



NO EXCUSE: **A THEMATIC INSPECTION OF THE HANDLING OF DOMESTIC VIOLENCE AND ABUSE CASES BY THE CRIMINAL JUSTICE SYSTEM IN NORTHERN IRELAND**

**A FOLLOW-UP REVIEW OF THE
INSPECTION RECOMMENDATIONS**

APRIL 2021



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CONTENTS

List of abbreviations	2
Chief Inspector's Foreword	3
Follow-up Review	
Chapter 1 Introduction	5
Chapter 2 Progress against recommendations	14
Chapter 3 Conclusion	35

LIST OF ABBREVIATIONS

CJI	Criminal Justice Inspection Northern Ireland
DASH	Domestic Abuse, Stalking and Harassment (risk assessment)
DoH	Department of Health
DoJ	Department of Justice
IDVA	Independent Domestic Violence Advocate
MARAC	Multi-Agency Risk Assessment Conference
PPS	Public Prosecution Service for Northern Ireland
PSNI	Police Service of Northern Ireland
SARC	Sexual Assault Referral Centre

CHIEF INSPECTOR'S FOREWORD

Domestic violence and abuse was like a virus in our community long before the COVID-19 pandemic. Every 16 minutes Police Officers respond to reports of abuse and crimes committed in homes that should be a safe place and in front of traumatised children affected for life by what they have seen and heard. The criminal justice system needs to better support those victims who report offences and give their best evidence to help Prosecutors secure convictions and prevent reoffending.

Men and women who commit acts of domestic violence and abuse work from home. The COVID-19 pandemic regulations urged us all to stay at home and stay safe but for victims and their children, their home is a place of fear and anxiety. This was true without a pandemic lockdown, increased family tensions and the stresses of working from home and home schooling with limited opportunities to access support outside home.

This Follow-up Review looked at how the Police Service of Northern Ireland, the Public Prosecution Service for Northern Ireland, the Criminal Justice Board and the Department of Justice implemented the recommendations in the CJI 2018 report *No Excuse: A thematic inspection of the handling of domestic violence and abuse cases by the criminal justice system in Northern Ireland*. The report made four strategic and three operational recommendations; one is assessed as achieved, four partially achieved and two not achieved.

The COVID-19 pandemic has stalled or delayed action on some recommendations. However, the work of the Police Service of Northern Ireland led Domestic Abuse Independent Advisory Group during the pandemic demonstrated the benefits of effective partnerships across organisational boundaries to respond to an urgent need and rising reports of abuse. Restarting and regaining ground lost has to be part of each organisation's recovery plan to ensure vulnerable victims and witnesses also impacted by lockdown, including those who have not yet reported crimes against them, benefit from service improvements through the implementation of all recommendations as soon as possible.

A significant achievement is the passage through the Northern Ireland Assembly and creation of the Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021 that received Royal Assent on 1 March 2021. The challenge now for the criminal justice system will be the effective implementation of the Act and delivery of better services and outcomes for victims and their families.

NO EXCUSE:

A FOLLOW-UP REVIEW OF THE INSPECTION RECOMMENDATIONS
APRIL 2021

The Police Service of Northern Ireland and Public Prosecution Service for Northern Ireland have also made improvements to how they work together as a prosecution team and share information. Further improvements are needed on sharing risk information and to explore why the number of cases referred for multi-agency review are less than half of what they should be.

The implementation of the long-awaited Advocacy Service is intended to be an affordable and effective service but it will be important that it is rigorously evaluated, with meaningful input from service users to assess how it meets their needs and

compares to a single point of contact and a seamless service for victims at all stages of the criminal justice system journey.

The recommendations in the *No Excuse* report aimed to improve the criminal justice system's response and deliver better outcomes for victims of domestic violence and abuse. This is more urgent than it ever was and the recommendations that still need to be implemented need action now - no excuse.

I am grateful to Rachel Lindsay, Lead Inspector, and the stakeholders and representatives of the criminal justice organisations who supported this Follow-up Review.

Jacqui Durkin

Chief Inspector of Criminal Justice
in Northern Ireland

April 2021

Criminal Justice Inspection
Northern Ireland
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CHAPTER 1: INTRODUCTION

BACKGROUND TO THE FOLLOW-UP REVIEW

In June 2019 Criminal Justice Inspection Northern Ireland (CJI) published *No Excuse: A thematic inspection of the handling of domestic violence and abuse cases by the criminal justice system in Northern Ireland*.¹ This was the second time CJI had inspected the area of domestic violence and abuse, the first report being published in December 2010.² The *No Excuse* report was the second in a series of three public protection inspections published by CJI consecutively in 2018 and 2019. The fieldwork for the first report, *Without Witness: An inspection of the handling of sexual violence and abuse cases by the criminal justice system in Northern Ireland*, was conducted in tandem with this inspection and the report was published in November 2018.³

The *No Excuse* inspection report on domestic violence and abuse made four strategic and three operational recommendations. The recommendations were addressed to the Criminal Justice Board, the Department of Justice (DoJ), the Police Service of Northern Ireland (PSNI) and the Public Prosecution Service for Northern Ireland (PPS). A specific action plan to address the recommendations was co-ordinated by the DoJ, which included updates from the PSNI, the PPS and various branches of the DoJ.

CHANGES SINCE THE 2019 INSPECTION REPORT

Stopping Domestic and Sexual Abuse Strategy

As outlined in the Follow-up Review of *Without Witness*⁴ the Department of Health (DoH) and the DoJ *Stopping Domestic and Sexual Violence and Abuse Strategy draft Year 4 Action Plan* was published in April 2019.⁵ This, in common with the previous Action Plans, included a range of actions for Government Departments and agencies across the strand areas of:

- 1 CJI, *No Excuse: Public Protection II: A thematic inspection of the handling of domestic violence and abuse cases by the criminal justice system in Northern Ireland, June 2019* available online at <http://www.cjini.org/TheInspections/Inspection-Reports/2019/April-June/Domestic-Violence>
- 2 CJI, *Domestic Violence and Abuse A thematic inspection of the handling of sexual 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>
- 3 CJI, *Without Witness: Public Protection 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 CJI, *Follow-up Review of Without Witness: A thematic inspection of the handling of sexual violence and abuse cases by the criminal justice system in Northern Ireland, March 2021*, available online at <http://cjini.org/getattachment/ca6e6e77-f571-4190-8fbc-72f26896cc8b/report.aspx>
- 5 DoH and DoJ, *Stopping Domestic and Sexual Violence and Abuse Strategy: Draft Year 4 Action Plan, April 2019*, available online at <https://www.justice-ni.gov.uk/sites/default/files/publications/justice/Year%204%20draft%20Action%20Plan%20Stopping%20Domestic%20and%20Sexual%20Violence%20and%20Abuse%20Strategy.pdf>

driving change through co-operation and leadership; prevention and early intervention; delivering change through responsive services; support; and protection and justice.

Some of the recommendations from both of CJI's reports on domestic and sexual violence were included in this Action Plan (for example, in relation to advocacy services, training for Prosecutors and actions to improve the prosecution process, domestic abuse courts, training for police first responders) although only one specifically referenced the CJI reports, their accepted recommendations and gave visibility to implementing recommendations.

A mid-term review of the domestic and sexual violence strategy undertaken by the Strategic Investment Board⁶ recommended:

- a continued need for an [Northern Ireland] Executive strategy to address domestic and sexual violence and abuse in Northern Ireland, which should be cross-departmental and funded appropriately;
- continued leadership and co-operation at the highest level of Government, and effective mechanisms to demonstrate clear commitment by the Northern Ireland Executive to domestic violence and sexual violence are required;
- a commitment from Ministers relating to all strands of the strategy is required including Education to address prevention/early intervention; and
- ways in which progress in delivery can be accelerated should be explored for example, avoid repeating pilots and re-piloting what is already known to work elsewhere.

The work of the PSNI's Domestic Abuse Independent Advisory Group was cited as a positive outcome of the COVID-19 pandemic both during the Strategic Investment Board review and to CJI during meetings for this Follow-up Review. One quote from the review report noted: *"Good things happened quickly [with the Independent Advisory Group] – services were up and running in a couple of weeks on a collaborative basis, that ordinarily would have taken a year or more. There was a sense of urgency that brought people together – how do we draw on this?"*⁷

Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021

The Domestic Abuse and Family Proceedings Bill⁸ was introduced to the Northern Ireland Assembly on 31 March 2020 and was referred to the Committee for Justice ('the Committee') on 28 April 2020. This Bill was intended to create *'a course of conduct offence and a sentencing aggravation concerning domestic abuse and make rules as to procedure and giving evidence in criminal cases involving domestic abuse; and prevent cross-examination in person of certain witnesses in particular circumstances in family proceedings in the civil courts'*.⁹

6 Strategic Investment Board, *Mid-term review of the stopping domestic and sexual violence strategy, October 2020*, available online at <https://www.justice-ni.gov.uk/sites/default/files/publications/justice/mid-term-review-dsva-strategy.PDF>

7 Strategic Investment Board, *Summary presentation: Mid term review of stopping domestic and sexual violence strategy, October 2020*, available online at <https://www.justice-ni.gov.uk/sites/default/files/publications/justice/summary-presentation-mid-term-review-of-stopping-domestic-and-sexual-violence.pptx>

8 The Bill as introduced to the Northern Ireland Assembly was entitled Domestic Abuse and Family Proceedings Bill but became the Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021 when it received Royal Assent.

9 <http://www.niassembly.gov.uk/assembly-business/legislation/2017-2022-mandate/primary-legislation---bills-2017---2022-mandate/domestic-abuse-bill/>

The Committee heard evidence from a range of witnesses, from the DoJ and criminal justice organisations and various voluntary and community organisations representing victims and those affected by domestic violence and abuse. The Committee's report published on 15 October 2020 was followed by a number of proposed amendments in November 2020. There was a further consideration stage in December 2020, with ongoing debate about a proposed amendment to the eligibility requirement for civil legal aid whereby all victims of domestic abuse would receive legal aid for civil matters in relation to child contact orders.¹⁰ A final consideration stage was held on 18 January 2021 and the Bill received Royal Assent on 1 March 2021 putting the Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021 on the statute books.¹¹

Domestic Violence Protection Orders and Notices

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).¹² The Orders were legislated for in the Justice Act (Northern Ireland) 2015. At the time of the *No Excuse* inspection fieldwork, CJI was advised that the PSNI and the Judiciary were working out the practicalities and guidance surrounding implementation. However, at that time, 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.¹³

In the fieldwork for this Follow-up Review Inspectors were advised by the DoJ that this legislative process to support the introduction of the Orders ended in 2017 when the Northern Ireland Assembly collapsed. On the return of the Assembly, when considering the changes needed to make provision for the introduction of Domestic Violence and Protection Notices and Orders statutory and voluntary sector partners raised concerns about the effectiveness of the Notices and Orders. A public consultation was launched by the DoJ on 7 December 2020.¹⁴ This sought views on creating new Domestic Abuse Protection Notices and Protection Orders to enhance the protection available to victims of domestic abuse. The introduction of abuse rather than violence notices aimed to address the issues experienced in England and Wales surrounding the requirement that an individual 'has been violent towards, or has threatened violence towards' the victim. This use of the term 'violence' had limitations in that victims of non-physical abuse and coercive control were unprotected unless there had also been physical violence or a threat of violence.¹⁵ The Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021¹⁶ now provides at Section 27 that the Department may, by regulations, make provision to bring forward steps or measures to protect victims of domestic abuse, including through new Domestic Abuse Protection Notices and Orders (though not necessarily limited to this).

10 See <http://www.niassembly.gov.uk/assembly-business/legislation/2017-2022-mandate/primary-legislation---bills-2017---2022-mandate/domestic-abuse-bill/> for further details of each stage of the Bill's progress.

11 See <https://www.legislation.gov.uk/nia/2021/2/enacted>.

12 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>

13 The Northern Ireland Assembly was in a period of suspension between January 2017 and January 2020.

14 DoJ, *Consultation on enhancing legal protections for victims of domestic abuse, December 2020*, available online at

<https://www.justice-ni.gov.uk/sites/default/files/consultations/justice/consultation-paper-on-dapns-and-dapos-dec.pdf>

15 As above, page 4.

16 See <https://www.legislation.gov.uk/nia/2021/2/enacted>.

Domestic Homicide Reviews

In 2018 the DoJ publicly consulted on a proposed model for the introduction of Domestic Homicide Reviews in Northern Ireland.¹⁷ On 10 December 2020 Minister of Justice, Naomi Long MLA, announced the introduction of Domestic Homicide Reviews and the appointment of three panel chairs.¹⁸ It was confirmed that the report of the Independent Chair, when a Review has been conducted, will be considered by a Senior Oversight Forum. This will be chaired by the DoJ and comprise representatives from the PSNI, the Probation Board for Northern Ireland, and the Health and Social Care Board, as well as one individual who will represent all of the Health and Social Care Trusts. The announcement noted that *'this multi-agency approach will ensure that any learning or good practice highlighted in the report can be shared and implemented to improve future outcomes.'* As the Reviews would not be undertaken retrospectively, the first had yet to commence at the time of writing.

CJI report on the care and treatment of victims and witnesses

In July 2020 CJI published its third report on *Victims and Witnesses: The care and treatment of victims and witnesses by the criminal justice system in Northern Ireland*.¹⁹ The report made four strategic and 12 operational recommendations to deliver improvements for victims and witnesses across the criminal justice system.

Several of the recommendations included improvements to the provision of communications to victims and witnesses and the manner in which the needs of victims and witnesses were assessed and met. The recommendations were therefore complementary to those included in CJI's *No Excuse and Without Witness*²⁰ inspection reports. In particular Operational Recommendation 4 stated: *'The Police Service of Northern Ireland should review use of current risk and needs assessment tools that have evolved in response to vulnerability. The review should explore operationally effective technical solutions based on the concept of single data input within six months of the publication of this report.'* This recommendation proposed reviewing a variety of assessment tools including the Domestic Abuse, Stalking and Harassment (DASH) form used by frontline Police Officers, among others, to undertake a risk assessment of victims of domestic violence and abuse.

Policing priorities

Domestic Abuse was adopted as a Service Tactical Priority for the PSNI in March 2019, under the strand of 'Vulnerability'. The *Policing Plan 2020-25 and Annual Performance Plan for 2020-21*²¹ included three indicators which specifically mentioned domestic abuse across two of the policing outcomes as outlined in Table 1.

¹⁷ See DoJ website <https://www.justice-ni.gov.uk/consultations/domestic-homicide-reviews>.

¹⁸ DoJ, *Long introduces Domestic Homicide Reviews and appoints panel chairs, 10 December 2020*, available online at <https://www.justice-ni.gov.uk/news/long-introduces-domestic-homicide-reviews-and-appoints-panel-chairs>.

¹⁹ CJI, *Victims and Witnesses: The care and treatment of victims and witnesses by the criminal justice system in Northern Ireland, July 2020*, available online at <http://www.cjini.org/getattachment/5193b4b4-6351-4987-bdfb-03bace145c7e/report.aspx>.

²⁰ CJI, *Without Witness: Public Protection 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>.

²¹ Northern Ireland Policing Board, *Policing Plan 2020-25 and Annual Performance Plan 2020-21, March 2020*, available online at <https://www.nipolicingboard.org.uk/sites/nipb/files/publications/policingplan2020-25.pdf>.

Table 1: Northern Ireland Policing Plan outcomes, indicators and measures relating to domestic abuse.

Outcome 1: We have a safe community	
Indicator 1.1 Fewer repeat victims of crime.	Measure 1.1.1 Repeat victimisation rate and report on initiatives to support repeat victims of domestic abuse.
Indicator 1.2 Fewer repeat offenders of crime.	Measure 1.2.1 Repeat offending rate and report on initiatives to reduce repeat offenders of domestic abuse.
Outcome 2: We have confidence in policing	
Indicator 2.4 Delivery of effective crime outcomes.	Measure 2.4.1 Levels of domestic abuse crime outcomes to identify and respond to areas of concern in outcomes statistics.

The PSNI were required to report once a year against each measure in the *Policing Plan*, which would increase to twice yearly from 2021. This included an update to provide both quantitative and qualitative information.

Domestic abuse statistics 2019-20

Incidents of domestic abuse reported to the PSNI and recorded crimes continued to rise since the publication of *No Excuse*, even before the onset of the COVID-19 pandemic and the introduction of lockdown restrictions in March 2020. The PSNI's 2019-20 statistical report on domestic abuse²² reported that:

- 31,817 domestic abuse incidents were recorded in 2019-20, the highest level recorded since the data series began in 2004-05;
- this figure was 52% higher than the level of 20,959 recorded at the start of the data series in 2004-05;
- 18,640 domestic abuse crimes were recorded in 2019-20 which is also the highest level recorded since the series began in 2004-05;
- this figure was 93% higher than 2004-05 and represents 17% of all crimes recorded in 2019-20;
- 69% of all domestic abuse crime victims in 2019-20 were female and 30% were male, compared with 75% female and 25% male in 2004-05; and
- almost three in five relationships between the domestic abuse victim and offender were categorised as current or ex-spouse/partner/girlfriend/boyfriend etcetera. Just under one quarter were parent and child relationships. The victim offender relationship was unknown for 6% of all cases.

²² PSNI, *Trends in Domestic Abuse Incidents and Crimes Recorded by the Police in Northern Ireland 2004-05 to 2019-20, November 2020*, available online at <https://www.psni.police.uk/globalassets/inside-the-psni/our-statistics/domestic-abuse-statistics/2019-20/domestic-abuse-incidents-and-crimes-in-northern-ireland-2004-05-to-2019-20.pdf>

The Women's Aid Federation Northern Ireland Annual Report for 2019-20 also highlighted the impact on female victims of domestic abuse and their children in relation to services outside of the criminal justice system.²³ They reported that 561 women and 316 children stayed in refuge with 276 women being unable to access refuge as it was full. A total of 5,536 women and 5,143 children accessed outreach support from Women's Aid, allowing them to stay in their own homes. They also noted there were two women murdered in 2018-19 where there was a domestic motivation.

COVID-19 pandemic

The COVID-19 pandemic and public health restrictions and regulations continued to have, at the time of the fieldwork for this Follow-up Review, a significant impact on victims of domestic abuse and the response of the criminal justice system. The impact of the COVID-19 pandemic on victims was explored in detail in a report published by the Northern Ireland Policing Board in November 2020.²⁴ The Board's Human Rights Advisor, John Wadham, met with relevant domestic abuse stakeholders through the Domestic Abuse Independent Advisory Group. They reported that:

- as of 24 June 2020, Nexus had received a 155% increase in calls since the lockdown began, of which there were a high percentage of repeat calls and from victims displaying high anxiety;
- the Men's Advisory Project received an unprecedented number of calls during lockdown (as of 24 June, 500 additional calls, at times reaching 34 calls in one hour) with 30% of the calls from individuals living in a rural setting. There was also a noticeable increase in calls from older victims of domestic abuse and parental alienation was identified as the reason for a number of calls, especially when the guidance was unclear in the early stages of lockdown, where court orders were in place and parents were unsure if children could be moved from different homes;
- inter-familial abuse saw a significant increase;
- lack of appropriate accommodation for victims was an issue, with victims only being offered hostel accommodation, which was not appropriate and therefore the victim often stayed in the family home with the abuser;
- Victim Support Northern Ireland experienced a 21% increase in domestic abuse referrals during April/May [2020]; and
- Hourglass²⁵ initially saw a 33% spike in contact above normal levels with approximately 20% of contact, through emails late at night. The organisation also saw an increase in domestic abuse of older men, with older children being the main perpetrators of abuse.

23 Women's Aid Federation Northern Ireland, *Annual Report 2019–20, December 2020*, available online at <https://www.womensaidni.org/assets/uploads/2020/12/Final-Womens-Aid-Annual-Report-2019-20.pdf>

24 Northern Ireland Policing Board, *Report on the thematic review of the policing response to COVID-19, November 2020*, available online at <https://www.nipolicingboard.org.uk/sites/nipb/files/publications/report-on-the-thematic-review-of-the-policing-responder-to-covid-19.PDF>

25 Hourglass is the name for the organisation previously called Action on Elder Abuse. They run the United Kingdom's (UK's) only elder abuse helpline, instant messenger and text service and work to end the harm, abuse and exploitation of older people in the UK.

A performance update provided to the Northern Ireland Policing Board in August 2020²⁶, in relation to the *Annual Performance Plan*, also noted that in addition to responding to current calls for service there had been a focus on PSNI 'wanted persons' during the period of the COVID-19 pandemic. As a result of this there had been an additional 12 arrests made, leading to seven persons being charged and two persons being reported, one returned to prison and one who remained on police bail. Further to this, of the current list, there were 19 persons who had been identified as wanted in respect of domestic incidents. This had resulted in 52 arrest attempts being made against these individuals.

The PSNI produced a series of exceptional statistical releases up until the end of June 2020 using weekly management information on domestic abuse calls received by the police since lockdown measures were introduced on 23 March 2020. These illustrated the increased number of calls received by the police in comparison to the same time period in 2019²⁷, with an above average number of calls received every month between lockdown and the end of June. There were higher levels of calls during April and May than would have normally been expected for that time of year. While the number of calls received in June were slightly higher than the levels that would have been expected, they were lower than the previous two months.

The publication of the exceptional statistical releases resumed in January 2021 after lockdown measures were introduced on 26 December 2020. The release on 18 February 2021²⁸ reported that the weekly average number of domestic abuse calls received by the police since the first lockdown was introduced on 23 March 2020 was 583. This compared with weekly averages of 564 and 588 during 2019 and 2020 respectively. Domestic abuse calls were mainly above the weekly average of 583 between the introduction of lockdown on 23 March 2020 and mid-August 2020. Calls had tended to be below this weekly average since then, with the main exception of the Christmas and New Year period 2020-21. The weekly data is illustrated in Figure 1.²⁹

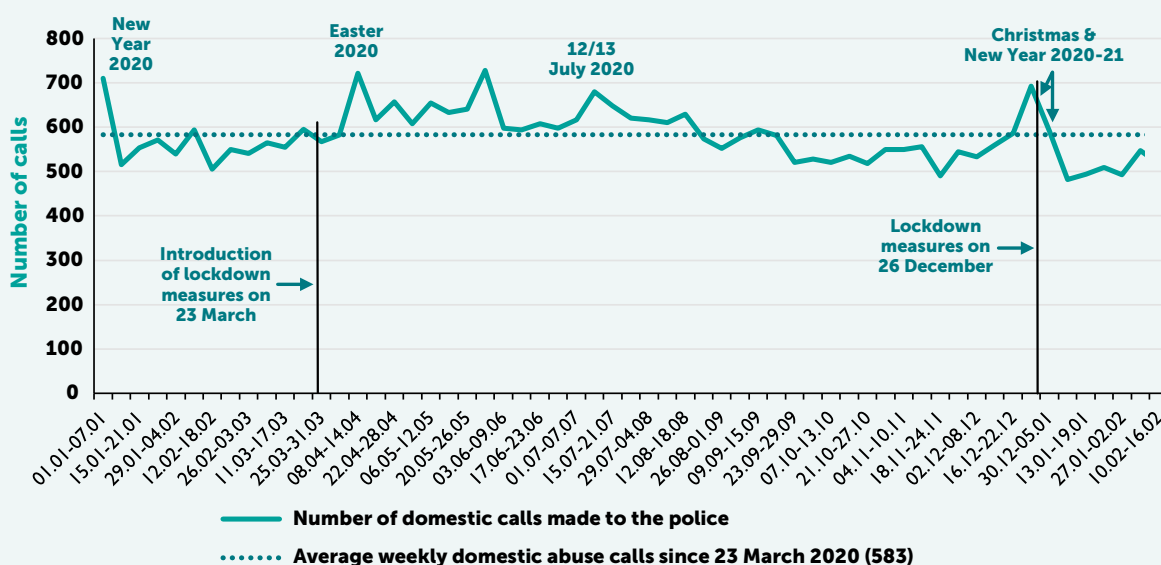
26 PSNI, *Report card in respect of the performance plan measures specific to domestic abuse, August 2020*. Internal document.

27 PSNI, *Domestic abuse calls received by police in Northern Ireland: Weekly management information on domestic abuse calls received by the PSNI since Covid-19 lockdown measures were introduced on 23 March 2020, July 2020*, available online at <https://www.psni.police.uk/globalassets/inside-the-psni/our-statistics/domestic-abuse-statistics/covid-19/domestic-abuse-calls-to-30.06.20.pdf>

28 PSNI, *Domestic abuse calls received by police in Northern Ireland: Weekly management information on domestic abuse calls received by the PSNI since Covid-19 lockdown measures were introduced on 23 March 2020, 18 February 2020*, available online at <https://www.psni.police.uk/globalassets/inside-the-psni/our-statistics/domestic-abuse-statistics/covid-19/domestic-abuse-calls-to-16.02.21.pdf>

29 The PSNI exceptional release notes that the official statistics data series includes domestic abuse incidents that have been identified through sources other than a call for service to police. It also excludes calls for service that were initially identified as potential domestic abuse but which turned out not to meet the domestic abuse definition. In order to incorporate these requirements and improve completeness and accuracy the official statistics data has a longer processing time. This management information is less complete and should only be used to identify an early indication of trends compared against the weekly average, as supplied in Figure 1. Analysis of the five calendar years 2016 to 2020 shows that the number of domestic abuse calls received by police is lower than the number of domestic abuse incidents recorded by police by a ratio of 1 to 1.1. This should be taken into consideration when using the figures in this release.

Figure 1: Domestic abuse calls received by police, weekly trends from 1 January 2020 compared with the average weekly number of calls since 23 March 2020.



The PSNI's regular statistical publication on domestic abuse incidents and crimes recorded by the police, published in September 2020³⁰ reported: 'When compared with the same months the previous year, levels of domestic crime were slightly higher in March and April while May was higher by 189. Domestic abuse crime in June 2020 was lower than June 2019 by 13 offences. These higher levels of domestic abuse crime between March and May should be seen in the context of overall police recorded crime which, during the first week of lockdown, fell to around three fifths of the expected weekly average and by the end of June had risen to between 80 and 90 per cent of the expected weekly average.' This illustrates how, despite falling crime levels as a result of the reduced opportunity for many types of crimes to be committed because of the lockdown restrictions (such as violent offences against people outside of a domestic setting, theft offences, criminal damage, motoring offences and many sexual offences), there was more opportunity for, and likelihood of, the commission of offences in a domestic context as a result of lockdown and therefore these crimes rose above normal levels.

The report by the Northern Ireland Policing Board³¹ also noted the positive outcomes of the work between the PSNI and members of the Independent Advisory Group achieved during the early months of the pandemic including:

- the PSNI met weekly with the Domestic Abuse Independent Advisory Group on the level of demand and pressures on resource on the PSNI and other relevant bodies during this time. CJI also received positive feedback from stakeholders about the proactive approach taken and the PSNI reported positive engagement with Government Departments and agencies outside of Health and Justice;

³⁰ PSNI, *Domestic Abuse Incidents and Crimes Recorded by the Police in Northern Ireland: Update to 30 September 2020, November 2020*, available online at <https://www.psnipolice.uk/globalassets/inside-the-psni/our-statistics/domestic-abuse-statistics/2020-21/q2/domestic-abuse-bulletin-sep-20.pdf>

³¹ Northern Ireland Policing Board *Report on the thematic review of the policing response to Covid-19, November 2020*, available online at <https://www.nipoliceboard.org.uk/sites/nipoliceboard/files/publications/report-on-the-thematic-review-of-the-policing-responser-to-covid-19.PDF>

NO EXCUSE:
A FOLLOW-UP REVIEW OF THE INSPECTION RECOMMENDATIONS
APRIL 2021

- the PSNI reported that in collaboration with Women's Aid and the Northern Ireland Housing Executive, 'crash pads' were established to allow for a safe environment and self-isolation for women suffering with coronavirus;
- the PSNI and stakeholders spread information on the 24-hour Domestic and Sexual Abuse Helpline, available to anyone with concerns about domestic or sexual abuse;
- the PSNI created an animated video for their 'Behind Closed Doors' campaign as part of their communications strategy which explained how domestic abuse can take many forms, including financial and psychological abuse as well as physical and sexual violence, which launched on social media and media platforms in July 2019; and
- the PSNI revised their 'victim call-back' approach during the lockdown period from being made within 10 days to an average time of within 24 hours. Police Officers and staff dealt with approximately 2,000 calls and made 100 referrals to support organisations.³²

The impact of the COVID-19 pandemic also affected the work of the PPS with an initial reduction in decision making capacity when lockdown restrictions were imposed and then the closure of court facilities preventing cases coming before the court. CJI's Follow-up Review of *Without Witness* outlined the figures in relation to the backlog of cases at court overall with an increase in time from committal to hearing in the Crown Courts and from first hearing to disposal in the Magistrates' Courts.³³

THE FOLLOW-UP REVIEW

In common with the inspection reports, the fieldwork for this Follow-up Review was undertaken jointly with the fieldwork for the Follow-up Review of CJI's *Without Witness* inspection of the handling of sexual violence and abuse cases by the criminal justice system in Northern Ireland which was published in March 2021.³⁴ A progress update against the recommendations was provided by the DoJ, the PSNI and the PPS, co-ordinated by the DoJ Violence Against the Person team, using information collated for the report action plan. This outlined the work undertaken to date and in support of this organisations provided a range of documents to evidence the activity described. Desktop research was also undertaken to identify information available in the public domain, which would be of assistance to this review.

CJI met with key stakeholders (Women's Aid, Nexus, Men's Advisory Project and Victim Support Northern Ireland) as well as representatives from the DoJ, the PSNI and the PPS to discuss each of the recommendations and progress against them. The information provided in these meetings, as well as the documentation available, was assessed and judgments were made as to progress against each of the recommendations.

³² On conclusion of the fieldwork for this Follow-up Review the PSNI confirmed that Victim call back scheme remains in place over 1,2000 victims had been called back with an additional 471 referrals made to support organisations.

³³ CJI, *Follow-up Review of Without Witness: A thematic inspection of the handling of sexual violence and abuse cases by the criminal justice system in Northern Ireland, March 2021*, available online at <http://cjini.org/getattachment/ca6e6e77-f571-4190-8fbc-72f26896cc8b/report.aspx>

³⁴ CJI, *Follow-up Review of Without Witness: A thematic inspection of the handling of sexual violence and abuse cases by the criminal justice system in Northern Ireland, March 2021*, available online at <http://cjini.org/getattachment/ca6e6e77-f571-4190-8fbc-72f26896cc8b/report.aspx>

CHAPTER 2: PROGRESS AGAINST RECOMMENDATIONS

STRATEGIC RECOMMENDATION 1

The Police Service of Northern Ireland 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).

Status: Partially achieved.

ORGANISATIONAL RESPONSE

PSNI update – October 2020

An action plan is in place and is in progress.

In relation to training;

The 'Domestic Abuse matters' package was viewed in Scotland and was not deemed to meet the needs of NI [Northern Ireland] given the impending implementation of a bespoke Domestic Abuse Bill in this jurisdiction. However a localised package for NI is being developed in collaboration with the NI Police College, Women's Aid and input from the Men's Advisory Project. It is anticipated this will be rolled out in December 2020 and will heavily focus in raising awareness of coercive control.

In regard to risk assessment processes;

A new Public Protection Notice system to ensure the DASH form is completed electronically and is subsequently mandatorily reviewed by Sergeants (this being a more thorough risk management process than is presently in place) is nearing completion. It is being tested in October 2020 internally and with partners, with a planned operational launch in November 2020 on successful testing.

The Police Service have also been working closely with the PPS to introduce a system for the sharing of DASH outcomes with Prosecutors and as of 19 June 2020, the PSNI will now record the DASH outcome (High/Standard/Low) on the Prosecutor Information Form. The Prosecutor Information Form is a sensitive document that is sent to the PPS at the time the police file is submitted. Although Prosecutors will not be aware of the

express answers given by the victim during the DASH procedure, they will now be aware of the DASH outcome which will be an important consideration in the application of the prosecution test.

Ahead of legislation being enacted in relation to stalking, work has commenced on a Service Instruction to provide guidance to Officers and staff.

INSPECTORS' ASSESSMENT

Inspectors met with representatives of the PSNI's Public Protection Branch who outlined the proposed approach to training. The PSNI also provided a copy of the control strategy and action plan for domestic abuse training.

The PSNI Chief Constable and Assistant Chief Constable for the Community Safety Department appeared before the Committee for Justice in September 2020.³⁵ They provided an update on the plans for the roll-out of training in preparation for the new Domestic Abuse and Family Proceedings Bill in response to a Committee Member's question. The Chief Constable confirmed: *"When the Bill is passed, we will begin training from December for about 3,000 front-line officers who carry out different roles. That will be a mixture of classroom training, subject to the COVID-19 restrictions, and online learning, which is where we have had to put a lot of our effort in recent months. In training, different specifics apply to different roles..."*

The PSNI Public Protection Branch confirmed that the training programme was in development, in partnership with Women's Aid. The Men's Advisory Project and The Rainbow Project had also been consulted. Domestic Abuse Matters, which had been rolled out across England, Wales and Scotland was considered too costly and not suitable for use in Northern Ireland, so the PSNI were developing their own training to be implemented alongside the introduction of the Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021. The training was being developed as an online package, given the current restrictions on face-to-face training because of the COVID-19 pandemic. It was to include four phases: understanding coercive and controlling behaviour (due to commence between the middle and end of January 2021); investigative standards; pathways to support; and legislation.³⁶ Three to four thousand Police Officers and staff were intended to be trained (around half of the PSNI's Police Officer resource). Those trained would include front-line Police Officers, Call Handlers and Custody Officers. An internal police domestic abuse working group was planned to manage the quality assurance of the training.³⁷

³⁵ Hansard (Northern Ireland Assembly), Justice-related and EU exit issues and key policing priorities and challenges: Police Service of Northern Ireland, 24 September 2020, available online at <http://data.niassembly.gov.uk/HansardXml/committee-23468.pdf>

³⁶ Following the conclusion of the fieldwork for this Follow-up Review the PSNI confirmed that the design of the first module on coercive control was completed and that the legislative modules were underway. Training packages to support stalking and harassment legislation were also being developed in conjunction with support from relevant support agencies and criminal justice organisations.

³⁷ This working group was in place by March 2021, after the conclusion of the fieldwork for this Follow-up Review.

The Public Protection notification system was introduced in November 2020. The PSNI outlined to Inspectors how this had introduced improvements to the process of submitting DASH forms to the PSNI's records management system and to further assist Police Officers to assess evidence collected through the DASH form in order to make appropriate decisions about assessment gradings. These assessment decisions were also reviewed by the Police Officer's Sergeant. The system sent automatic referrals to partner support agencies rather than Police Officers having to do this manually when they logged on to the computer system. It was noted by one stakeholder organisation that incomplete information about the victim or errors in recording (for example, a missing mobile phone number or email address, the mobile phone number of a child under 18 being recorded instead of that of their parent), could create difficulties for support organisations in contacting the victim, particularly in domestic or sexual cases where this was required to be completed as a priority.

Further quality assurance processes had been implemented by the Public Protection Branch with the development of a nine point scorecard against which to assess outcomes (for example, assessment of the call appropriately, a DASH form submitted, and body worn video used etcetera) used during weekly dip sampling of 70 cases by the four area supervisors. Guidance documents underpinned these processes and a data spreadsheet enabled management information to be collated and shared to enable performance to be tracked through a dashboard which compared outcome data on a week by week basis.

The PSNI were also developing work to focus on repeat victims and repeat perpetrators during 2021-22. A review of the PSNI's data between 1 October 2018 and 30 September 2019 identified that 22.5% of victims were repeat victims.³⁸ A paper which reviewed the existing repeat victim strategy, proposed changes to the criteria for intervention in the case by the Public Protection Branch. This would ensure that a greater number of repeat victims would have their case reviewed by a Domestic Abuse Officer, who would consider whether additional actions were required in the case (for example a referral to the Multi-Agency Risk Assessment Conference (MARAC)) and undertake a welfare and safeguarding check through a victim call-back. The PSNI were considering moving to a model that was based on using data on recency, frequency and gravity of incidents rather than pure numbers (the current focus on repeat victims being those who had experienced and reported seven incidents or above). A local university had been asked for support in developing this criteria and to provide an input about ensuring an ethical approach.

The PSNI advised that a pilot had been held in Mid and East Antrim policing district regarding repeat perpetrators (those who had committed five or more incidents in the last year). They had also consulted with victims' groups about the ethical considerations of this work. The PSNI was exploring options for early intervention work with the Probation Board for Northern Ireland, the DoJ and the Judiciary but this was at an early stage.

38 PSNI, *Repeat victims strategy (domestic abuse)*, April 2020. Internal document.

The PSNI also advised that incidents of domestic abuse involving a parent and a child accounted for 24% of domestic abuse calls made to police, with the child being the perpetrator in 13% of calls. Initial conversations had commenced with the Safeguarding Board for Northern Ireland to consider this issue further and how it linked to adverse childhood experiences.

Changes to the information required from the police to be provided to Prosecutors (see Strategic Recommendation 3) had included the addition of the outcome of the DASH form (that is, whether the victim was assessed to be at standard/moderate/high risk), as well as a requirement to include a domestic history if there had been previous domestic incidents between either the suspect and victim in the case or the suspect and other victims previously. The PSNI also confirmed that there was ongoing work between the PPS and the PSNI on exploring the sharing of the DASH form electronically, with a further meeting on this issue scheduled for February 2021.

Inspectors welcome this information being required in every case. However, it still remains a concern that there is the potential for important information to be missed or delays in decision making, if Prosecutors have to make a further request for information that was included in the initial DASH form but was not provided to them (for example, if the victim was pregnant or if children were present). As this was a key part of CJI's recommendation it is disappointing that the sharing of DASH information has not been addressed to date. Inspectors would therefore encourage the PSNI and the PPS to work together to make the sharing of electronic forms possible, particularly in light of the developments in digital evidence sharing as outlined in relation to progress against Operational Recommendation 2 of the *Without Witness* report.³⁹

Overall Inspectors welcome the activity that the PSNI has undertaken to address this recommendation. The control strategy clearly sets out the requirement and plans for training. Stakeholders were positive about the development of training for Police Officers in coercive and controlling behaviour in support of the new Domestic Abuse and Family Proceedings Bill. In the original report CJI highlighted the Domestic Abuse Matters programme, developed by the College of Policing and SafeLives, as it had a focus on cultural change rather than one-off training. The PSNI have opted to develop local training and CJI is pleased to see this includes input from local partners, covers a range of topics and is intended to be delivered to a significant number of front-line Police Officers in the PSNI. CJI hopes that the intended quality assurance processes and further partnership working will ensure that the Police Officers and staff who interact with victims of domestic abuse achieve the knowledge, understanding and behavioural change required to deliver a quality service. The ultimate assessment of this in the future will be the views of victims who have interacted with the police to report domestic abuse, coercive control, harassment and stalking behaviour.

³⁹ CJI, *Follow-up Review of Without Witness: A thematic inspection of the handling of sexual violence and abuse cases by the criminal justice system in Northern Ireland, March 2021*, available online at: <http://cjini.org/getattachment/ca6e6e77-f571-4190-8fbc-72f26896cc8b/report.aspx>

Considering the work that has been undertaken in the area of training and improving the quality of risk assessments but balanced against the outstanding issue of the sharing of DASH forms this recommendation is assessed to be partially achieved. Inspectors hope that this issue will be resolved quickly to ensure improved decision making by Prosecutors and a reduction in avoidable delay.

STRATEGIC RECOMMENDATION 2

The Police Service of Northern Ireland and Multi-Agency Risk Assessment Conference 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).

Status: Partially achieved.

ORGANISATIONAL RESPONSE

PSNI update – October 2020

An action plan is in place and is in progress.

The first annual report on the Multi-Agency Risk Assessment Conference (MARAC) operations has been completed. It indicated:

- *The MARAC Operational Board is reviewing the reasons that the MARAC volume of cases is below the recommended rate and for the reducing number of referrals and are identifying steps to address these reasons. A new monthly report showing the percentage of referrals from each agency is now in place and will be shared with partners;*
- *The MARAC Operational Board is also developing methods to assess the effectiveness of actions taken by MARAC partners to address risk. Agreement has been given from partner agencies to commence use of the Safe Lives audit tool for assessing effectiveness of actions from the MARAC and to review cases - this work is ongoing. The aim of the tool is to allow areas to critically review a sample of MARAC cases, analyse the results and ultimately improve outcomes for high risk domestic abuse victims and children. The tool offers a useful structure to the auditing of cases, which can provide evidence to support the MARAC Operational Board in the governance of MARAC; and*
- *The Police Service is liaising with other United Kingdom Police Services in order to scope a customer survey for all Domestic Abuse Victims and an options paper has been prepared.*

To address the overall MARAC referrals, a MARAC Operational Board sub-group on Training and Communication with the aim of achieving an increase in overall MARAC referrals has been created. All partners provide a representative to sit on the sub-group and collaboratively work to undertake the functions and actions of the sub-group.

The overarching purpose of the MARAC Operational Board sub-group on Training and Education is to support the needs of the MARAC Operational Board and will incorporate Communication. Additionally, the sub-group is mandated to assist in increasing the total quantity of referrals to MARAC across Northern Ireland. As such, an internal staff survey will be undertaken to measure domestic abuse awareness, as well as confidence and knowledge in the use and purpose of DASH and MARAC referrals.

INSPECTORS' ASSESSMENT

The PSNI provided CJI with a copy of the Action Plan for this recommendation. This contained four actions with individual activities for each and a monthly update to track progress. The four actions were as follows:

1. review the reasons that the MARAC volume of cases is below the recommended rate and for the reducing number of referrals. Identify steps to address these reasons;
2. develop methods to assess the effectiveness of actions taken by MARAC partners to address risk;
3. review the role of the MARAC Operational Board in the overall governance structures for DA [Domestic Abuse] and develop actions to address any issues arising; and
4. address the overall MARAC referrals.

The first MARAC Operational Board annual report included a breakdown of referrals to MARAC from each agency for the five Health and Social Care Trust areas for 2019-20.⁴⁰ The Action Plan indicated that this would be undertaken on a monthly basis after this report. Each agency would then be asked to review their referrals and satisfy themselves as to the volume. CJI were provided with monthly reports for June, August and September 2020. These showed that in most areas referrals continued to be below the rate recommended by SafeLives⁴¹ with the majority of referrals continuing to come from the police, health and Women's Aid. Overall the MARAC Annual Report 2019-20 noted that the cases per 10,000 rate in Northern Ireland was 17, which was below the SafeLives estimated 40 cases per 10,000 and below the national United Kingdom figure of 39. All of the 10 Northern Ireland MARACs had a 'cases per 10,000 of adult female population' rate below the national and SafeLives estimated figures.

The PSNI confirmed they had asked SafeLives to update the data they had published regarding UK referral rates as this was a number of years old. Potential audit tools, to be used to review a sample of MARAC cases, were reviewed by the PSNI and an agreed format and template were presented to the MARAC Operational Board in January 2020. In addition, SafeLives attended this meeting to assist in identifying what good governance looks like. The MARAC Operational Board had not met since as a result of the impact of the restrictions in response to the COVID-19 pandemic.

40 MARAC Operational Board, *Annual Report 2019-20, 2020*. Internal document.

41 The SafeLives recommended number of cases for each MARAC are determined by the number of female adults per 10,000 population. SafeLives draw their information from the Northern Ireland Census.

New dip sampling procedures had been implemented in August 2020 as outlined in Strategic Recommendation 1. A Detective Inspector was chairing the training subgroup of the MARAC Operational Board. They had developed a survey for frontline staff in all agencies to ask about awareness of MARAC, for example seeking the views of 165 Police Officers working in the area of domestic abuse. The survey results were due back in January 2021. A training needs analysis process had also been shared with the MARAC organisations. Training would then be developed to take place later in 2021.

Of concern was that the MARAC Operational Board Annual Report also highlighted that the Domestic Violence Abuse Disclosure scheme, which commenced in March 2018, received 336 applications for disclosure in 2018-19 but this reduced to 317 applications in 2019-20. The DoJ had committed to undertake a review to look at the overall effectiveness of the scheme in terms of its operation.

It is evident from this information that some work has been undertaken in respect of this recommendation but progress to date appears to be slow. It is recognised that agencies involved have been significantly affected by the COVID-19 pandemic and this has impacted on the MARAC Operational Board. However, given the heightened concerns for victims of domestic abuse during the pandemic, it is disappointing that more focus could not have been placed on this work. The PSNI, although undertaking the role of chair of the MARAC Operational Board, are only one organisation in the multi-agency arrangements. As highlighted in the introduction to this report stakeholders commended the PSNI's work in bringing together, through the Domestic Abuse Independent Advisory Group, voluntary organisations with Government Departments and agencies to positive effect. The work to address this recommendation requires all agencies to play their part and CJI hope the work of the Independent Advisory Group will provide further impetus for partnership working. This recommendation is assessed to be partially achieved.

STRATEGIC RECOMMENDATION 3

The Police Service of Northern Ireland and the Public Prosecution Service 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).

Status: Partially achieved.

ORGANISATIONAL RESPONSE

PPS Update - October 2020

- *The PSNI/PPS Domestic Violence and Abuse Working Group continues to meet to discuss the joint prosecution team approach in investigating and prosecuting cases involving Domestic Violence and Abuse.*

NO EXCUSE:
A FOLLOW-UP REVIEW OF THE INSPECTION RECOMMENDATIONS
APRIL 2021

- To date quality assurance reviews have been conducted on over 60 summary domestic violence and abuse files submitted by police and falling into the three main Working Together file build specifications - Guilty Anticipated Plea, Not Guilty Anticipated Plea and Streamline No Prosecution. Unacceptable risk levels were identified with the Streamline No Prosecution file build and immediate action was taken to remove domestic violence and abuse cases from this specification. Domestic violence and abuse with a no prosecution recommendation must now be submitted to the PPS in accordance with the Full File No Prosecution specifications.
- The quality assurance of Guilty Anticipated Plea and Not Guilty Anticipated Plea files found that investigations and prosecution decisions for these file types were generally sound.
- A further quality assurance of Full File No Prosecution files has also been carried out and a number of recommendations were made to [the] Working Together Board in relation to amendments to the Statement of Complaint and Prosecutor Information Form which would reduce the organisational risk when investigating, preparing files and making decisions around domestic violence and abuse cases. Changes to the Prosecutor Information Form have been ratified and were rolled out in Belfast on 30 September 2020. The Prosecutor Information Form changes will be rolled out across Northern Ireland during October 2020.
- In order to assess the impact of the Prosecutor Information Form changes, a quality assurance review will be carried out in January/February 2021. It is anticipated that a three to four month period is required to allow the Prosecutor Information Form changes to bed in.

Key changes to the Prosecutor Information Form include:

- DASH outcomes will be included. This will greatly assist prosecutors in decision making and identifying repeat victims and perpetrators.
- The PSNI will be required to provide information in relation to special measures discussions. This will be flagged to prosecutors who will then consider applications based on the police information.
- A quality assurance of indictable domestic violence and abuse cases is ongoing. This quality assurance will assess the quality of files submitted from the various Public Protection Units.
- The PSNI are close to signing off on centrally held domestic violence histories to include third parties and which will be shared with the PPS. Updates are awaited as to when sensitive domestic violence histories can be shared with the PPS electronically.
- The PPS are engaged in a Task and Finish Group with DoJ to complete statutory guidance which will accompany the new Domestic Abuse legislation. This will also shape the contents of the PPS/PSNI Service Level Agreement which needs to be updated to reflect the new legislation. It is hoped that all these documents will be completed by early 2021 to allow planning for the content and structure of staff training.

PSNI update – October 2020

- An implementation plan has been created and is in progress, with a joint working group ongoing.
- A quality assurance exercise on the suitability of Working Together file build specifications was completed in autumn 2019. The results of this exercise led to the establishment of the 'Domestic Violence and Abuse Working Group'. The group, comprising representatives from the PPS and the PSNI, has met a number of times to discuss issues around the streamline 'no prosecution' file builds, an optimum file build for domestic violence and abuse cases, and training across both the PPS and the PSNI. The Domestic Violence and Abuse Working Group have made representations to the Working Together Board which would support a joint prosecution team approach. The sharing of information between the PSNI and the PPS has been at the forefront of this team.
- The Domestic Violence and Abuse Working Group has been successful in having recommendations implemented to include the DASH outcome in the Prosecutor Information Form.
- The Working Group examined the results of the quality and consistency of information recorded/shared and adherence to organisational objectives in the quality assurance exercise. Coming from this, there is work continuing on the early submission of body-worn video and domestic abuse histories which extend to third parties and thereby assisting Prosecutors to identify serial perpetrators.
- A review of the existing PSNI procedures and guidance to ensure compliance with the Attorney General's Human Rights guidance on domestic abuse and stalking has been completed.
- A review of the existing policies through the working group including an update of Service Instructions as necessary has commenced.
- Upon completion of the reviews above, the Service Level Agreement between the PPS and the PSNI will be reviewed to ensure that any revisions to the joint working arrangements and procedures are clear.

INSPECTORS' ASSESSMENT

The CJI *No Excuse* report suggested that the following elements form part of the implementation plan⁴²:

- building the case from the outset, fully implementing the PSNI and the 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 rights guidance on domestic abuse and stalking⁴³;

⁴² See paragraph 5.20 of CJI, *No Excuse: Public Protection II: A thematic inspection of the handling of domestic violence and abuse cases by the criminal justice system in Northern Ireland, June 2019*, available online at <http://www.cjini.org/TheInspections/Inspection-Reports/2019/April-June/Domestic-Violence>

⁴³ 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%0-%20Final_0.pdf

NO EXCUSE:
A FOLLOW-UP REVIEW OF THE INSPECTION RECOMMENDATIONS
APRIL 2021

- 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.

As outlined in the responses from the PSNI and the PPS above, there had been a significant amount of activity undertaken by the two organisations in response to this recommendation. CJI were provided with a joint action plan developed by the PSNI and the PPS which included the actions and key performance indicators for this recommendation. In addition, a number of supporting documents were provided which showed the work that had been undertaken and was in progress in relation to the work between the two organisations. A working group had been established, as outlined, to drive the work forward, which reported to the Working Together Board where issues were identified and improvements were proposed which required approval. The PPS Corporate Scorecard 2020-21⁴⁴ made reference to identifying and agreeing relevant documents with key partners, including with the PSNI for domestic violence and abuse.

The PSNI had reviewed their domestic abuse policies and procedures in light of the Attorney General's guidance on domestic abuse and stalking.⁴⁵ The PPS intended to update their internal guidance when the Domestic Abuse and Family Proceedings Bill was approved by the Committee for Justice. Both the PSNI and the PPS were represented on the DoJ Task and Finish Group to develop statutory guidance once the Bill was passed. In addition, the Service Level Agreement between the PSNI and the PPS with regard to domestic violence and abuse cases would also be updated once the Bill was passed.

The PPS had undertaken internal quality assurance exercises towards the end of 2019 on police and prosecution domestic violence and abuse cases across a range of case types. These resulted in similar findings to CJI's case file reviews including the need for improvements in the provision of evidence, decision making regarding no prosecution recommendations from the police, the use of body worn video by Police Officers, requests for further evidence from the PPS and decision making by Prosecutors.

44 PPS, *Corporate scorecard 2020-21 (draft version 4)*, June 2020. Internal document.

45 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

NO EXCUSE:
A FOLLOW-UP REVIEW OF THE INSPECTION RECOMMENDATIONS
APRIL 2021

As a result of the findings of the quality assurance exercises, domestic violence and abuse cases were deemed not suitable to be produced by the police in the format of a streamlined no prosecution file.

However, the PPS and the PSNI were developing plans to pilot a Domestic Abuse Prosecution Clinic with a Terms of Reference agreed in November 2020. At the Clinic, it was intended that a Prosecutor would review files containing an offence committed in a domestic context on which the police had recommended no prosecution at an early stage. This would enable the PPS and the PSNI to discuss whether there were opportunities for further evidence to be obtained in the case with a view to assessing the potential for a prosecution decision to be taken.

As a result of this PPS quality assurance work, changes were made to the Statement of Complaint and Prosecutor Information Form to ensure greater compliance with the completion of information by Investigating Officers for example, in relation to evidence, victim care and special measures. These had been piloted in Belfast at the time of the Follow-up Review and were due to be rolled-out further in early 2021. In addition, based on the volumes of cases involving domestic violence and abuse and the outcomes of the quality assurance identified above, a proposal had also been developed for the PPS to establish specialist Prosecutor roles for domestic violence and abuse. This was agreed by the PPS Board in December 2020. The PPS were due to agree a timeline for implementation in February 2021 with Prosecutors identified for the role, in post and having received specialist training by the end of October 2021 to coincide with plans for the Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021 to become operational.

As with Strategic Recommendation 1 above, there has clearly been a great deal of activity by both the PSNI and the PPS to address the findings of the inspection report in this area and further develop the prosecution team approach. CJ1 consider the further enhancements to the processes for the provision of evidence from the police to the Prosecutor to be a positive step, as well as the development of specialist Prosecutors, who can develop improved working relationships with Domestic Abuse Officers in the PSNI's Public Protection Branch, as well as support the work of the domestic abuse court when it is developed (see Strategic Recommendation 4). As with Strategic Recommendation 1 however, the ultimate assessment of success in this area will only become known once files are examined through a case file review and the views of victims are sought about their experience of the police and prosecution stages of the criminal justice process.

While the action plan and work undertaken to date contains a number of the issues highlighted in the original *No Excuse* inspection report, Inspectors believe that there could have been more detail as to how the PSNI and the PPS will build the case using a prosecution team approach, ensure early consideration of evidence from body-worn video and other technology which may contain sources of evidence, improve the approach to dealing with victim withdrawal and ensure joint learning from serious and complex cases. To date there has been a focus by the PSNI and the PPS on understanding in more detail the issues within the cases that need to be addressed, but now there needs to be greater detail in establishing clear plans and processes between the two organisations on addressing these issues.

Inspectors consider this recommendation to be partially achieved given that the action plan or activities undertaken to date do not yet address all of the issues highlighted in the CJI report. CJI would encourage the PSNI and the PPS to continue to develop working relationships and the prosecution team approach, particularly with the Royal Assent and anticipated implementation of the Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021.

STRATEGIC RECOMMENDATION 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 Independent Domestic Violence Advocacy service to address the safety of victims at high risk of harm (paragraph 7.12).

Status: Not achieved.

ORGANISATIONAL RESPONSE

DoJ update - October 2020

- **Court Listings** - Work is ongoing in relation to the implementation of a pilot programme at Laganside Court, Belfast under the Presiding District Judge. The timing of this has to be finalised and has been impacted somewhat by the ongoing COVID-19 pandemic.
- **Advocacy** - The Department, in conjunction with the PSNI, is finalising the material to undertake procurement for a new advocacy service. It is intended that this will issue shortly, with tenders to be returned in December 2020, and the new service operational early in the next financial year.

INSPECTORS' ASSESSMENT

Domestic Violence and Abuse Court

As noted in the DoJ's progress update, initial discussions had been held with the Presiding District Judge in relation to piloting a domestic violence and abuse court in Belfast. It was envisaged that this model would work in a similar way to the arrangements in the District Judge's domestic violence court in Londonderry Magistrates' Court, however details had not been discussed. This work had been paused due to the ongoing COVID-19 pandemic and it was unclear when the court would be established.⁴⁶

⁴⁶ Following the completion of the fieldwork the DoJ advised that it was likely a pilot would commence in Laganside court in late October/early November 2021, due to ongoing impacts on court business more widely.

Advocacy Service

After the conclusion of the fieldwork for CJI's *No Excuse* inspection, the DoJ was developing plans for what was described at the time as 'a stream-lined advocacy service' to cover adult and child victims of both sexual and domestic violence and abuse, rather than a specific Independent Domestic Violence Advocacy (IDVA) service as recommended in CJI's report.

Discussions continued to the end of 2019 and during 2020 about the proposals for an advocacy support service for victims of domestic and sexual violence and abuse in Northern Ireland, to be commissioned by the DoJ. Stakeholders were involved in these discussions and all raised concerns about the amalgamation of the many roles that currently existed (for example Criminal Justice Workers, Independent Sexual Violence Advocate and Child Independent Sexual Violence Advocate) into one service that provided support for both adult and child victims of domestic and sexual violence and abuse.

The tender was published on 21 December 2020 with a deadline of 1 February 2021. It was intended that a provider would be appointed in March 2021 with the service becoming operational in September 2021. The DoJ and the PSNI had both committed to fund the advocacy service. The initial tender length was for three years with the possibility of an extension of an additional four years (two extensions of two years each) and the initial period was a value of £2.4 million (an annual cost of £800,000). The purpose of the tender was to '*deliver a new Northern Ireland-wide advocacy service to support qualifying victims of domestic and sexual violence and abuse (including those reporting to the police, or those who are subject to MARAC or report to The Rowan Sexual Assault Referral Centre (SARC))*'.⁴⁷ The service was to be delivered by a single supplier employing 20 advocates based in police stations across Northern Ireland and The Rowan SARC.

The primary objectives of the advocacy service were outlined as follows⁴⁸:

- act as a first point of contact for victims of domestic and sexual violence and abuse to enable them to better cope with the aftermath of that crime;
- assess individual need and risk and develop a safety support plan tailored to individual need;
- offer accurate, timely, non-judgmental and impartial support and signposting information in relation to domestic and sexual violence and abuse on a range of issues and encouraging victims to report crimes/incidents to the PSNI;
- provide guidance and information, referring victims on to other statutory and non-statutory agencies for specialist support as appropriate;
- help maintain and encourage engagement of victims experiencing domestic and sexual violence and/or abuse within the criminal justice system; and
- work pro-actively with the PSNI and SARC colleagues to support them, including attending and providing relevant briefings and meetings as required and including providing reports to help advise and inform Police Officers/SARC staff on related issues.

⁴⁷ Department of Finance, *Procurement strategy: DoJ Provision of an Advocacy Support Service for Victims of Domestic and Sexual Violence and Abuse in Northern Ireland, December 2020*. Internal document.

⁴⁸ See <https://bidstats.uk/tenders/2020/W52/741343378>

The documentation provided to CJI confirmed that in developing the tender the DoJ had consulted with the PSNI, the DoH, Women's Aid Federation Northern Ireland, Victim Support Northern Ireland, Nexus, Men's Advisory Project and the National Society for the Prevention of Cruelty to Children. They also engaged SafeLives to provide guidance on the specification of requirements. The risk assessment illustrated the consideration of four model options:

- 1) status quo;
- 2) a singular service for all victims (including those who had not reported to the criminal justice system);
- 3) a singular service for victims engaged through the criminal justice system, MARAC or The Rowan SARC; and
- 4) separate advocacy services for victims of domestic violence and abuse and for victims of sexual abuse.

Option Four would require around 26 advocates and was rejected on the basis that it would deliver less than optimal service provision given available resources. Option Three was ultimately assessed to provide an appropriate level of service within available resources.

Both the DoJ and the PSNI confirmed that the tender was based on the most affordable service delivery model. It was accepted by many interviewees, including stakeholders, that compromises had to be made in order to deliver an advocacy service of any type, which would be better than the current mixed approach to victim support services, referred to as a 'postcode lottery' by one interviewee. Stakeholders continued to be frustrated at the length of time it had taken to get to the point of tendering for a service provider. It was hoped that this service would be a starting point on which to build and that additional support services and improvements to the model could be developed in the future as value for money and spend to save was evidenced through the evaluation of the service or future reviews.

Inspectors appreciate that the current financial situation is challenging, particularly given the ongoing COVID-19 pandemic and uncertainty about the impact of public expenditure budgetary constraints as Northern Ireland emerges from lockdown and recovers from current restrictions. As previously outlined in CJI's reports there is a large body of evidence, dating back over 20 years, which demonstrates that the cost of an IDVA service is far less than the costs associated with being a repeat victim of domestic abuse in terms of police time, medical assistance, social services involvement and the cost of criminal proceedings.⁴⁹ More recently the review of the *Stopping Domestic and Sexual Violence Strategy* undertaken by the Strategic Investment Board, used published unit costs from the Home Office for different types of crimes.

⁴⁹ For example the first widespread IDVA evaluation reported "The marginal cost of providing the support of an IDVA is less than £500 per victim supported, which is a fraction of the costs associated with the provision of public services, and thus the case for commissioning properly focused and structured services is clear". CAADA (SafeLives), *Safety in Numbers: A Multi-site Evaluation of IDVA Services*, November 2009, available online at https://safelives.org.uk/sites/default/files/resources/Safety_in_Numbers_full_report.pdf

It noted that *'the costs of domestic violence/abuse and sexual violence have been estimated to be in excess of £600m, however it should be noted that this excluded the costs of non-molestation order breaches so £600m is known to be an underestimate of the total costs'*.⁵⁰ It is disappointing therefore that additional funding from all partners who will benefit from this service could not be justified on this basis.

In addition, CJI had concerns about how it would be ensured that the Advocate allocated to a victim through the advocacy scheme would provide a single point of contact in their journey through the criminal justice system. For example, it was not intended that the Advocate would attend MARAC to provide the views of the victim, assisting in developing the safety plan agreed at the meeting and taking on actions that they would then follow-up on after the meeting. CJI were advised that local Women's Aid groups would continue to provide this service (although not specifically funded to do so) which Inspectors believe could potentially result in a disjointed service where the victim's case was passed between the Advocate to the MARAC representative and back again. It was unclear to Inspectors who would be responsible for undertaking the actions arising from the meeting once the advocacy service was in place which, at the time of writing, were undertaken by Women's Aid.

CJI was also advised that it would be unlikely that the Advocate would attend meetings or interviews with the PSNI, the PPS, Prosecuting Counsel or court. Similarly to the rationale for not being able to attend the MARAC, it was felt that this would be too resource intensive and consume too much of the Advocate's time. It was also anticipated that specific support provided at the Belfast domestic violence court, when it was established, would be by a separate provision. Stakeholders also remained concerned that the sheer volume of female victims of domestic abuse and the immediacy of response required meant that the advocacy service would be skewed towards this type of support and that the different needs of children, male victims and victims of sexual violence and abuse would suffer as a result.

Inspectors appreciate that the focus of the Advocacy Service should be on supporting victims directly and that in not all cases will a victim need or want the Advocate to attend meetings with them or accompany them to court and therefore this should not be standard practice. However, the focus of the service should be on the needs of individual victims and therefore both the DoJ and the appointed service provider should be mindful of this and ensure any issues in being unable to fulfill the support needs victims required are flagged at any early stage of the contract. It should also be ensured that handovers between two service providers during the victim journey should be done as effectively as possible, ensuring the victim is kept fully updated as to the progress of the case.

In August 2019 a report by Victim Support Northern Ireland outlined the findings of a detailed evaluation of the Independent Sexual Violence Advocate roles that had been piloted by the organisation.⁵¹ This noted the common supports provided to all clients of the service as being:

50 Strategic Investment Board, *Mid-term review of the stopping domestic and sexual violence strategy, October 2020*, available online at <https://www.justice-ni.gov.uk/sites/default/files/publications/justice/mid-term-review-dsva-strategy.PDF>

51 Victim Support Northern Ireland, *Evaluation ISVA pilot, August 2019. Internal report.*

NO EXCUSE:

A FOLLOW-UP REVIEW OF THE INSPECTION RECOMMENDATIONS
APRIL 2021

- a needs assessment;
- explanation of the various stages of the criminal justice system and associated timelines;
- supporting the client when they were having a bad day and feeling down;
- attending meetings with the PSNI and the PPS;
- seeking answers in relation to defence requests for additional evidence;
- clarification on legal terminology; and
- accompanying the client to the courtroom in advance of the trial to familiarise them with the environment and having the Advocate with them at the trial.

Other examples from the report were that the Advocate had: attended appointments with clients which included attending an Achieving Best Evidence interview to provide support; attending The Rowan SARC and Genitourinary Medicine clinic for sexual health checks; attending a first Nexus counselling session with the client so they felt able to walk through the door; supporting a client with a complaint about the police; providing advocacy for a client who had received a paramilitary threat with regards to relocation and home safety information; and advocacy between a client and a community mental health team. These examples illustrate the holistic person-centred and needs based service that the Independent Sexual Violence Advocates provide through this service, which reflects the experiences of other advocacy schemes.⁵²

Overall assessment

The impact of the COVID-19 pandemic on plans to establish the domestic violence court in Belfast and the length of time taken to scope out, tender for and appoint a service provider for the advocacy service clearly means that the nine-month timeframe set out in CJI's recommendation published in June 2019 has been far exceeded. Eighteen months after the publication of the inspection report CJI is disappointed that neither the domestic violence court nor the advocacy service has materialised. This recommendation can therefore only be assessed as not achieved.

OPERATIONAL RECOMMENDATION 1

The Department of Justice 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).

Status: Partially achieved.

52 See for example CAADA (SafeLives), *Safety in Numbers: A Multi-site Evaluation of IDVA Services, November 2009*, available online at https://safelives.org.uk/sites/default/files/resources/Safety_in_Numbers_full_report.pdf

ORGANISATIONAL RESPONSE

DoJ update – October 2020

- We have established a Review framework with Terms of Reference, Project Initiation Document and expert reference group and review board established.
- Preliminary meetings of the reference group and review board have taken place.
- The Justice Committee has had a written briefing and sight of the Terms of Reference.
- Review of the law around the 'rough sex' defence has been added into the Terms of Reference as a strand of the review and prioritised in line with a Ministerial commitment.
- Drafting work on the consultation document has begun.
- Legislative change is unlikely during this mandate due to existing pressures in the legislative programme.

INSPECTORS' ASSESSMENT

The DoJ provided documentation, as outlined previously, which evidenced the establishment of the review of non-fatal strangulation framework in the form of a Project Initiation Document and Terms of Reference. The Project Initiation Document noted that in response to this recommendation from CJI: *'The Department of Justice convened a working group and carried out early scoping work on strangulation late 2019/early 2020. Following the return of the Northern Ireland Assembly, the issue was raised with the Justice Minister who commissioned a full review to identify and address any inadequacies in the current legislation. It also noted that 'Following the amendment to Westminster legislation Domestic Violence Bill a decision has been taken to codify in legislation previous case law on the rough sex defence. The Justice Minister wishes to consider a similar provision for Northern Ireland as a priority.'*⁵³

The Review Board that was established included representatives from across the DoJ, the PSNI, the PPS and the Probation Board for Northern Ireland. A reference group was also established which included representatives of criminal justice agencies and a broad range of victims groups.

The draft Project Initiation Document included an overview of the background to the review including data from the PSNI and the PPS from 2002 to 2019 on the numbers of cases involving choking/strangulation where suspects were charged, prosecution and no prosecution decisions and prosecutions directed for alternative offences.

A Terms of Reference for the Review was also included which set out the proposed timescales for the Review. This indicated intention to publish a consultation document in May 2021 with the report on the consultation responses completed by September 2021. As noted in the DoJ response the prioritisation of the 'rough sex' defence resulted in the non-fatal strangulation being delayed and therefore it was unlikely to lead to legislative change during this Northern Ireland Assembly mandate.

⁵³ DoJ, Project initiation document: Strangulation legislation review, Version: v0.4 draft, August 2020. Internal document.

It is unfortunate that this Review has had to give way to other priorities, however, Inspectors were pleased to see that the PPS had also undertaken work separately in this area. The PPS and the PSNI co-presented awareness raising sessions on the topic of 'attempting to choke' at the January 2020 Women's Aid Conference and a meeting of the South Eastern Health and Social Care Trust Domestic Violence Partnership in March 2020. They also issued updated guidance to Prosecutors on non-fatal strangulation⁵⁴ which emphasised the seriousness of these types of assaults and highlighted the May 2020 judgment in the Northern Ireland Court of Appeal of *R v Allen Campbell*.⁵⁵ The guidance also included a briefing document from Saint Mary's Sexual Assault Referral Centre in Manchester on the issue of non-fatal strangulation.⁵⁶

In light of the establishment of the Review framework by the DoJ with the associated project documentation as well as the Review Board and expert reference group Inspectors consider this recommendation to be partially achieved, albeit that there is still a significant body of work to be completed before it could be considered achieved.

OPERATIONAL RECOMMENDATION 2

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

Status: Achieved.

ORGANISATIONAL RESPONSE

DoJ Update - October 2020

- *The drafting of the Protection from Stalking Bill is at an advanced stage. Executive approval will be sought in November [2020] for Introduction to the Assembly.*
- *Introduction of the Bill to the Assembly is anticipated for December of this year [2020].*

INSPECTORS' ASSESSMENT

A public consultation on the creation of a new offence of stalking in Northern Ireland was launched by the DoJ in November 2018 and a subsequent consultation response report was published in November 2019.⁵⁷ The consultation paper was developed in collaboration with victims groups and partner organisations that formed a 'Stalking

54 PPS, *Policy information note 6/2020: Cases involving non-fatal strangulation: Guidance for prosecutors*, June 2020. Internal document.

55 The Court of Appeal concluded that strangulation should be a substantial aggravating feature to be taken into account by courts when imposing sentence. See NICA 25, *R v Allen Campbell*, May 2020, available online at <https://www.judiciaryni.uk/judicial-decisions/2020-nica-25>

56 Dr Catherine White, Saint Mary's SARC, *Non-fatal strangulation*, March 2020. Unpublished document.

57 DoJ, *Stalking - A serious concern: A consultation paper on the creation of a new offence of stalking in Northern Ireland: Consultation Report and summary of responses*, November 2019, available online at <https://www.justice-ni.gov.uk/publications/stalking-consultation-report-and-summary-responses>

NO EXCUSE:
A FOLLOW-UP REVIEW OF THE INSPECTION RECOMMENDATIONS
APRIL 2021

Reference Group'. The consultation sought views on a range of issues relating to stalking, particularly from victims of stalking; organisations representing victims; the police; criminal justice practitioners; frontline workers, including mental health workers; and service providers. The consultation received 85 responses.

Question 12 of the consultation asked respondents: 'Do we need to consider introducing a stalking protection order or make changes to an existing order?' to which three-quarters of respondents (58, 76%) responded 'yes'.

The consultation concluded its 'analysis and next steps' as follows: '*We will therefore be recommending to an incoming Justice Minister that a stalking bill with legislative provisions to give effect to the introduction of a new specific offence of stalking, and stalking protection orders, be developed for introduction to a future Northern Ireland Assembly*'.

The DoJ subsequently developed the Protection from Stalking Bill which was introduced to the Assembly on 18 January 2021.⁵⁸ Part two of the Bill dealt with the introduction of Stalking Protection Orders to provide protection to a person at risk of stalking. The PPS had been consulted on the draft Bill and had provided an input.

Inspectors therefore consider this recommendation to be achieved and look forward to its passage through the Northern Ireland Assembly and into legislation.

OPERATIONAL RECOMMENDATION 3

The Public Prosecution Service for Northern Ireland, 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).

Status: Not achieved.

ORGANISATIONAL RESPONSE

PPS Update - October 2020

- As outlined previously, changes to the Prosecutor Information Form are being rolled out from 30 September [2020]. One change to the Prosecutor Information Form requires an officer to confirm that discussions have taken place with a victim and the victim's responses. This section of the Prosecutor Information Form will be mandatory, ensuring that discussions regarding special measures are conducted at the very earliest stage. It is expected that this will improve the quality and timeliness of special measures applications going forward.

⁵⁸ See <http://www.niassembly.gov.uk/assembly-business/committees/2017-2022/justice/primary-legislation/protection-from-stalking-bill/>

- *Automatic eligibility for special measures, and the associated prosecutor training on the new domestic abuse legislation in 2021, will cover special measures in detail. Further quality assurance work can be conducted as necessary.*

INSPECTORS' ASSESSMENT

As indicated in the PPS response, a specific piece of work around special measures had not been undertaken to assess compliance with paragraph 48 of the Victim Charter. The quality assurance processes undertaken as part of the action plan to address Strategic Recommendation 3 considered the use of special measures but focused on whether it was recorded on the file that special measures had been discussed with the victim rather than anything more in depth. As noted in the PPS update, the changes to the Prosecutor Information Form require a Police Officer to confirm that discussions have taken place with a victim about their needs to support future special measures applications and record the victim's responses, rather than being able to leave that area of the form blank.

Inspectors appreciate that these changes to the Prosecutor Information Form aim to improve the information collected by the Investigating Officer at the earliest stage about the victim's needs and undertake an initial assessment of the likelihood that they will require special measures to give evidence in court.

The case file review for CJI's *No Excuse* inspection considered the use of special measures by both the police and the prosecution. Given the small number of cases which proceeded to a court contest in the original prosecution file sample, the information which Inspectors were able to elicit on the use of special measures by the PPS was somewhat limited. The findings of the case file review noted *'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.'*⁵⁹

However Inspectors also heard evidence, during the fieldwork for the inspection, which suggested some Prosecutors were not fully convinced of the need for applications for special measures for victims of domestic abuse. Paragraph 6.21 of the report⁶⁰ outlined *'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*

⁵⁹ See paragraph 6.20. CJI, *No Excuse: Public Protection II: A thematic inspection of the handling of domestic violence and abuse cases by the criminal justice system in Northern Ireland, June 2019*, available online at <http://www.cjini.org/TheInspections/Inspection-Reports/2019/April-June/Domestic-Violence>

⁶⁰ As above, see paragraph 6.21.

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.'

This section of the report concluded '*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.'*

The purpose of this recommendation therefore was for the PPS to explore in more detail and evidence the use of special measures by Prosecutors in cases of domestic violence and abuse, particularly in light of the Victim Charter which set out in paragraph 48 the definition of an 'intimidated victim' and included those who had experienced domestic violence as one such type of victim.⁶¹

CJI intended that the PPS would undertake a more thorough review to identify whether there were improvements to be made in the approach of Prosecutors to the use of special measures in domestic violence and abuse cases and take action accordingly. It would also have provided an opportunity to assess whether, as reported anecdotally, it was difficult to have a special measures application granted by the court without medical evidence to support it.

While some of the actions taken by the PPS outlined above may address some of the concerns raised in the original report, Inspectors cannot consider this recommendation to be achieved at this time. Inspectors are aware that Article 35 of the Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021 will amend the Criminal Evidence (Northern Ireland) Order 1999 to automatically grant special measures to any victim of an offence involving domestic abuse unless they advise the court they do not wish to avail of them. It is hoped therefore that when implemented the changes to legislation and related training delivered to Prosecutors will address the issues identified by Inspectors in the original report.

61 DoJ, *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>

CHAPTER 3: CONCLUSION

Since the publication of CJI's *No Excuse* report in June 2019⁶² there is no doubt that it has been a challenging time for all organisations providing services and support to victims of domestic violence and abuse. The lockdown restrictions introduced as a result of the COVID-19 pandemic saw reports to police of domestic incidents increasing in a context of overall falling crime levels.

This has been a time of high demand for all those working in the area of domestic abuse but it has also led to positive developments seen in the proactive partnership approach from organisations across a range of sectors through the Domestic Abuse Independent Advisory Group, co-ordinated by the PSNI.

There continues to be ongoing challenges in responding to the pandemic and continuing restrictions increasing the likelihood of new and repeat victims being abused in their own homes. The impact of the increasing backlog of prosecutions awaiting a trial date and disposal together with capacity restrictions affecting courtrooms needs urgent consideration and prioritisation, particularly for the most vulnerable victims and witnesses. An already long wait is likely to become even longer and the conclusion of criminal proceedings even further away.

The work to address the recommendations in this report therefore should be considered in the context of a time of the unprecedented impact of the COVID-19 pandemic, as well as in responding to both CJI's inspection recommendations on sexual violence and abuse⁶³ and the recommendations of the *Gillen Review*.⁶⁴ The impact of the pandemic has affected the ability of organisations to respond to some of the recommendations made in CJI's report with some work being delayed due to competing priorities. However, in the midst of this, the focus of the DoJ and the Committee for Justice on the Domestic Abuse and Family Proceedings Bill has led to this piece of legislation passing through the Northern Ireland Assembly and the Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021 achieving Royal Assent in less than a year.

62 CJI, *No Excuse: Public Protection II: A thematic inspection of the handling of domestic violence and abuse cases by the criminal justice system in Northern Ireland, June 2019*, available online at <http://www.cjini.org/TheInspections/Inspection-Reports/2019/April-June/Domestic-Violence>

63 CJI, *Without Witness: Public Protection 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>

64 *Gillen, J. Gillen Review Report into the law and procedures in serious sexual offences in NI, May 2019*, available online at <https://www.justice-ni.gov.uk/publications/gillen-review-report-law-and-procedures-serious-sexual-offences-ni>

Graphic 1 CJI assessment showing progress against inspection recommendations



This Follow-up Review has assessed that of the seven recommendations in the original report one has been achieved, four partially achieved and two not achieved. The PSNI and the PPS have worked together to address the issues arising from the report. While there has been a significant amount of activity the ultimate assessment of the success of this work will only be possible through a future inspection when cases are reviewed and the views of victims are sought.

The ongoing lack of a domestic violence and abuse court and an IDVA service 18 months after the publication of the report, and 10 years after CJI first recommended these be implemented⁶⁵, is disappointing. The commencement of a tender process for an advocacy service for victims of domestic and sexual violence and abuse is a positive step in providing the long overdue support needed by victims. Inspectors recognise the difficult decisions that have had to be made in order to ensure the affordability of the service. However, CJI would urge the DoJ to closely monitor the delivery and scope of the service to ensure some of the concerns raised by stakeholders and Inspectors are not realised and that any issues can be addressed as quickly as possible.

The implementation of the Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021 offers a significant opportunity for victims of domestic violence and abuse and coercive and controlling behaviour and their families to be provided with support, be kept safe and engage in a justice process which supports them to provide their best evidence. Similarly, when it passes through the Northern Ireland Assembly, the Protection from Stalking Bill will also provide enhanced protections for those who are victims of stalking, whether by a former partner or a stranger. It is important that front-line staff who will be working with victims and the evidence in these cases are appropriately trained to recognise the sometimes subtle nature of these types of abuse.

⁶⁵ 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>

Inspectors hope that the positive multi-agency work that has been evidenced in this Follow-up Review between justice organisations, other Government Departments and agencies and voluntary and community organisations continues to improve the response to victims of domestic violence and abuse.



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