual violence and abuse files. This was used to review 86 prosecution files encompassing offences with a domestic motivation. The cases related to files received from the PSNI between 1 January 2016 and May 2017. Any cases which involved sexual offences were excluded to avoid duplication with the case file review of sexual violence and abuse cases. Further details can be found in Appendix 3.

Appendix 3: Case file review details

PSNI case files

Case type

Actual Bodily Harm	5%	3
Common Assault	29%	19
Harassment	21%	14
Theft from person	2%	1
Other	44%	29
Total	100%	66

Other includes: criminal damage, fraud, breaches of NMO/bail and cases where, after an initial investigation, ultimately no criminal offences were detected or police were called out to deal with civil matters which did not result in a crime being disclosed.

Victim-suspect relationship

Current partners (Female-Male)	27.3%	18
Ex partners (Female-Male)	36.4%	24
Ex partners (Female-Female)	1.5%	1
Mother-Son	4.5%	3
Mother-Daughter	7.6%	5
Father-Son	1.5%	1
Daughter-Mother	3.0%	2
Son-Father	1.5%	1
Siblings	10.6%	7
Grandmother-Grandson	3.0%	2
Other	3.0%	2
Total	100.0%	66



In 41% of cases (24 of 58) there was evidence on the file that the victim was vulnerable and in 19% (11 of 58) of cases there was evidence that there were mental health concerns about the victim. In 47% (28 of 60) of cases there was evidence that the victim was a repeat victim.

Victim gender

Male	16.7%	11
Female	81.8%	54
Transgender/transsexual	1.5%	1
Total	100.0%	66

Victim age

0-17	4.5%	3
18-25	21.2%	14
26-29	9.1%	6
30-39	25.8%	17
40-49	22.7%	15
50-59	6.1%	4
60-69	4.5%	3
70+	4.5%	3
Not known	1.5%	1
Total	100.0%	66

Victim ethnicity

White	95.5%	63
Chinese	0.0%	0
Irish traveller	0.0%	0
Indian	0.0%	0
Pakistani	0.0%	0

Victim ethnicity

Bangladeshi	0.0%	0
Black African	0.0%	0
Black Caribbean	0.0%	0
Black other	0.0%	0
Mixed ethnicity	0.0%	0
Other ethnicity	0.0%	0
Not known	4.5%	3
Total	100.0%	66

Suspect gender

Male	75.8%	50
Female	24.2%	16
Total	0.0%	66

Suspect age

0-17	4.5%	3
18-25	22.7%	15
26-29	13.6%	9
30-39	21.2%	14
40-49	16.7%	11
50-59	9.1%	6
60-69	4.5%	3
70+	1.5%	1
Not known	6.1%	4
Total	100.0%	66

**Suspect ethnicity**

White	92.4%	61
Chinese	0.0%	0
Irish traveller	0.0%	0
Indian	0.0%	0
Pakistani	0.0%	0
Bangladeshi	0.0%	0
Black African	1.5%	1
Black Caribbean	0.0%	0
Black other	0.0%	0
Mixed ethnicity	0.0%	0
Other ethnicity	0.0%	0
Not known	6.1%	4
Total	100%	66

Case outcome

Not yet resolved	5.6%	2
Charged/Summoned	30.6%	11
Caution – adults	8.3%	3
Restorative justice	5.6%	2
Transferred	2.8%	1
Cancelled	2.8%	1
Evidential difficulties prevent further action; victim supports police action	5.6%	2
Evidential difficulties prevent further action; victim does not support police action	33.3%	12

Case outcome

Other	5.6%	2
Total	100.0%	66
No further action/no crime/ not known	-	30

In one of the 'other' cases a PIN-notice for harassment was served.

PPS case files

Case type

Assault	57.0%	49
Criminal damage	17.4%	15
Harassment	4.7%	4
Other	20.9%	18
Total	100%	86

Victim age

0-18	6.1%	5
19-25	19.5%	16
26-29	14.6%	12
30-39	19.5%	16
40-49	20.7%	17
50-59	12.2%	10
60-69	2.4%	2
70+	4.9%	4
Total	100.0%	82
Not known	-	4

**Victim gender**

Male	16.3%	14
Female	83.7%	72
Total	100.0%	86

Defendant age

0-18	3.6%	3
19-25	15.5%	13
26-29	22.6%	19
30-39	27.4%	23
40-49	15.5%	13
50-59	11.9%	10
60-69	1.2%	1
70+	2.4%	2
Total	100.0%	84
Not known	-	2

Defendant gender

Male	84.9%	73
Female	14.0%	12
Not known	1.2%	1
Total	100.0%	86

Case outcome

Timely guilty plea	18.6%	16
Late guilty plea	5.8%	5
Conviction after trial	5.8%	5

Case outcome

Acquittal after trial	2.3%	2
Discontinuance	29.1%	25
NFA	31.4%	27
Not finalised	5.8%	5
Other	1.2%	1
Total	100.0%	86



Appendix 4: Terms of Reference

Criminal Justice Inspection Northern Ireland

Public Protection inspections 2017:

- (1) **Domestic Violence and Abuse: An Inspection of how the Criminal Justice System deals with domestic violence and abuse in Northern Ireland**
- (2) **Sexual Violence and Abuse: An Inspection of how the Criminal Justice System deals with sexual violence and abuse in Northern Ireland**

Terms of Reference

Introduction

Criminal Justice Inspection (CJI) proposes to undertake two inspections of how the criminal justice system addresses public protection, specifically in relation to (1) domestic violence and abuse and (2) sexual violence and abuse.

There are significant overlaps across the areas of domestic and sexual violence and abuse and Inspectors will take a combined approach for preliminary work, stakeholder consultation and criminal justice agency fieldwork as appropriate.

The inspection will focus on the three main elements of the CJI inspection framework as they apply to domestic and sexual violence and abuse: these are strategy and governance, delivery and outcomes.

The main organisations to be inspected will be the Police Service of Northern Ireland (PSNI), the Public Prosecution Service (PPS) and the Northern Ireland Courts and Tribunals Service (NICTS). The inspection will also consider the work of the Probation Board for Northern Ireland (PBNI) which occurs pre-sentencing, for example in relation to Pre-Sentence Reports and the programmes offered at sentencing stage. The inspection will review the overall CJS response to domestic and sexual violence and abuse including co-operation and partnership working.

These inspections will be the latest in a series of work that CJI has conducted in the area of public protection. In 2010 CJI published its first two inspections of domestic violence and abuse and sexual violence and abuse with follow-up reviews published in 2013. There is also overlap with other inspection reports¹⁸⁵ in the areas of Adult Safeguarding (published 2015), Child Sexual Exploitation (published in 2014), the use of Special Measures in the criminal justice system (published 2012), Telling Them Why - an inspection of the Public Prosecution Service for Northern Ireland giving of reasons for its decisions (published 2012) and the Treatment of Victims and Witnesses (published in 2011). Where possible these inspections will avoid duplicating previous work.

185 All available on CJI's website www.cjini.org

Context

In March 2016 the Department of Health, Social Services and Public Safety (now the Department of Health) and Department of Justice published 'Stopping Domestic and Sexual Violence and Abuse in Northern Ireland A Seven Year Strategy' with the Year One implementation plan published in May 2016.

The Strategy outlines the two definitions as follows:

Domestic Violence and Abuse:

'threatening, controlling, coercive behaviour, violence or abuse (psychological, virtual, physical, verbal, sexual, financial or emotional) inflicted on anyone (irrespective of age, ethnicity, religion, gender, gender identity, sexual orientation or any form of disability) by a current or former intimate partner or family member.'

Sexual Violence and Abuse

'any behaviour (physical, psychological, verbal, virtual/online) perceived to be of a sexual nature which is controlling, coercive, exploitative, harmful, or unwanted that is inflicted on anyone (irrespective of age, ethnicity, religion, gender, gender identity, sexual orientation or any form of disability).'

It notes that coercive, exploitative and harmful behaviour includes taking advantage of an individual's incapacity to give informed consent.

Both types of crime continue to be a persistent problem in Northern Ireland. PSNI domestic abuse statistics report that there were 28,392 domestic abuse incidents recorded in 2015-16, the highest level recorded since the data series began in 2004-05 (the 2015-16 figure is 35.5 per cent higher than the level of 20,959 recorded in 2004-05). The level of 14,073 domestic abuse crimes recorded in 2015-16 is also the highest level recorded since 2004-05 (the 2015-16 figure is 45.9 per cent higher than 2004-05)¹⁸⁶. There was one murder with a domestic abuse motivation recorded in 2015-16, accounting for 4.8 per cent of all murders recorded by the police (there were 21 murders recorded in total).

PSNI recorded crime statistics¹⁸⁷ also report that sexual offences have shown a general upward trend from a low of 1,167 recorded in 2000-01 to a high of 3,037 recorded in 2015-16; levels have increased year on year since 2011-12. The number of sexual offences recorded in 2015-16 shows an increase of 11.3 per cent when compared with 2014-15 and is more than twice the level recorded in 2000-01.

186 PSNI, *Trends in Domestic Abuse Incidents and Crimes Recorded by the Police in Northern Ireland 2004-05 to 2015-16: Annual Bulletin* published 14 October 2016.

187 PSNI, *Trends in Police Recorded Crime in Northern Ireland 1998-99 to 2015-16: Annual Bulletin* published 01 December 2016.



Aims of the Inspection

This inspection aims to examine the approach of the criminal justice system to preventing, responding to, investigating and prosecuting domestic and sexual violence and abuse. It will therefore follow the timeline of the 'victim journey' through the criminal justice system from the reporting of a potential crime to the conclusion of court proceedings. The inspection will not seek to examine the manner in which the criminal justice system deals with offenders in prison or upon release into the community. The latter of these will be examined separately in an inspection of the Public Protection Arrangements for Northern Ireland.

The broad aims of the inspection are to:

- Examine the effectiveness of organisational strategies with regard to domestic and sexual violence and abuse, including the approach to prevention and enforcement.
- Examine the response to domestic and sexual violence and abuse - how operational delivery is structured to meet the needs and expectations of stakeholders and victims. To determine effectiveness and potential areas for improvement.
- Examine and assess the outcomes of strategies and delivery mechanisms for domestic and sexual violence and abuse against targets and expectations.
- Examine management information and the performance of the justice agencies in addressing domestic and sexual violence and abuse.
- Examine how the above aspects of the approach to domestic and sexual violence and abuse are benchmarked against good practice.

Methodology

The inspection will be based on the CJI Inspection Framework for each inspection that it conducts. The three main elements of the inspection framework are:

- Strategy and governance
- Delivery, and
- Outcomes.

Constants in each of the three framework elements and throughout each inspection are equality and fairness, together with standards and best practice. CJI inspection methodology can be found at www.cjini.org

Design and Planning

Collection of benchmarking information and data by review of inspection and research reports and visits to other jurisdictions to examine good practice.

Collection and review of relevant documentation available in Northern Ireland such as previous inspection and other reports, the PSNI, PPS, NICTS, PBNI and other CJA policies and procedures, management information, minutes of meetings and related documentation.

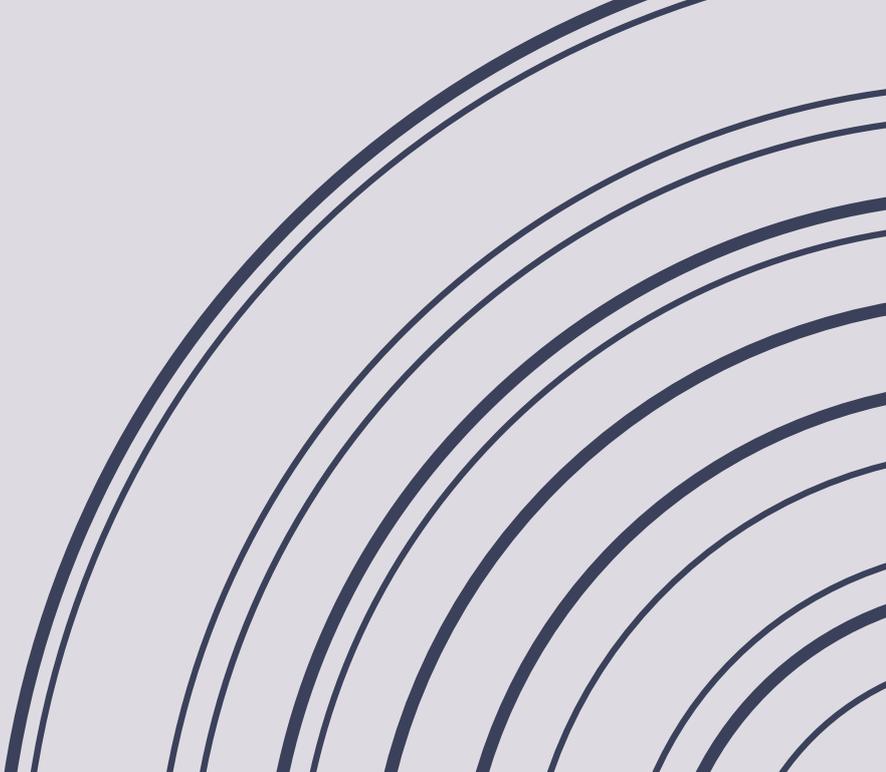
Delivery

- Terms of reference will be prepared and shared with the DoJ, PSNI, PPS, NICTS and PBNI prior to the initiation of the inspection. Liaison officers from the CJAs should be nominated for the purposes of this inspection.
- Relevant documentation and management information deemed relevant will be requested and reviewed.
- Interviews and focus groups will be conducted with relevant stakeholders (e.g. victims organisations, advocacy services, NGOs etc.) to give an insight into the issues affecting domestic and sexual violence and abuse. Where possible, the views of victims will also be sought directly.
- Case file reviews of PSNI and PPS domestic abuse and rape files will be conducted by Her Majesty's Inspectorates of Constabulary and Fire & Rescue Services (HMICFRS) and Her Majesty's Crown Prosecution Inspectorate (HMCPPI) files respectively. HMICFRS will also undertake a review of calls for service and crime recording of reported rapes by PSNI.
- Interviews and focus groups will be conducted with PSNI, PPS, NICTS and PBNI staff and representatives of other criminal justice organisations (for example DoJ, the Judiciary etc.) to obtain evidence of the approach to domestic and sexual violence and abuse.
- Where appropriate benchmarking and identification of best practice and alternative approaches to traditional criminal justice processes within and outside Northern Ireland.

Publication and Closure

Following completion of the fieldwork and analysis of data a draft report will be shared with inspected organisations for factual accuracy check. The Chief Inspector will invite the relevant CJAs to complete an action plan within six weeks to address any recommendations. If the plan has been agreed and is available it will be published as part of the final inspection report.

Permission to publish the report will be sought from the Minister of Justice. Once this is received the inspection report will be shared, under embargo, in advance of the publication date with the DoJ and relevant CJAs along with a press release.



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