



**REVIEW OF THE
EFFECTIVENESS
OF PART 1 OF THE
DOMESTIC ABUSE AND
CIVIL PROCEEDINGS ACT
(NORTHERN IRELAND)
2021**

APRIL 2024

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

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LIST OF ABBREVIATIONS

B-SAFER	Brief Spousal Assault Form for the Evaluation of Risk (risk assessment tool)
CJI	Criminal Justice Inspection Northern Ireland
DAART	Domestic Abuse Awareness Raising Tool
DANA	Aggravated by Domestic Abuse - Sentence Not Enhanced (Court result record)
DASE	Aggravated by Domestic Abuse Sentence Enhanced (Court result record)
DASH	Domestic Abuse, Stalking and Harassment and Honour Based Abuse (risk assessment)
DoH	Department of Health
DoJ	Department of Justice
DVADS	Domestic Violence and Abuse Disclosure Scheme
HMCPSP	His Majesty's Crown Prosecution Service Inspectorate
HMICFRS	His Majesty's Inspectorate of Constabulary and Fire & Rescue Services
IT	Information technology
LGBTQI+	Lesbian, Gay, Bi-sexual, Transgender, Queer and Intersex
MARAC	Multi-Agency Risk Assessment Conference
NICS	Northern Ireland Civil Service
NICHE	The Police Service of Northern Ireland's records management system
NICTS	Northern Ireland Courts and Tribunals Service
NISRA	Northern Ireland Statistics and Research Agency
NSPCC	National Society for the Prevention of Cruelty to Children
PBNI	Probation Board for Northern Ireland
PCSP	Policing and Community Safety Partnership
PEEL	Police Effectiveness, Efficiency and Legitimacy inspections (led by HMICFRS)
Police Service	Police Service of Northern Ireland
PPANI	Public Protection Arrangements in Northern Ireland
PPS	Public Prosecution Service for Northern Ireland
THRIVE	Threat, Harm, Risk, Investigation, Vulnerability and Engagement (call assessment mnemonic)

TERMINOLOGY

Domestic

For this review CJI used the Department of Justice and Department of Health *Stopping Domestic and Sexual Violence in Northern Ireland Strategy*¹ definition of 'domestic'; that is a current or former intimate partner or family member.

Violence and Abuse

In this review CJI uses the term 'domestic violence and abuse' as defined in *Stopping Domestic and Sexual Violence and Abuse in Northern Ireland: A Seven Year Strategy* as 'threatening, controlling, coercive behaviour, violence or abuse (psychological, virtual, physical, verbal, sexual, financial or emotional) inflicted on anyone (irrespective of age, ethnicity, religion, gender, gender identity, sexual orientation or any form of disability) by a current or former intimate partner or family member.'

Victim

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

Key Sections of Part 1 of the Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021

Section	Title	Description
Section 1	The domestic abuse offence	Creates a domestic abuse offence where a perpetrator engaged in a course of behaviour which was likely to cause physical or psychological harm to a victim, to whom they were personally connected.
Section 5	Meaning of personal connection - domestic abuse offence	Defines what two people are personally connected.
Section 6	Personal connection notice - domestic abuse offence	Makes provision in relation to the domestic abuse offence, that a relationship between two individuals is taken as established, unless challenged.
Section 8	Aggravation - victim is under 18	Provides for the aggravation of the domestic abuse offence, where a person under 18 years of age is the victim or one of the victims.

1 *Department of Justice and Department of Health, Stopping Domestic and Sexual Violence and Abuse in Northern Ireland: A Seven Year Strategy, March 2016* available at <https://www.justice-ni.gov.uk/sites/default/files/publications/doj/stopping-domestic-sexual-violence-ni.pdf>

Section	Title	Description
Section 9	Aggravation - relevant child involved	Provides that an aggravation of the domestic abuse offence could occur through abusive behaviour being (or threatening to be) directed at a person under 18 years of age, or the use of them to facilitate the abusive behaviour.
Section 11	Exception where responsibility for children	Provides that the domestic abuse offence does not apply where a person has parental responsibility for another person who is under 16 years of age (which can be dealt with under offences relating to child abuse).
Section 12	Defence on the grounds of reasonableness	Provides that it is a defence for the accused to show that the course of behaviour was, in the particular circumstances, reasonable.
Section 13	Alternative available for conviction	Provides that, where the Court is not satisfied that the domestic abuse offence has been committed, it can convict the accused of a specified alternative offence of harassment or putting people in fear of violence.
Section 15	Domestic abuse aggravator	Provides for any other offence, other than the domestic abuse offence, to be aggravated where it involves domestic abuse.
Section 18	Meaning of personal connection - offence aggravated by domestic abuse	Defines what two people are personally connected.
Section 19	Personal connection notice - offence aggravated by domestic abuse	Makes provision in relation to an offence aggravated by domestic abuse, that a relationship between two individuals is taken as established, unless challenged.
Section 23	Special measures	Enables those subject to the domestic abuse offence, or an aggravated offence, to automatic eligibility for consideration of special measures.
Section 26	Operation Encompass	Enables information sharing with an education provider about an incident of domestic abuse involving a pupil or student.
Section 27	Protective measures for victims of abuse	Provides for regulations to make provision to introduce measures to protect victims of domestic abuse, including through Domestic Abuse Protection Notices and Orders.

Section	Title	Description
Section 28	Eligibility of victims for civil legal aid	Provides for a waiver of the financial eligibility rules normally used in determining a person's application of civil legal services.
Section 30	Statutory guidance	States that the Department of Justice must issue guidance about Part 1 of the Act.
Section 32	Training within relevant bodies	Places a duty on specific organisations (including the Police Service of Northern Ireland, the Public Prosecution Service for Northern Ireland and the Northern Ireland Courts and Tribunals Service) to provide annual mandatory training on the effect of Part 1 of the Act to staff.
Section 33	Independent oversight	Sets out that an independent oversight person is to be appointed to advise and make recommendations on the effectiveness of the operation of Part 1 of the Act and in relation to guidance under Section 28.
Section 34	Report on the operation of this part	Requires the Department of Justice to prepare a report on the operation of the domestic abuse offence, child aggravators and generic aggravator.

CHIEF INSPECTOR'S FOREWORD

The Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021 was created with pace and commitment to improve access to justice and protection for victims of domestic abuse, bring abusers to justice and recognise in statute the often life-long impact of domestic abuse on adults and children.

The Act brought Northern Ireland in line with other United Kingdom jurisdictions that had a domestic abuse offence on their statute books. It sent out a strong message that domestic abuse can happen to anyone, that it is a criminal offence and that its impact on children matters.

The Department of Justice and its partners have been key in raising public awareness about domestic abuse and encouraging victims to report it. They have done a great job through a number of different media platforms and family, friends and colleagues are having conversations about domestic abuse that might not have happened without it. But it is important that when victims do come forward and report a crime they experience an effective response, with the support they need every step of the way to give their best evidence and see an outcome to a prosecution. For those with a 'no prosecution' decision they need to have this explained to them in an appropriate way that doesn't put them off reporting future offences.

The new Remote Evidence Centre is a great addition to facilitate special measures for victims and witnesses, but it needs to be used and we need to understand its effectiveness whether a trial proceeds or not.

This first review of the Act included a police and prosecution case file review to provide evidence of how the Act's offences and aggravators were being identified and investigated and the prosecution decisions in each case. Valuable lessons were learned and the importance of effective partnerships that respect the independence of each other has been highlighted as key issues.

This report makes eleven recommendations for improvements on how the Act is implemented and to ensure the intent of this legislation as a deterrent to future offending is fully realised.

Our review next year will include a focus on the report recommendations and their implementation. The Act is an important step towards eradicating domestic abuse in our homes and in our community and the damage it does to our children.

Criminal justice organisations must take action on the review recommendations to ensure this legislation is implemented with the same energy and drive needed to create it.

I am grateful to Rachel Lindsay, Lead Inspector, supported by Deputy Inspector, Dr Claire Feehan, and during case file reviews, Inspectors Muireann Bohill and David MacAnulty and Inspectors from His Majesty's Inspectorate of Constabulary and Fire & Rescue Services and His Majesty's Crown Prosecution Inspectorate.

My thanks to those staff working in the Department of Justice, Police Service of Northern Ireland, Public Prosecution Service for Northern Ireland, Northern Ireland Courts and Tribunals Service and the Probation Board for Northern Ireland, as well as the many voluntary and community sector organisations who supported this review.



Jacqui Durkin

Chief Inspector of Criminal Justice
in Northern Ireland

April 2024

**Criminal Justice Inspection
Northern Ireland**

a better justice system for all



EXECUTIVE SUMMARY

The Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021

The Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021 (the Act) received Royal Assent on 1 March 2021 and the provisions of the Act were commenced on 21 February 2022. Section 1 of the Act created a domestic abuse offence which closed a gap in the law by criminalising a course of abusive behaviour; that is behaviour that occurs on two or more occasions, against an intimate partner, former partner or close family member. The Act also introduced aggravating factors to be considered when sentencing cases of domestic abuse, changes to special measures arrangements, protective measures for victims of domestic abuse, information-sharing between police and schools and arrangements to provide civil legal aid for victims of domestic abuse. Section 33 of the Act outlined the independent oversight of Part 1 of the Act undertaken by Criminal Justice Inspection Northern Ireland. This review report is the first under Section 33. Inspectors conducted fieldwork across the inspected agencies and stakeholders, which included interviews, focus groups and file reviews of 70 police investigation files and 98 prosecution case files. Evidence used in the report is triangulated from these qualitative and quantitative findings.

Preparation for Implementation of the Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021

The Act was welcomed by stakeholders and criminal justice organisations as demonstrating a focus on domestic abuse. The introduction of the Act was a Ministerial priority, with a significant focus from the Department of Justice and the Committee for Justice. During fieldwork Inspectors heard positive feedback about the legislative drafting and Bill scrutiny stages as well as the commitment from statutory organisations and partnership working undertaken to prepare for the implementation of the Act. The statutory guidance, published by the Department of Justice, was comprehensive but it was disappointing that there was limited awareness about the guidance outside the core agencies and stakeholders. Further awareness raising is needed.

The work of the Domestic Abuse Operationalisation Forum and the personal commitment of those involved in preparing for operational delivery was positive. Additional financial resources to support Act implementation were not available which created challenges for organisations. Public messaging about the introduction of the new domestic abuse offence was an important element of the preparation for implementation, and an effective multi-media campaign was utilised.

Methods to enhance the awareness of professionals, young people and other groups about coercive or controlling behaviour were also developed.

Comprehensive training packages were developed by the Department of Justice, Police Service of Northern Ireland and the Public Prosecution Service for Northern Ireland in partnership with subject matter experts and these were shared across the statutory and voluntary sector. Participation in training should be further encouraged. In addition, useful bespoke training and guidance materials were created for police and prosecution operational staff to aid awareness and understanding and assist with decision-making once the Act was introduced.

First response, investigation and case building

Domestic abuse incident calls were appropriately graded but there were some delays in the response to emergency and priority incidents. Those in police contact management roles used appropriate systems and assessment tools to review calls but improvements are required in how meaningful these assessments are and a greater focus on the needs of and risks to children at the point of first contact.

Police Officers in Local Policing Teams were dispatched to, and subsequently investigated, the majority of domestic abuse incidents. There was evidence of a proactive approach to identification and arrest of suspects, with Body-Worn Video used consistently. Assessments of risk were completed in almost all cases however, the quality could be enhanced, with greater detail shared with statutory and voluntary partners.

Police Officers reported challenges in knowing how to evidence the Section 1 domestic abuse offence and what the prosecution thresholds were, as well as highlighting the need for more knowledge about the needs of children involved in domestic abuse cases. The case file reviews conducted as part of this review showed that in up to two-fifths of cases Police Officers did not correctly identify and record the Section 1 domestic abuse offence. In addition, there were cases in both police and prosecution case files where aggravators in relation to children were missed or impacted by the omission of the Section 1 domestic abuse offence. Further training for Police Officers, including a focus on children, had begun during the drafting stage of this report and it is recommended its impact should be assessed and reinforced through quality assurance processes which focus on quality. There was better identification and recording of the Section 15 domestic abuse aggravator for offences other than the Section 1 domestic abuse offence. Technical issues appear to be impacting on the application of aggravators to every charge through the police and prosecution stages, these should be urgently addressed.

The Act provided for a greater focus on children in cases of domestic abuse, both through the child aggravators and providing the legislative basis for information sharing between police and education providers (Operation Encompass). Referrals were being considered in most of the relevant cases although in some cases there were issues with the quality and sufficiency of the information collected. Challenges were reported with resourcing of processes within both police and education providers

and proposals were being developed for secure electronic information sharing. Once processes are reviewed, a protocol should be developed to ensure appropriate governance of information-sharing processes, and its potential in the future as part of wider child safeguarding arrangements. In more general terms the voice of the child and an understanding of their lived experience was often not evident in police case files, this meant that the opportunity to understand the impact on children who were exposed to domestic abuse, and their role in providing evidence as part of a case, were being missed.

Police investigations were timely and effective, with good use of bail conditions to put in place measures to protect victims, but statements were not routinely taken on attendance. Some improvements were noted in some areas of supervision of police response and investigations but, overall, this was mixed. There was evidence of a lack of understanding of the Domestic Violence and Abuse Disclosure Scheme, but there were plans to address this. Under Section 27 of the Act, regulations were being developed for Domestic Abuse Protection Notices and Orders, but concerns remained about the financial implications of these.

Prosecution decision-making

Prosecution was directed in three-fifths of cases and decisions were made in a timely way. Decision-making by Prosecutors at direction stage was sound, with the evidential and public interest tests applied correctly in almost all cases. The Prosecutor identified the Section 1 domestic abuse offence in around three-quarters of the relevant files.

There were a small number of files where a child aggravator should have been applied. In just under a fifth the Prosecutor identified the Section 9 aggravator, but the Section 8 aggravator was not identified in any of the relevant cases. In some cases, the application of the aggravators was impacted by the omission of the Section 1 domestic abuse offence. The Prosecutor identified the Section 15 aggravator in around three-quarters of relevant cases. Overall, there was a lack of feedback to the Police Officer where they had missed the domestic abuse offence or an aggravator. The notices to propose the existence of a personal connection between the defendant and victim had only been challenged once since implementation of the Act. Legislative change to a presumption of personal connection that can be challenged is proposed.

Adequate risk assessment information was only provided on the police file in around half of relevant cases and in half of the cases it was not evident that the prosecution decision was informed by the risk assessment, or that missing risk assessment information had been requested by the Prosecutor. Decision-making by Prosecutors when deciding to Offer No Evidence was sound. However, in almost half of the cases the reasoning for the decision was not clearly set out. The new pilot of revised arrangements for police no prosecution recommendation files had commenced, and it is hoped that the anticipated reduction in case volumes will enable Prosecutors to improve the quality of decision-making and case strategy as well as the recording of the rationale for decisions.

Victim withdrawal occurred in around two-fifths of the files reviewed and there needs to be a more consistent approach to taking retraction statements by police. Evidence-led prosecutions were progressed in around a quarter of the relevant cases and this decision was assessed as reasonable in the majority of cases. Body-Worn Video footage was used extensively but there were inconsistencies in its quality and use. Prosecution domestic abuse policy was complied with in around three-quarters of cases, but Inspectors were concerned about the use of cautions in some cases and it is recommended that this is addressed through the clarification of policy, guidance and quality assurance.

Overall, review fieldwork highlighted a need for greater collaboration and communication between Police Officers and Prosecutors to enhance the Act provisions and the approach to domestic abuse more generally. Re-visiting a model of specialist domestic abuse Prosecutors may assist with this. Further development and embedding of the Prosecution Team approach should be actioned urgently, focusing on the issues highlighted in the report.

Trial and Court

Conditional bail and custody applications at Court were made appropriately in most cases. Due to the poor quality of Prosecutor Court records Inspectors were unable to evidence if the Section 15 aggravator was drawn to the Court's attention in half the cases. Improvements were also needed in the development of a clear and flexible case or trial strategy.

Records of sentencing outcomes did not appear to properly reflect the impact of the aggravators. Resource challenges within the Probation Board for Northern Ireland had reduced the capacity available for programmes for offenders convicted of intimate partner violence, but there was now an opportunity for those who were convicted of non-physical abuse to be managed under public protection arrangements.

Victim care

Inspectors found that Police Officers engaged effectively with victims in most cases but heard there were barriers to reporting from some groups. Referrals were made appropriately to support victims, but initial victim needs assessments needed to be better recorded and reviewed after initial response. This was particularly noted for special measures applications which were often not appropriately outlined in information sent to the Prosecutor. In more than half the cases where it would have been appropriate, video recorded interviews did not appear to have been considered. In just over two-thirds of prosecution files reviewed special measures were dealt with appropriately, although figures recording their use at Court continued to be low. Communication between criminal justice organisations and victims needed further improvement and victim personal statements were not available on the prosecution files. Victim advocates reported significant fear for victims about contact with the defendant and their supporters at Court.

Applications for civil legal aid under the provisions in Section 28 continued to be low, with the Department of Justice continuing to seek methods of enhancing solicitors, victims and support organisations awareness and reduce the barriers to applications.

Outcomes

Research undertaken on the public awareness campaigns showed a significant reach across television, radio, social media and digital platforms with positive feedback received about the campaigns and noticeable impact on perceptions about domestic abuse as a result.

Domestic abuse statistics published by the Police Service of Northern Ireland showed a continued increase in reported domestic abuse incidents and crimes, including those provided for in the Act. Police reported outcome rates for the Section 1 domestic abuse offence were positive in comparison to other crimes in a domestic context. Publication of police Section 15 aggravator data is recommended to further enhance transparency. Data collated by the Department of Justice in preparation for reporting in accordance with Section 34 of the Act suggested that there is further opportunity for the Section 1 domestic abuse offence and the child aggravators to be utilised in domestic abuse cases. Action is urgently required to improve recording of sentencing outcomes.

This review outlines the significant effort and focus applied by statutory and voluntary agencies in implementing the Act. If the intention of the legislation is to be fully realised, and implementation more effective, an important cultural change is required in adjusting to the use of the Section 1 domestic abuse offence to reflect a pattern of abusive behaviour in particular, as well as the need for greater focus on the impact of domestic abuse on children and their lived experiences.

RECOMMENDATIONS

STRATEGIC RECOMMENDATIONS

STRATEGIC RECOMMENDATION 1

The Police Service of Northern Ireland should work with the Education Authority and education providers to develop an information sharing protocol within nine months of the publication of this report. They should hold discussions with the Safeguarding Board for Northern Ireland about how Operation Encompass can support, and be supported by, wider child safeguarding practices.

(paragraph 3.32)

STRATEGIC RECOMMENDATION 2

The Police Service of Northern Ireland and the Public Prosecution Service for Northern Ireland should further develop and embed the Prosecution Team approach for cases involving domestic abuse, focusing on the issues highlighted in this review, within six months of the publication of this report. This should include re-visiting the concept of specialist domestic abuse Prosecutors.

(paragraph 4.51)

OPERATIONAL RECOMMENDATIONS

OPERATIONAL RECOMMENDATION 1

Within three months of the publication of this report, the Department of Justice should take steps to raise awareness of the statutory guidance across statutory and non-statutory sectors.

(paragraph 2.7)

OPERATIONAL RECOMMENDATION 2

Within three months of the publication of this report the Department of Justice should take steps to further promote participation in the 'Domestic Abuse - Context and Change' e-learning package.

(paragraph 2.24)

OPERATIONAL RECOMMENDATION 3

The Police Service of Northern Ireland should deliver further training to those working in contact management roles, within six months of the publication of this report, to improve:

- the quality of THRIVE assessments;
- the focus on children in domestic abuse cases; and
- the records of supervisory reviews of domestic abuse cases.

(paragraph 3.9)

OPERATIONAL RECOMMENDATION 4

Within six months of the publication of this report the Police Service of Northern Ireland should assess how effectively the Year Two training has improved the response to children in domestic abuse cases and take action to address any further learning needs identified. Quality assurance processes to reinforce the training should include a focus on the quality of information recorded by Police Staff, Officers and Supervisors.

(paragraph 3.23)

OPERATIONAL RECOMMENDATION 5

Action should be taken by the Police Service of Northern Ireland and the Public Prosecution Service for Northern Ireland, within six months of the publication of this report, to ensure that the Section 15 domestic abuse aggravator is applied to every relevant charge, with information technology and quality assurance systems that reinforce this approach.

(paragraph 3.27)

OPERATIONAL RECOMMENDATION 6

Within six months of the publication of this report, the Department of Justice should review the relevant sections of the Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021 with a view to introducing a presumption of a personal connection, allowing for this be challenged by the defence in appropriate circumstances.

(paragraph 4.16)

OPERATIONAL RECOMMENDATION 7

Within three months of the publication of this report the Public Prosecution Service for Northern Ireland policy and guidance should clarify and direct the use of cautions in domestic abuse cases in rare circumstances only, with a requirement for a detailed record of reasoning and rationale if they are used. Quality assurance processes for domestic abuse cases should include an analysis of the quantity and quality of cautions directed by Prosecutors, particularly where a Section 1 domestic abuse offence has been directed in the first instance.

(paragraph 4.42)

OPERATIONAL RECOMMENDATION 8

As required by Section 34 of the Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021, the Police Service of Northern Ireland should produce data on offences alleged to be aggravated by domestic abuse as referred to in Section 15. Within six months of the publication of this report plans should be developed as to how this data can be published at regular time intervals.

(paragraph 7.18)

OPERATIONAL RECOMMENDATION 9

Within three months of the publication of this report, the Northern Ireland Courts and Tribunals Service should, in conjunction with its partners across the Courts, review and take action to ensure accurate, complete and consistent recording of Domestic Abuse - Sentence Enhanced and Domestic Abuse - Sentence Not Enhanced outcomes.

(paragraph 7.26)

CHAPTER 1: INTRODUCTION

THE DOMESTIC ABUSE AND CIVIL PROCEEDINGS ACT (NORTHERN IRELAND) 2021

- 1.1 On 31 March 2020 the Minister of Justice, Naomi Long Member of the Local Assembly, introduced the Domestic Abuse and Family Proceedings Bill 2020 to the Northern Ireland Assembly. After a period of extensive consultation with agencies and stakeholders and scrutiny by the Justice Committee the Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021 (the Act) received Royal Assent on 1 March 2021. On 21 February 2022 the Minister announced the commencement of the Act provisions.² The Act created a course of conduct offence and sentencing aggravation concerning domestic abuse and made rules as to procedure and giving evidence in criminal cases involving domestic abuse; regulated the conduct of civil proceedings in particular circumstances; and made provision for connected purposes.³
- 1.2 The Minister noted: *‘Protection is no longer limited to physical abuse, with the legislation criminalising a pattern of non-physical abusive behaviour. The new domestic offence will cover behaviour that is controlling or coercive or that amounts to psychological, emotional or financial abuse of another person. Abusive behaviour may also include sexual abuse and technological or digital abuse. It will capture patterns of two or more occasions of physical and/or psychological abuse by a partner, ex-partner or close family member and will include behaviour that is physically violent, threatening or intimidating.’*⁴
- 1.3 Prior to the introduction of the Act there was no offence that sufficiently captured patterns of abusive non-violent behaviour within intimate relationships. Previously behaviours which are known to be part of domestic abuse were captured by either stand-alone individual offences, such as criminal damage, common assault and improper use of a public communications network,⁵ or the prosecution of a course of conduct amounting to harassment. There was therefore no specific offence of domestic abuse outlining that coercive or controlling behaviour in an intimate relationship was a criminal offence. Standalone offences did not sufficiently reflect the impact of the course of abusive behaviour, so common in domestic abuse cases.

² See <http://www.niassembly.gov.uk/assembly-business/official-report/written-ministerial-statements-2017-2022/departments-of-justice---commencement-of-provisions-in-the-domestic-abuse-and-civil-proceedings-act-northern-ireland-2021--new-domestic-abuse-offence/>.

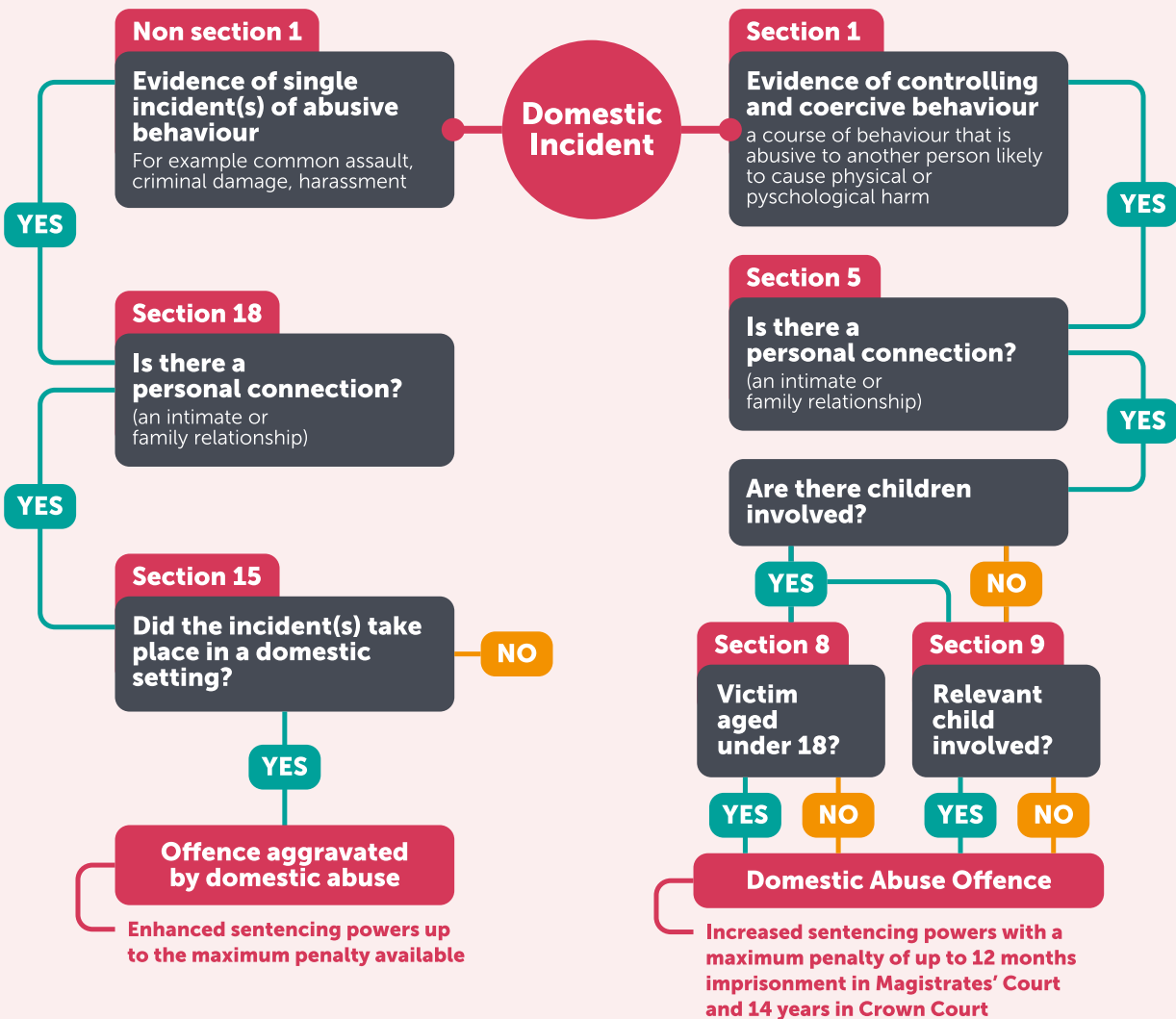
³ See <https://www.legislation.gov.uk/nia/2021/2/contents>

⁴ DoJ, New domestic abuse offence comes into force – Long, 21 February 2022 available at <https://www.justice-ni.gov.uk/news/new-domestic-abuse-offence-comes-force-long>.

⁵ See Section 127 of the Communications Act 2003 which includes the offence of improper use of the public communications network for the purpose of causing annoyance, inconvenience or needless anxiety to another available at <https://www.legislation.gov.uk/ukpga/2003/21/section/127>.

1.4 The key sections of the Act are contained in Figure 1. Section 1 of the Act created an offence where a perpetrator engaged in a course of behaviour which was likely to cause physical or psychological harm to a victim to whom they were personally connected. Reflecting the seriousness of domestic abuse, the maximum penalty for the offence was up to 12 months imprisonment in the Magistrates' Court and up to 14 years imprisonment in the Crown Court. The Act also provided for aggravators to the domestic abuse offence relating to a child victim under 18 (except in cases of exercising parental responsibility) (Section 8) or where a child was present or heard the abuse or was also a victim of the abuse or was used to direct abuse at the victim (a 'relevant child') (Section 9). Section 15 also provided for a sentencing aggravator where offences other than the domestic abuse offence were proven, providing potential for increased sentencing up to the maximum available.

Figure 1: Summary of the key Sections of the Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021



- 1.5 The Department of Justice (DoJ) statutory guidance⁶ sets out what the domestic abuse offence is and what abusive behaviour is as follows:

Are the domestic abuse offence conditions met?

- A course of abusive behaviour;
- two or more occasions;
- individuals personally connected – intimate (including previous) relationship, partner, former partner or close family members;
- reasonable person would consider the behaviour likely to cause physical and/or psychological harm (including fear, alarm and distress);
- the accused intends to cause harm or is reckless as to this; and
- harm does not have to be caused.

Abusive behaviour

- Behaviour (including towards others) that would have the effect of:
 - making the victim dependent on the abuser;
 - isolating them from friends, family members or other sources of social interaction or support;
 - controlling, regulating or monitoring their day to day activities;
 - depriving or restricting their freedom of action; or
 - making them feel frightened, humiliated, degraded, punished or intimidated.
- violent behaviour (includes both physical and sexual); or
- threatening behaviour.

This is not an exhaustive list.

Abusive behaviour could include (but is not limited to) coercive control, psychological/emotional abuse, physical abuse, sexual abuse, economic abuse as well as online and technological abuse.

- 1.6 In addition to the domestic abuse offence and associated aggravators, the Act included Sections providing changes to special measures arrangements, protective measures for victims of domestic abuse, information-sharing between police and education providers (primarily schools) (Operation Encompass) and arrangements to provide civil legal aid for victims of domestic abuse.

⁶ DoJ, *Abusive Behaviour in an intimate or family relationship - Domestic Abuse Offence - Statutory Guidance*, March 2022 available at <https://www.justice-ni.gov.uk/publications/abusive-behaviour-intimate-or-family-relationship-domestic-abuse-offence-statutory-guidance>.

CRIMES OF DOMESTIC ABUSE ACROSS THE UNITED KINGDOM

- 1.7 The creation of an offence to address a course of conduct of abusive behaviour brought Northern Ireland in line with other parts of the United Kingdom (UK) which already had legislation to this effect. In England and Wales Section 76 of the Serious Crime Act 2015⁷ provided for the offence of controlling or coercive behaviour, where the perpetrator and the victim were 'personally connected.' Under this legislation personally connected meant intimate partners, or former intimate partners or family members who live together. This offence was therefore limited to those who were co-habiting and focused on coercive and controlling behaviour rather than a course of abusive behaviour. In January 2024 the Home Office published a policy paper⁸ proposing an amendment to the legislation to remove the co-habitation requirement, ensuring that post-separation abuse and familial domestic abuse would be provided for when the victim and perpetrator do not live together.
- 1.8 The Act in Northern Ireland was based more on the legislation developed in Scotland, including both a domestic abuse offence but also domestic abuse aggravators. The Domestic Abuse (Scotland) Act 2018 came into force on 1 April 2019, creating a new statutory offence of engaging in a course of behaviour which is abusive of a partner or ex-partner. In September 2023 official statistics on domestic abuse and stalking charges in Scotland for 2022-23 were published by the Crown Office and Procurator Fiscal Service.⁹ This reported that in 2022-23, 1,753 charges were reported under Domestic Abuse (Scotland) Act 2018, accounting for 5.8% of the 30,139 domestic abuse charges reported.
- 1.9 Section 5 of the Domestic Abuse (Scotland) Act 2018 related to 'aggravation in relation to a child'.¹⁰ This is broadly similar to the Section 9 relevant child aggravator in Northern Ireland. The Crown Office and Procurator Fiscal Service reported that, in Scotland, in 2022-23 a statutory child aggravation under Section 5 was recorded against 350 (20%) of the Domestic Abuse (Scotland) Act 2018 charges reported.
- 1.10 In Scotland, Section 1 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016 introduced a provision for aggravation of an offence which involved the abuse of a partner or ex-partner.¹¹ The Section 15 aggravator introduced by the Act in Northern Ireland was therefore similar, although it was wider in scope including other family members. The Crown Office and Procurator Fiscal Service

7 See <https://www.legislation.gov.uk/ukpga/2015/9/section/76/enacted>.

8 Home Office, Policy paper: Amendment to the controlling or coercive behaviour offence, January 2024 available at <https://www.gov.uk/government/publications/domestic-abuse-bill-2020-factsheets/amendment-to-the-controlling-or-coercive-behaviour-offence#:~:text=Section%2076%20of%20the%20Serious,family%20members%20who%20live%20together>.

9 Crown Office & Procurator Fiscal Service, Domestic Abuse and Stalking charges in Scotland, 2022-23: An Official Statistics publication for Scotland, September 2023 available at <https://www.copfs.gov.uk/about-copfs/news/domestic-abuse-and-stalking-charges-in-scotland-2022-23/#:~:text=In%202022%2D23%2C%2030%2C139%20charges,of%20charges%20in%202022%2D23>.

10 See [https://www.legislation.gov.uk/asp/2018/5/section/5#:~:text=5Aggravation%20in%20relation%20to%20a%20child&text=\(b\)A%20makes%20use%20of,of%20the%20course%20of%20behaviour](https://www.legislation.gov.uk/asp/2018/5/section/5#:~:text=5Aggravation%20in%20relation%20to%20a%20child&text=(b)A%20makes%20use%20of,of%20the%20course%20of%20behaviour).

11 See <https://www.legislation.gov.uk/asp/2016/22/contents/enacted>.

statistical publication reported that, in Scotland, in 2022-23, 24,787 charges were reported with a statutory aggravation under the Abusive Behaviour and Sexual Harm (Scotland) Act 2016, accounting for 82% of all domestic abuse charges reported. This was reported to be a slight increase in comparison with 80% in 2021-22. The publication noted however that since 2019-20, some charges which might previously have been reported with a statutory aggravation may instead have been reported under Section 1 of the Domestic Abuse (Scotland) Act 2018.

REVIEW OF PART 1 OF THE DOMESTIC ABUSE AND CIVIL PROCEEDINGS ACT (NORTHERN IRELAND) 2021

- 1.11 Since its establishment in 2004, Criminal Justice Inspection Northern Ireland (CJI) has maintained a focus on the criminal justice system's approach to domestic abuse with inspection reports published in 2010 and 2019 and follow-up reviews published in 2013 and 2021.¹² Other inspection reports have also considered the issue of domestic abuse in wider inspection themes such as the treatment of victims and witnesses, the approach to victims of sexual violence and abuse, adult safeguarding, probation practice, child protection and the criminal justice approach to vulnerable older people.
- 1.12 Section 33 of the Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021 outlined the independent oversight of Part 1 of the Act. Section 33(1) required the DoJ to *'appoint a person (a) to (i) report to the Department on the person's assessment of the effectiveness of this Part, and (ii) make recommendations to the Department in relation to the operation of this Part, and (b) to advise, and make recommendations to the Department on the content and review of guidance under Section 30.'* Section 33(2) noted that this report must be completed within two years of the Act coming into operation and annually thereafter for seven years (Section 33(6)).
- 1.13 In September 2021, the Minister of Justice asked the Chief Inspector of Criminal Justice in Northern Ireland to undertake the independent oversight role provided for in Section 33 of the Act. CJI were requested to provide a report to the DoJ by February 2024 on the effectiveness of Part 1 of the Act and make recommendations in relation to its operation. This was to include the provisions in Part 1 relating to civil legal aid, which are usually outside the remit of CJI. The Minister requested that CJI report on this matter as part of the requirement to report on Part 1 of the Act more generally.
- 1.14 This review therefore aimed to examine the effectiveness of the implementation and operationalisation of the Act since its commencement. The full methodology for this review is contained in Appendix 1 and the Terms of Reference for the review in Appendix 2.

¹² See reports and follow-up reviews available on CJI's website www.cjini.org.

- 1.15 The DoJ, Police Service of Northern Ireland (Police Service), Public Prosecution Service for Northern Ireland (PPS) and the Northern Ireland Courts and Tribunals Service (NICTS) were requested to complete a self-assessment against CJI's inspection framework (strategy and governance, delivery and outcomes) at the start of this review. Supporting documentation was provided to evidence the self-assessment. Fieldwork included interviews with stakeholders from community and voluntary organisations who represented, supported or provided services to victims of domestic abuse and to victims of crime more generally, these included Victim Support NI, Women's Aid Federation, Men's Advisory Project, ASSIST NI, the National Society for the Prevention of Cruelty to Children (NSPCC), Hourglass NI and the Commissioner Designate for Victims of Crime in Northern Ireland. Meetings with representatives of the criminal justice organisations were also conducted including from the DoJ, the Police Service, the PPS, the NICTS and the Probation Board for Northern Ireland (PBNi). In addition, Inspectors met with the Judiciary and those involved in the pilot and roll-out of Operation Encompass from the Education Authority and the South Eastern Health and Social Care Trust.
- 1.16 Two case file reviews were conducted during the fieldwork; one of a sample of Police Service investigation files and one of a sample of PPS prosecution files with support from Associate Inspectors from His Majesty's Inspectorate of Constabulary and Fire & Rescue Services (HMICFRS) and His Majesty's Crown Prosecution Service Inspectorate (HMCPSI) respectively. To capture cases that included the new domestic abuse offence and other offences which may be aggravated by domestic abuse (for example assaults, harassment, criminal damage), Inspectors selected a range of crimes and prosecution files which had been flagged by the Police Service and/or PPS as occurring in a domestic context. Further details on the case file reviews, including the types of cases, victim and suspect/defendant background characteristics and outcomes can be found in Appendix 3.
- 1.17 The police file review examined 70 case files which included cases containing either the domestic abuse offence on its own, the domestic abuse offence and other offences which occurred in a domestic context (and therefore were potentially eligible to have the Section 15 aggravator applied) and other common law offences on their own. The common law offences included offences such as assault occasioning actual bodily harm, common assault, harassment, breach of a Non-Molestation Order and theft. A methodology was developed specifically for this review based on HMICFRS's Police Effectiveness, Efficiency and Legitimacy (PEEL) inspections and other inspections on the theme of protecting vulnerable people. The question set covered the life of the case from first response, safeguarding, investigation and victim care. The cases had all been reported to the Police Service between 1 June and 30 August 2023.
- 1.18 Data analysis was undertaken for both file reviews and assessed with other findings from the fieldwork for this review and other sources of evidence, for example from previous CJI inspection reports. Where relevant, data from the case file reviews

has been highlighted in this report to give an indication of the effectiveness of the application of Part 1 of the Act. Where percentages do not add to 100% this is due to rounding errors.

- 1.19 In undertaking the police file review, Inspectors were unable to fully access the Police Service control management system (ControlWorks) or listen to the calls. This meant Inspectors could not fully ascertain how call handlers were engaging with callers, utilising information gained from searches on police systems to inform and direct Officers when attending incidents or if they were offering appropriate safeguarding and forensic preservation advice. Assessments in relation to call handling and contact management (see Chapter 3) have therefore been made based on what was recorded on the ControlWorks system and information transferred to the NICHE Records Management System.
- 1.20 In most cases in the police file review the gender of the suspect was male (77%, 54 cases) and the highest volume of cases (30%, 21 cases) involved a suspect aged between 30 and 39 years of age. In 90% of cases (63) the suspect was an adult. In 96% of cases (67) the complainant was also an adult. In 67% of cases (47) the relationship between the complainant and the suspect was current or former partners.
- 1.21 The prosecution case file review examined 96 prosecution files encompassing cases flagged as being in a domestic context. In two files there were two defendants who perpetrated domestic abuse on a person to whom they were personally connected. The decisions made in relation to each of these defendants were therefore reviewed and recorded as separate case files. The total number of cases reviewed was therefore 98. All the case files were either completed (a no prosecution decision had been made or the case had been prosecuted and concluded at Court) or 'live' (a decision had been made to prosecute but the case had not yet concluded). All these cases were current or completed within 1 April to 30 September 2023. A mixture of offences was included to capture the new Section 1 domestic abuse offence either in isolation (8%, eight cases) or combined with other offences (40%, 39 cases). Also, cases were included that related to offences not identified as the Section 1 domestic abuse offence but likely to attract the Section 15 aggravators that could lead to an enhanced sentence on conviction (52%, 51 cases). Of these, the main charge in the file was an assault in 44 cases (49%), criminal damage in 14 cases (16%), harassment in 11 (12%) and sexual offences in eight (9%) with the remainder of the 13 cases relating to a range of other offences.
- 1.22 The methodology was also developed specifically for this review but based on that used by HMCPSP to inspect domestic abuse cases prosecuted by the Crown Prosecution Service in England and Wales. The questions were focused on the work of the prosecution as it related to domestic offences including identification and application of the legislative provisions, evidential sufficiency, decision-making, trial and Court preparation and presentation and victim care.

CHAPTER 2: PREPARATION FOR IMPLEMENTATION OF THE DOMESTIC ABUSE AND CIVIL PROCEEDINGS ACT (NORTHERN IRELAND) 2021 ('THE ACT')

STRATEGY AND ACTION PLANS

- 2.1 The Seven Year Strategy *'Stopping Domestic and Sexual Violence and Abuse in Northern Ireland'* was published by the DoJ and Department of Health, Social Services and Public Safety (now the Department of Health; DoH) in March 2016.¹³ The Year One Implementation Plan included an action to *'Consult on the need for changes in practice and legislative provisions for initiatives, including, a Domestic Violence Disclosure Scheme and a Domestic Abuse Offence and develop proposals for the way forward.'*¹⁴ This action was progressed through the lifetime of the Strategy.
- 2.2 In February 2023 the DoJ and DoH published a consultation on the new draft Domestic and Sexual Violence Strategy for 2023-2030.¹⁵ The 'What we have done so far' section noted the introduction of the Act and the delivery of the associated training package and awareness raising campaigns. Several stakeholder organisations commented that the new Act should feature in the new Strategy in relation to ongoing work required in this area. In addition, although stakeholders were positive about the emphasis placed on children in the legislation, they believed that there needed to be a broader focus on the impact of domestic abuse on children reflected in wider strategy and training. In response to this consultee feedback, provided to the DoJ and DoH, Inspectors were advised that it is intended to include a specific pillar of the new Strategy focused on children. This is a welcome addition.

THE LEGISLATIVE PROCESS

- 2.3 All those spoken to from stakeholder organisations and the criminal justice system welcomed the introduction of the Act to highlight the impact of domestic abuse and make it a priority. Those involved in the fieldwork were also positive about the Act filling 'gaps' in existing legislative options which insufficiently covered psychological and emotional abuse and recognising coercive or controlling behaviour as a criminal offence.

13 DoJ and DoH, *Stopping Domestic and Sexual Violence and Abuse in Northern Ireland: A Seven Year Strategy*, March 2016 available at <https://www.justice-ni.gov.uk/sites/default/files/publications/doj/stopping-domestic-sexual-violence-ni.pdf>.

14 DoJ and DoH, *Stopping Domestic and Sexual Violence and Abuse in Northern Ireland: Year One Implementation Plan*, May 2016 available at <https://www.justice-ni.gov.uk/sites/default/files/publications/justice/dsva-strategy-year-one%20implementation-plan-updated-1-may-2016.pdf>.

15 DoJ and DoH, *draft Domestic and Sexual Violence and Abuse Strategy 2023-2030*, February 2023 available at <https://www.justice-ni.gov.uk/sites/default/files/consultations/justice/dsa-strategy.PDF>.

- 2.4 There was a period of extensive consultation by both the DoJ and the Committee for Justice at the drafting and scrutiny stages and both stakeholders and criminal justice agencies felt that there had been significant attempts to engage with organisations, hear from a range of perspectives and ensure the legislation was fit for purpose. Although some stakeholders raised ongoing issues they did not feel were sufficiently addressed in the Act, such as provisions for emergency accommodation, a specific domestic abuse commissioner and funding for victims' services, there was recognition that the key aims of the proposed legislation had been met with its enactment.
- 2.5 In addition to the Act itself, the DoJ published statutory guidance in March 2022.¹⁶ The statutory guidance was extensive and set out what domestic abuse is; the domestic abuse offence; the aggravation of the offences through the child and domestic abuse aggravators; the police response; victims and the impact on children and young people; support for victims engaging in criminal proceedings; Courts and sentencing; other agency involvement and other legal remedies (such as Non-Molestation Orders and Occupation Orders). This appears to be in line with statutory guidance for similar offences in Northern Ireland and in other jurisdictions, such as that for stalking in Northern Ireland¹⁷ or domestic abuse or coercive or controlling behaviour in England and Wales.¹⁸
- 2.6 The statutory guidance included useful information on potential sources of evidence to establish a course of behaviour, evidence that could be obtained other than the victim statement, demographic factors and personal characteristics regarding the prevalence of domestic abuse and barriers to reporting as well as additional risk factors and the impact on children and young people. The key role of statutory and non-statutory organisations that help to prevent and identify victims of abuse and provide services to them, including education, health and social care, housing, employers and the voluntary sector was highlighted.
- 2.7 Awareness of the statutory guidance among voluntary and community organisations was limited, with the exception of those who had assisted in drafting it. In addition to reporting an increase in calls to the Domestic and Sexual Abuse Helpline, Nexus reported receiving calls from professionals seeking advice on the legislation who could have benefited from awareness of the guidance. Similarly, nearly all those spoken to within the criminal justice agencies at an operational level were unaware of the existence of the guidance or how they could use it. Considering the extensive nature of this guidance, and the significant work undertaken to develop it, Inspectors were disappointed that there was not greater awareness, and therefore use of, the statutory guidance particularly by those working in this area.

16 DoJ, *Abusive Behaviour in an intimate or family relationship - Domestic Abuse Offence - Statutory Guidance*, March 2022 available at <https://www.justice-ni.gov.uk/publications/abusive-behaviour-intimate-or-family-relationship-domestic-abuse-offence-statutory-guidance>.

17 DoJ, *Stalking Offence Statutory Guidance*, October 2022 available at <https://www.justice-ni.gov.uk/publications/stalking-offence-statutory-guidance>.

18 Home Office, *Controlling or Coercive Behaviour: Statutory Guidance Framework*, April 2022 available at https://assets.publishing.service.gov.uk/media/626cfcdb3bf7f0e7947f3a4/MASTER_ENGLISH_-_Draft_Controlling_or_Coercive_Behaviour_Statutory_Guidance.pdf.

OPERATIONAL RECOMMENDATION 1

Within three months of the publication of this report, the Department of Justice should take steps to raise awareness of the statutory guidance across statutory and non-statutory sectors.

PLANNING FOR IMPLEMENTATION

- 2.8 Reviewed organisations provided Inspectors with documentation relating to the planning stages for legislation implementation. This included details of the governance arrangements, project plan, risk register, discussion papers and minutes from the Domestic Abuse Offence Operationalisation Forum, documents relating to the various task and finish groups and post-project review documents. The Domestic Abuse Offence Operationalisation Forum included representation at a senior level across the DoJ and criminal justice agencies to oversee the workstreams which would ensure effective delivery at the point of Act implementation. There were six workstreams for the project (awareness; training; operational processes and information technology (IT) requirements; operational impact; reporting requirements and secondary legislation), as well as a separate legal aid project, which were the focus and work of five DoJ-led sub-groups or task and finish groups. There were also linkages with the Multi-Agency Risk Assessment Conference (MARAC) and Public Protection Arrangements in Northern Ireland (PPANI) Boards.
- 2.9 In addition, criminal justice agencies used their own internal governance structures and progress update reporting to ensure that internal milestones were being achieved to support overall delivery. There was co-ordination between Senior Responsible Officers and those working in IT, policy, training, operational delivery and communications as appropriate. The implementation group, chaired by the DoJ, brought together the Causeway Team, the Police Service, PPS, NICTS and the PBNi to ensure that appropriate IT systems were in place to facilitate end to end messaging from report to Court.
- 2.10 Inspectors heard positive feedback on implementation governance and project management processes, both from within the criminal justice organisations and from the voluntary and community sector. Some interviewees commented that this experience was an example of good practice, which should be replicated in the future. Positive feedback was also received on the commitment from senior leaders in the criminal justice system and the partnership working between organisations.

- 2.11 Those within criminal justice and stakeholder organisations contrasted the focus and thorough approach to this legislation to the introduction of the Protection from Stalking Act (Northern Ireland) in April 2022 and non-fatal strangulation offence within the Justice (Sexual Offences and Trafficking Victims) Act (Northern Ireland) 2022 in June 2022. It was felt these two offences were introduced in a much quicker timescale without the preparatory period for training and guidance. Operational staff within the criminal justice agencies, while welcoming additional legislation to deal with this serious offending, felt that there had been a significant amount of legislation to become familiar with in a short period of time.
- 2.12 The Council of Europe *Convention on preventing and combating violence against women and domestic violence* (the Istanbul Convention) emphasises the importance of resources in ensuring policies are implemented to prevent domestic violence. Article 8 sets out the expectation on financial resources, noting that '*Parties shall allocate appropriate financial and human resources for the adequate implementation of integrated policies, measures and programmes to prevent and combat all forms of violence covered by the scope of this Convention, including those carried out by non-governmental organisations and civil society.*'¹⁹
- 2.13 The most significant issue highlighted in relation to Act implementation from all involved was the lack of additional resources. In March 2020 the Minister of Justice wrote to the then Chief Constable, the Director of Public Prosecutions and the Director of the NICTS to confirm that where the introduction of a new offence incurred increased operational costs it was expected that these would be met within existing operational budgets. The Minister also acknowledged that there were likely to be increased operational costs associated with investigating, prosecuting and administering the new offence but noted that there were likely to be reductions in the costs associated with taking other offences forward, where these were progressed under the new offence.
- 2.14 As will be outlined in this report, the evidence shows that the new offence is frequently being used in addition to, rather than instead of, other offences. It was projected, based on the experience of Police Scotland following the introduction of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016,²⁰ that in year one the case numbers would increase between 3% and 4% and the actual figure in Northern Ireland was 4%. Although the Act was not projected to increase the number of cases significantly, organisations felt that the lack of supplementary resources did not sufficiently recognise the significant additional costs of staff training, awareness raising campaigns and staff resources required for implementation. It is difficult to quantify implementation costs although the Police Service had predicted their expenditure for staff resources, training and software development for the Act to be around £1 million in year one and then just under £500,000 in years two and three.

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

20 See <https://www.legislation.gov.uk/asp/2016/22/contents/enacted>.

In addition, those spoken to described the impact on other delivery objectives within organisations. These included, for example, other required updates to IT systems being delayed, training plans having to be reprioritised and senior and operational leads absorbing additional tasks associated with implementation in their daily workloads.

- 2.15 On conclusion of Act implementation, the Police Service facilitated a formal debrief session to highlight what had worked well, what the challenges had been and further areas for improvement. This was the first time that a formal debrief of this nature was ever used across criminal justice organisations. CJI welcome this approach.

RAISING PUBLIC AWARENESS

- 2.16 Public messaging about the introduction of the new domestic abuse offence was an important element of the preparation for implementation, with awareness raising forming one of the six workstreams of the Domestic Abuse Operationalisation Forum. The aims of the awareness raising campaign were firstly to inform the public about the introduction of a new domestic abuse offence which would criminalise a course of abusive behaviour including both physical and non-physical abusive behaviours (including controlling or coercive behaviour); and secondly, to continue to raise awareness of domestic abuse more generally. A Task and Finish Group was established to cover awareness raising and training and an advertising agency was contracted to develop and deliver a campaign. The budget for the campaign across 2021-22 and 2022-23 was approximately £530,000.
- 2.17 The multi-media advertising campaign #StillAbuse was launched in February 2022 and included coverage across television, radio, online and outdoor imaging. This included a number of videos which were also available on YouTube and on nidirect.²¹ Voluntary sector partners including the Women's Aid Federation, Men's Advisory Project, the NSPCC and the Rainbow Project were involved in the development of the media campaign, contributing to concepts and scenarios which aimed to portray a range of diverse backgrounds. These featured victims from across a range of diverse groups demonstrating that domestic abuse could be perpetrated against anyone including women and men, younger and older people, people with a disability and those in same-sex relationships. A review was conducted by the advertising agency following the campaigns to assess their effectiveness (see Chapter 7).
- 2.18 Inspectors heard positive feedback about the awareness raising campaign, but it was emphasised that this could not be a 'one-off' and that more needed to be done with sustained efforts to reinforce the messages. It was also highlighted that campaigns needed to ensure that those from diverse backgrounds or where

21 See <https://www.nidirect.gov.uk/still-abuse>.

intersectionality is relevant are sufficiently reflected to ensure there are efforts to overcome barriers to reporting. Inspectors were told that one positive impact of the campaigns was that the terminology of 'coercive control' was reflected in what victims said to voluntary and community organisations when reporting domestic abuse. This increased awareness was reported as more apparent in younger people, however Inspectors heard that awareness in older people remained lower. It was also reported that there had been an increase in calls to the Domestic and Sexual Abuse Helpline from men seeking support and advice regarding coercive or controlling behaviour and that the overarching message that domestic abuse could happen to anyone was permeating into societal understanding.

2.19 In addition, a two-page factsheet was produced, along with a public facing online tool called DAART (Domestic Abuse Awareness Raising Tool) NI, a learning resource for professionals and anyone else with an interest.²² DAART NI aimed to serve as an introduction to abusive, controlling or coercive behaviours and provided an overview of the main considerations when identifying and responding to domestic abuse across four sections. At the time of the self-assessment for this review the DoJ advised that 5,502 people had accessed DAART NI.

2.20 An animation entitled 'Coercive Control - where is the line?' commissioned by Ards and North Down Policing and Community Safety Partnership (PCSP) and supported by Ards and North Down Borough Council, North Down and Ards Women's Aid and the South Eastern Sexual and Domestic Violence Partnership was released in May 2021.²³ This was aimed at young people aged 14 years and above and highlighted the key aspects of coercive or controlling behaviour in a relationship. The animation was available on YouTube and shared across social media channels.

2.21 Across the criminal justice system and through the voluntary and community sector significant additional efforts were also taken to raise awareness of the new domestic abuse offence. The Police Service used various partnerships to promote awareness, including through PCSPs, community groups and multi-agency forums, presentations to partner agencies, the Police Service's social media accounts and through a specifically developed police animation. The PPS utilised various stakeholder engagement events to further raise awareness of the legislation, for example at a Bar Library domestic abuse event, the Franco-British Legal Society Conference, a Women's Aid Conference and PCSP conferences. Overall, there has been a significant investment in public awareness raising which was welcomed by stakeholders. Formal evaluation was undertaken about the impact of awareness raising activities as outlined in Chapter 7.

22 See <https://www.daart-ni.co.uk/#/>.

23 See https://www.youtube.com/watch?v=u2lmOpOXs2M&list=PLLNmXzyKI-zyqIW31IALs-OnfHZ_JB9JQ&index=4.

TRAINING DEVELOPMENT AND DELIVERY

- 2.22 Section 32 of the Act required training to be provided by the relevant bodies specified in the Act on an annual basis. In addition, Section 32 required the DoJ to publish a training statement setting out information about the level of participation in training on the domestic abuse offence. A training statement was published for the first time in September 2023.²⁴ This included details of training developed and undertaken by the DoJ and associated agencies. Inspectors sought information from the inspected agencies on training during the self-assessment process and further explored the participation in and impact of this during fieldwork in interviews and focus groups.
- 2.23 The 'Domestic Abuse - Context and Change' e-learning package was developed by the DoJ in partnership with the criminal justice system organisations and the voluntary and community sector. The course was intended to enable learners to recognise and identify domestic abuse in all its forms and educate them on how to respond appropriately, including when and where to signpost victims to the specialist support they need. It included four modules covering: prevalence; legislation; impact; and pathways to support. It was hosted on the Northern Ireland Civil Service (NICS) e-learning portal and made available to all NICS Departments, associated bodies and a wide range of statutory and non-statutory organisations including health and social care, housing and education providers, legal representatives and voluntary sector bodies. Package development was led by expert partners in the voluntary sector to ensure relevant subject matter expertise. Positive feedback was received from organisations spoken to during the fieldwork for this review on the training package. Inspectors also found the package to be effective and engaging.
- 2.24 At the time of the self-assessment for this review 1,946 people had completed the package. The NICS alone employs around 22,000 staff and therefore this figure represents a very low completion rate in proportion to the potential participant numbers. There remains work to be done therefore to encourage greater understanding and awareness across the statutory sector. The NICS is one of the largest employers in Northern Ireland, staff may not only come into contact with victims of domestic abuse in the course of their work but they, or their family or friends, may be experiencing domestic abuse in their own homes. Awareness raising across the NICS workforce would assist in increasing societal awareness about the nature and signs of domestic abuse and how to seek support. A significant number of staff across the NICS and its agencies work in front-line public facing roles where victims may be more likely to disclose domestic abuse in the context of seeking public services. The NICS was a signatory of the White Ribbon campaign and had achieved Onus Gold Workplace Charter status, signalling an ongoing pledge to tackle domestic abuse, take a zero-tolerance

²⁴ DoJ, *Training statement for the domestic abuse offence, September 2023* available at <https://www.justice-ni.gov.uk/publications/training-statement-domestic-abuse-offence>.

approach to it as a crime and raise awareness of it as an issue.²⁵ A greater uptake in the e-learning package would therefore assist in achieving those aims.

OPERATIONAL RECOMMENDATION 2

Within three months of the publication of this report, the Department of Justice should take steps to further promote participation in the 'Domestic Abuse - Context and Change' e-learning package.

- 2.25 For year one training the Police Service developed a four-module online learning package for all Officers and police staff members. At fieldwork stage over 6,000 Police Officers and staff had completed training in recognising coercive or controlling behaviour, a significant proportion of the Police Service workforce. The four modules covered understanding coercive control; legislative provisions; impact of domestic abuse; and pathways to support. The development of the online package was led by police policy holders, the Police Training College and voluntary partners (including the Women's Aid Federation NI, the Men's Advisory Project and The Rainbow Project) to ensure that this provided victim and survivor voices and lived experience. The PPS was also involved in module two, which focused on the legislation and agreed charging standards which resulted in bespoke documents being created for the Police Service Occurrence and Case Management Units and Custody Officers. The online nature of the training was, in large part, due to the public health restrictions imposed by the COVID-19 pandemic but also made it possible to deliver the training to a significant number of Officers and staff, which would not have been achievable had the training been face-to-face.
- 2.26 Internal guidance was also developed by the Police Service alongside the DoJ statutory guidance. Decision trees and scenarios were used to support Officers in the decision-making process. The guidance was further supported by bespoke materials for certain areas of business (for example custody) and a number of online products to allow for operationalisation and practical application. Inspectors were impressed by the significant amount and quality of material provided.
- 2.27 Due to the gap between the training roll-out (prior to Act commencement) and the focus groups for this review, some Officers found it difficult to recall how effective the training was. Some Officers reported a positive experience but there was general agreement on a need for further training on the domestic abuse offence itself, how the offence could be evidenced and on the child aggravators (Section 8 and Section 9 of the Act). Several Officers commented that they would like to

25 In December 2023 the NICS renewed its commitment to the White Ribbon campaign, a global movement to end male violence against women. Onus is a social enterprise which supports organisations to implement a Workplace Charter on Domestic Violence, a bespoke accreditation scheme, to enable organisations, businesses, churches, schools and communities, to be recognised for their support to anyone affected by domestic violence or abuse and become a 'safe place' for victims of domestic abuse. See Department of Finance, Civil Service renews commitment to White Ribbon NI and retains Onus Gold Workplace Charter on domestic violence, December 2023 available at <https://www.finance-ni.gov.uk/news/civil-service-renews-commitment-white-ribbon-ni-and-retains-onus-gold-workplace-charter-domestic>.

receive refresher training in a face-to-face setting to enable discussion on issues and questions. By draft report stage the Police Service had commenced in-person refresher training delivered by District Trainers and this is likely to be welcomed. In addition, Inspectors were advised that 250 Domestic Abuse Champions had previously been appointed across Local Policing Teams but there was an almost complete lack of awareness of who these individuals were or their role, which is disappointing. The Police Service advised that plans were in place to further develop the role of Domestic Abuse Champions in 2024. Inspectors will be keen to see the impact of this during the next review.

2.28 The PPS had entered into a three-year training partnership with Women's Aid. Two training packages had been developed for staff; one as a five-module programme developed and delivered by Women's Aid focusing on domestic abuse and coercive or controlling behaviour and one developed by the PPS Policy Leads on the legal considerations and decision-making in relation to the new Act. Again, due to COVID-19 public health restrictions, these were delivered by webinar. The providers of the domestic abuse and coercive or controlling behaviour course delivered a two-module webinar to 142 PPS staff (Modules 1: understanding domestic abuse; Module 2: recognising coercive or controlling behaviour) and 93 staff undertook an additional full day's training including evidencing domestic abuse and coercive behaviour; perpetrator and victim typologies; and victim attrition and evidence led prosecutions. Post-learning evaluation on this training was mainly positive. In addition, there had been guidance documents, a quick guide to the Act and decision trees developed to assist Prosecutors to understand the Act and domestic abuse more generally. The PPS also delivered a training session on evidence-led prosecutions in June 2023.

2.29 Inspectors sought the views of Prosecutors about the training provided during the fieldwork. Feedback was positive about the legal training, albeit that Prosecutors felt that the legislation was complex to apply and would welcome more guidance on decision-making. They did, however, highlight that the current guidance document was very comprehensive, containing several case examples, but therefore lengthy. Some Prosecutors felt that the training on domestic abuse and coercive or controlling behaviour provided them with a better understanding of the underlying issues and impacts but felt uncomfortable about receiving training from a victim advocacy service which they believed created a conflict with their responsibility to be objective and impartial. Most commented that they would have preferred more legal training.

2.30 Inspectors do not share the opinion that receiving training from an advocacy service impacts on the ability of highly qualified and skilled professionals to consider evidence objectively and make a prosecutorial decision. It is important that all those in the criminal justice system have an understanding of the experiences of both victims and defendants to enable them to deliver a service in a rights and

needs-focused, empathetic manner, regardless of the outcome of decisions made or Court outcomes. It is also important to understand and consider why a victim and/or witness may communicate or behave in a particular way and need special measures to enable them to give their best evidence.

2.31 For staff in the NICTS a presentation was given to Court operational staff in advance of the Act commencing. The presentation and two guidance documents were then made available to staff through the NICTS Knowledge Bank. Details of the e-learning package available on the NICS portal was shared with NICTS staff but this was not mandatory training. The limited number of queries received after implementation was seen as an indication of the effectiveness of training provided. Staff views on the effectiveness of training and guidance was mixed. The general approach of the NICTS to staff training and development will be covered further in CJJ's forthcoming report on an inspection of Criminal Court Administration.

2.32 Staff within the PBNi had access to the training modules developed by the Police Service. All staff were expected to complete this as mandatory training. Due to the nature of probation work, Probation Officers had previously received a significant amount of training on domestic abuse as they work regularly with perpetrators of these offences, but this was felt to be a helpful update on the new legislation, particularly in relation to the issues around coercive or controlling behaviour and the domestic abuse offence. The PBNi provided Domestic Abuse Awareness training for all new Probation Officers, Probation Service Officers and Psychologists to equip staff with a baseline understanding of domestic abuse issues. An Advanced Domestic Abuse training course to enhance understanding of the Act, with a specific focus on coercive control and its integration into practice within the PBNi was completed by 22 Probation Officers, Area Managers, Support Probation Officers and Psychologists.

2.33 The DoJ training statement also confirmed that the online domestic abuse training was made available to Youth Justice Agency staff, including temporary staff. It noted that several of the Youth Justice Agency Area Teams also received input from Women's Aid on domestic abuse training. The statement also mentioned that 155 Northern Ireland Prison Service operational staff had completed domestic abuse awareness training as part of their standard safeguarding training sessions. Inspectors did not undertake specific fieldwork to validate or assess the impact of this training. The approach to safeguarding will be examined further in other inspection work.

CHAPTER 3: FIRST RESPONSE, INVESTIGATION AND CASE BUILDING

CALL HANDLING AND CONTACT MANAGEMENT

- 3.1 Most of the domestic abuse incidents in the police file review were reported by either 101 or 999 calls (86%, 60). Around three-quarters of cases (76%, 51) were graded as requiring a priority response (expected response within one hour) and 22% (15) an emergency response (expected response within 15 minutes). In 96% of cases (65) domestic abuse incidents were appropriately graded as either priority or emergency response, and very few were downgraded (6%, four). This provides assurance that the Police Service aims to ensure vulnerable victims receive the right level of service at the right time.
- 3.2 However, one third of emergency incidents and two-fifths of priority incidents were not attended within target times placing vulnerable people at risk. Overall, in 39% of applicable cases reviewed (25) there were delays, with just over a fifth of these being delayed for over two hours (22%, five cases). For example, in one case a carer called to report that the disabled and vulnerable 19-year-old male she cared for had been sexually assaulted by his girlfriend and had significant bruising to his groin and neck area. The call was not attended within target timescales and as a result was downgraded to scheduled (dealt with by a pre-arranged response). During the time it took Officers to attend, the alleged victim then attended the perpetrator's address again under duress, and he disclosed further offences were committed by her during that period of time.
- 3.3 Inspectors heard concerns during this review and in other recent inspections, about the significant resource challenges for Local Policing Teams. In December 2023 it was reported that Police Officers respond to a domestic incident, on average, every 17 minutes.²⁶ Officers described the pressures on them to attend and deal with calls quickly in order to move onto the next incident due to backlogs of calls. The findings in relation to delays in attendance demonstrate the resource pressures on front-line police at the time of this review and the impact on the Police Service's ability to 'keep people safe.'
- 3.4 In all relevant cases (100%, 66) call handlers were checking the Police Service NICHE Records Management System and other systems in order to identify repeat victims, warning markers and vulnerabilities. It was not clear however from the caller records, how this was being effectively shared with Officers.

26 Police Service of Northern Ireland, Press statement: Worried someone you know has a history of domestic violence? Ask, December 2023 available at

<https://www.psnipolice.uk/latest-news/worried-someone-you-know-has-history-domestic-violence-ask>

- 3.5 In most cases (96%, 63) there was evidence that call handlers used a structured triage approach such as 'THRIVE',²⁷ which is a process to assess risk and consider the vulnerabilities to callers and victims. Where THRIVE was used effectively, there were some good examples of how this determined the level of risk and harm, and this was recorded in the call log and the Occurrence Enquiry Log on the NICHE Records Management System. However, THRIVE was noted as meaningful and effective in 13% of cases (eight), and not in 88% (56), with these case records having no meaningful reflection of the risk, harm and vulnerabilities.
- 3.6 Call handlers did record information from police systems that suggested there was risk and vulnerability, however this information was often not used to inform the THRIVE assessment. This meant that for many cases inaccurate information was being added against the pneumonic where clear risks existed. For example, in one case the NICHE Records Management System records showed that the victim reported being held against their will for two days and assaulted with a hammer, but this was not reflected in the THRIVE. In cases where there were vulnerabilities in the case, for example self-harm, mental health issues or intoxication of the suspect, these sometimes lacked detail or not recorded at all.
- 3.7 Children were identified as being present in one third of all cases at the point the report was made to the call handler (34%, 23) yet in 20% (seven) of those cases the child's details were not recorded on the log. It was therefore unclear whether attending Officers were being made aware that children were present at the address, impacting negatively on their duty to safeguard vulnerable people.
- 3.8 Of the cases where children were identified at the point of reporting (either present at the time or not), there was a record of how the call handler provided appropriate safeguarding advice in only two cases and evidence in only 11 cases of a welfare check prior to officer attendance.²⁸ In a significant number of cases it was not possible to tell from the record whether a welfare check had been conducted. There did not appear to be sufficient focus by Contact Management staff on the importance of children in domestic abuse cases. Case Example 1 describes cases where the presence of children was not recorded appropriately.

27 Calls are assessed through a process called THRIVE which allows the police to consider six key factors on every call - Threat, Harm, Risk, Investigation, Vulnerability and Engagement.

28 Welfare checks are conducted for people who are vulnerable. The police are required to locate people at risk of harm and seek to manage any safeguarding risks. Police Officers are required to establish a person's location and ascertain whether the individual is alive, breathing and conscious.

See <https://www.college.police.uk/app/mental-health/safe-and-well-checks>.

CASE EXAMPLE 1

Example 1a

In one incident a 15-year-old called 999 after he had been strangled by his mother's partner and reported to the call handler that there were four other children in the house. However, none of their details were recorded on the call log. The Body-Worn Video footage viewed by Inspectors suggested that the attending Officers were not aware there were other children in bed at the time.

Example 1b

The victim rang police to report that the suspect (her son) was damaging property in the house. The victim was advised to lock herself in the bathroom until police arrived. During the call, kicking of the bathroom door could be heard by the police call handler. There was a 12-year-old child in bed in the home during this incident but their experience or THRIVE (related to the child) was not captured by the call handler. This incident went on for some time during which the defendant damaged items in the house and was kicking the bathroom door so loudly to get to the victim, that it could be heard on the 999 call. This 12-year-old child may well have been in bed but would almost certainly have heard what was happening and the risk and threat to them was not considered by the call handler.

- 3.9 Inspectors did not see any evidence recorded on 62 case files reviewed (91%) to enable an assessment of whether supervisors were effectively overseeing incidents of high risk and ensuring appropriate safeguarding advice was provided from the outset. There was a lack of clear recording on the call log to demonstrate that supervisors had any input or oversight in most of the case files reviewed. Several of the staff in the Contact Management Centre Inspectors spoke to had recently joined the organisation and had received the training on the new Act as part of their induction training. There is a need to further develop their understanding of domestic abuse with training that has a more specific focus.

OPERATIONAL RECOMMENDATION 3

The Police Service of Northern Ireland should deliver further training to those working in contact management roles, within six months of the publication of this report, to improve:

- the quality of THRIVE assessments;
- the focus on children in domestic abuse cases; and
- the records of supervisory reviews of domestic abuse cases.

RESPONSE AND DEPLOYMENT, RISK ASSESSMENT AND EARLY EVIDENCE GATHERING

- 3.10 In almost all domestic abuse incidents (96%, 67 cases), the incident was initially allocated to Local Policing Team Officers for response. In 61% of cases (43), the investigation remained with the Local Policing Team after initial attendance. The remainder of cases were investigated by a Case Processing or Volume Crime Support Team or a specialist team. Inspectors found that this allocation was appropriate in almost all cases (98.6%, 69), leading to effective investigations.
- 3.11 There was evidence in the case files that Officers understood the need to take positive action when attending domestic abuse incidents. Suspects were identified quickly in almost all cases reviewed (99%, 68 of 69 cases) and in all cases were arrested or interviewed in a timely manner (100%, 70 cases). Where suspects were not immediately present, Inspectors saw clear evidence of activity being undertaken to locate and arrest the suspect, and of the supervisory oversight around this. This is positive and assists in keeping people safe.

CASE EXAMPLE 2

A report was received from an adult female who had disclosed that her male ex-partner had assaulted her and broken her nose, spat in her face and prevented her from leaving the address. After the incident, the male left the scene and continuously sought to evade police. Despite this, there were repeated arrest attempts and enquiries over the subsequent days along with supervisory oversight which directed the arrest activity, and this was documented on the Occurrence Enquiry Log. The suspect was eventually arrested a week after the incident, charged and remanded in custody.

- 3.12 Body-Worn Video was utilised consistently in most cases when Officers attended domestic abuse incidents (83%, 58 cases). In a significant proportion of cases (79%, 53), the Body-Worn Video was also used to record initial accounts from complainants and to document any injuries. This was positive as the recording can provide strong evidence which could later support the consideration of evidence-led prosecutions if the victim withdraws their statement.²⁹
- 3.13 When Police Officers attended a domestic abuse incident, they were required to submit a Public Protection Notification Report. This was the mechanism for highlighting vulnerability and to enable referrals to support agencies, such as the relevant Health and Social Care Trust. Public Protection Notification Reports were submitted consistently in almost all cases by Officers, where it was appropriate to do so, when they attended domestic abuse incidents (99%, 65 of 66 cases) and Inspectors found that this had been done in a timely manner.

²⁹ If the victim of domestic abuse decides not to support a prosecution, police and Prosecutors should consider whether it is possible to bring a prosecution without that support. This is called an evidence-led prosecution.

While positive, evidence from both the file review and other fieldwork suggests that the quality of the information contained in the Public Protection Notification Report could be enhanced, providing greater detail to inform partners about risk and needs.

3.14 Police Officers were also required to complete the Domestic Abuse, Stalking and Harassment and Honour Based Abuse (DASH) Risk Assessment checklist. The DASH was used to help identify those complainants who are at high risk of harm and which cases should be referred to a MARAC to manage their risk. In almost all cases where it was appropriate to do so (99%, 68 of 69 relevant cases) the DASH checklist was completed as required, however these sometimes lacked sufficient content and detail (19%, 13 of 55 relevant cases).

3.15 CJI's 2019 *No Excuse* report on the handling of domestic violence and abuse cases by the criminal justice system considered the issue of DASH Risk Assessments and highlighted issues with their quality.³⁰ Strategic Recommendation 2 required the Police Service to develop an action plan, to further develop their approach to domestic violence and abuse cases, including issues with risk assessment practices. The findings from this review highlight that this has not yet been adequately addressed and better focus on risks and the quality of information obtained for safeguarding purposes, including on the DASH Risk Assessment Form and the Public Protection Notification Report is needed.

IDENTIFICATION OF THE SECTION 1 DOMESTIC ABUSE OFFENCE AND DOMESTIC ABUSE AGGRAVATORS

3.16 Review of initial attendance at incidents showed that Officers understood the need for a prompt and effective response to domestic abuse offences in general, with good communication with adult victims, good use of initial disclosure and prompt arrests. This was reflective of how Officers positively identified domestic abuse through prompt completion of DASH risk assessments and recognition of the Section 15 domestic abuse aggravator. Although police supervisory oversight was inconsistent once a case had been allocated, where there was evidence of a review of the domestic abuse legislation this was well set out and thoroughly considered.

3.17 However, Police Officers and their supervisors were not yet correctly identifying the Section 1 domestic abuse offence at the earliest opportunity. In the police file review, Inspectors assessed that the Section 1 domestic abuse offence existed and was correctly identified by the Police Officer in 61% of the relevant cases (27 of 44). However, in over a third of cases (39%) this was not identified by the attending Officers and recorded on the Occurrence Enquiry Log and not highlighted during

30 CJI, *No Excuse: Public Protection Inspection II: A Thematic Inspection of the Handling of Domestic Violence and Abuse cases by the Criminal Justice System in Northern Ireland, June 2019* available at <https://www.cjini.org/getattachment/079beabb-d094-40e9-8738-0f84cd347ae8/report.aspx>.

supervisory review. In the prosecution case files reviewed Inspectors assessed that Police Officers correctly identified 81% (46 of 57 relevant cases) of Section 1 domestic abuse offence cases (either where there was a single charge or a combination of charges including Section 1) but that a further 18% (10 cases) were missed as well as one case (2%) wrongly identified as a Section 1 domestic abuse offence. Those cases in the prosecution case file review, where the Section 1 domestic abuse offence was missed by the police, were caused either by a poor investigation or a lack of understanding of the new offence and its limits. There were instances of the police using substantive 'old' offences, such as harassment, but missing or not using the Section 1 domestic abuse offence, which was supported by the evidence.

3.18 Police Officers spoken to by Inspectors described challenges in evidencing the domestic abuse offence and were uncertain about ensuring the standards of evidence met those required for the evidence test once the case reached the PPS. There was limited awareness of the opportunity to obtain evidence, other than the Body-Worn Video footage or a statement from the victim, to evidence coercive or controlling behaviour which may relate to emotional, psychological or financial abuse. The statutory guidance and Police Service guidance documents listed types of evidence that may be useful for establishing the course of behaviour for the domestic abuse offence. These included records of communication between the victim and abuser, evidence of abuse over the internet, digital technology and social media platforms, diaries kept for example by the victim and/or their children, evidence of isolation from family and friends and bank records showing restricted financial management. However, Police Officers did not appear to have any experience of gathering these types of evidence for this offence nor confidence about how they would obtain it.

3.19 Overall, the impact of domestic abuse on children was not always sufficiently considered, often because the Section 1 domestic abuse offence was missed, but in some cases the Section 8 and Section 9 aggravator was not always applied even when the Section 1 offence was established. In the police case files reviewed:

- four cases should have qualified for a Section 8 aggravator (where the victim or one of the victims was under 18) yet Officers did not record this correctly in any of those cases, because they did not identify the Section 1 domestic abuse offence;
- 12 cases should have qualified for a Section 9 aggravator (where a 'relevant' child under 18 was affected by the domestic abuse, for example, witness to the offence, in the house in a different room). Of these:
 - Officers correctly recorded Section 9 in 42% (five) cases; and
 - Officers did not record Section 9 correctly in seven cases and in six of these this was because they had not identified the Section 1 domestic abuse offence.

3.20 Of the cases in the prosecution files reviewed:

- four cases involved a Section 1 domestic abuse offence and a child under 18 was a victim which should have qualified for the Section 8 aggravator. Of the four cases:
 - the police did not record the Section 1 domestic abuse offence in one case (25%) and therefore could not apply the Section 8 aggravator; and
 - in three cases (75%) they correctly recorded the Section 1 domestic abuse offence but did not record the Section 8 aggravator when it should have been recorded.
- 11 cases involved a Section 1 domestic abuse offence, and a Section 9 aggravator should have been applied. Of these:
 - in three cases (27%) the police did not record the Section 1 domestic abuse offence and therefore could not apply an aggravator;
 - In three cases the police correctly recorded the Section 9 aggravator (27%); and
 - in five cases (46%) the Section 9 aggravator was not recorded when it should have been.

An example of the application of the legislation is outlined in Case Example 3.

CASE EXAMPLE 3

A sexual offence was reported to police where the suspect had raped his partner in front of their two-year-old child and locked her in the property for two days, before she was able to escape with their child to her mother's house. During this time the suspect called her in excess of 120 times. At the point of charge, the Section 1 domestic abuse offence and Section 9 aggravator were not applied despite there being a course of conduct and the child having witnessed the incident. Although the Section 15 aggravator was correctly applied to the rape and false imprisonment charges, the child aggravator could not be applied as the Section 1 domestic abuse offence was missed. The impact on the child of witnessing such a horrific incident was not appropriately reflected in the police case file, losing the importance of the impact on the child as provided for by the legislation.

3.21 Police Officers spoken to had limited experience of the child aggravators and felt that the training received had only touched on how children were integral to the legislation. There was also a sense that there was a focus on process compliance (such as completing and submitting the Public Protection Notification Report, DASH risk assessment form and Operation Encompass details) rather than on the quality of the information contained within them. It is important that Section 9 and circumstances in which it applied is made clear by the Police Service to Officers but also in all associated documents including the Explanatory Notes for the Act.³¹

31 See <https://www.legislation.gov.uk/nia/2021/2/notes/division/4/1/9>.

The Police Service Public Protection Branch had also recognised that the significance of children within the Act, the need for a focus on children more broadly and the application of the child aggravators was an area where further training was required.

3.22 The evidence obtained for this review shows that there is more work required to embed the requirements of the legislation, particularly the focus on the impact on children, and the application of the aggravators. At review draft report stage the Police Service had commenced annual refresher training, as required under Section 32 of the Act, to deliver face-to-face training to Officers in Local Policing Teams through District Training and to Officers within Public Protection Branch that included a focus on children. This training included the domestic abuse offence, the use of the Section 8, 9 and 15 aggravators and the use of and application for special measures including Achieving Best Evidence interviews. The introduction of Domestic Abuse Protection Notices and Orders was also to be highlighted (this is discussed further in this Chapter) as well as Stalking Protection Orders and the application of the stalking offence.

3.23 Inspectors welcome this work by the Police Service to further develop the understanding of Police Officers and staff about the impact of domestic abuse on children and their responsibilities to safeguard and protect them, including through the effective use of child aggravators as intended by the Act. The role of Prosecutors in supporting this work is discussed further in Chapter 4. It is important that the Police Service assesses the effectiveness of training in improving their approach to amplifying the voice of the child. As outlined in Operational Recommendation 1 it is important that those working in contact management roles also receive further training related to their role to enhance their focus on children. Developed District Training could be utilised as the basis for this.

OPERATIONAL RECOMMENDATION 4

Within six months of the publication of this report the Police Service of Northern Ireland should assess how effectively the Year Two training has improved the response to children in domestic abuse cases and take action to address any further learning needs identified. Quality assurance processes to reinforce the training should include a focus on the quality of information recorded by Police staff, Officers and Supervisors.

3.24 Of those police investigation files reviewed where the Section 15 aggravator was relevant, Officers correctly recorded this in 74% of cases (39 of 53). In the prosecution case files reviewed where the Section 15 aggravator was relevant, the police correctly recorded this in 49% (40 of 81 cases) but did not record it in 51% (41). In a further two cases Inspectors assessed that they wrongly applied the Section 15 aggravator. A data snapshot produced in November 2022 by statisticians

from Northern Ireland Statistics and Research Agency (NISRA) for the Police Service in preparation for the requirement to provide statistics to the DoJ, examined the application of Section 15 aggravators. This data showed that nearly one in five aggravators in respect of crimes recorded with a domestic abuse motivation was either incorrect, missing or has some degree of query associated with it.³²

- 3.25 Part of the difficulty in appropriately applying the Section 15 aggravator may relate to technical issues. Attending Officers would report the presence of children when ringing the Contact Management Support Unit who recorded details of the responses on the DASH risk assessment form, Operation Encompass details and the Public Protection Notification Report as well as the aggravators within the new Act. The presence of an aggravator on the prosecution file was alerted by the ticking of the relevant PPS Section 15 aggravator flag on the PPS complaint sheet (either by the Prosecutor themselves or being drawn across from the police NICHE Records Management System) but in some cases only the domestic incident or domestic abuse boxes were ticked.
- 3.26 Custody Sergeants advised Inspectors that where there were a number of charges (for example if a case contained multiple offences such as an assault, harassment and the sending of offensive or threatening messages) the custody record required the aggravator to be applied to each charge, and an associated box ticked, but if one was missed there was no way to go back and correct this. Inspectors were told this was less of an issue if the charges were entered by an experienced permanent Custody Sergeant but could be more likely if they were entered by another officer who was less familiar with the process. Similarly, within the PPS, once a case was directed, Prosecutors could not add aggravators to the charge sheet and these had to be added by staff from the NICTS at first Court hearing. The impact of the Section 15 aggravator not being applied at the police charging stage was that it could result in some cases having the aggravator missed altogether, with the potential for the domestic abuse context not adequately considered in sentencing.
- 3.27 Inspectors were advised that the technical changes made to police and PPS records management systems to enable the aggravators to be added to the case file were all that was achievable in the time and resources available. Due to the timescales applied to implementation the time available for user testing was not as long as ideally it should have been. Inspectors were advised that the process could be cumbersome and open to human error. It is imperative therefore that user checks are embedded into data entry to ensure aggravators are not missed. The Police Service's Public Protection Branch were also in the process of developing an application to be placed on Police Officers' smartphones which would enable

³² An assessment was undertaken based on a total of 10,990 crimes with a domestic abuse motivation recorded between April and September 2022, excluding the domestic abuse offence. The data was extracted on 04/11/22; but noted as provisional and subject to change. Police Service of Northern Ireland, Statistics snapshot as produced by NISRA, November 2022, internal document.

them to directly input information which was currently entered by staff in the Contact Management Support Unit. It was hoped this would reduce the time spent by Officers on the telephone and improve data quality and accuracy, but it was recognised that checks needed to be in place to ensure the quality of information was not reduced. Inspectors were told testing would commence early in 2024. Developments to IT systems should be future-proofed to ensure appropriate transfer of aggravator markers through the individual case management systems.

OPERATIONAL RECOMMENDATION 5

Action should be taken by the Police Service of Northern Ireland and the Public Prosecution Service for Northern Ireland, within six months of the publication of this report, to ensure that the Section 15 domestic abuse aggravator is applied to every relevant charge, with information technology and quality assurance systems that reinforce this approach.

FOCUS ON CHILDREN

- 3.28 Another important aspect of the new Act was the provision for information sharing with education providers through Operation Encompass. Operation Encompass was launched in Plymouth in 2011 and is a police and education early information safeguarding partnership enabling schools to offer immediate support to children experiencing domestic abuse.³³ In Northern Ireland a pilot programme was launched in the Downpatrick area in September 2021, followed by further rollout phases extending to more schools. Section 26 of the Act legislated for Operation Encompass, providing for the DoJ to bring forward regulations to enable information to be shared with an education provider about an incident of domestic abuse concerning a child who is a pupil or a student of that provider. A full regional rollout was completed in May 2023, making Operation Encompass operational across all 1,162 schools in Northern Ireland.³⁴ The Police Service advised that there had been over 13,000 referrals since the phased roll out began in 2021.
- 3.29 Inspectors found that Operation Encompass referrals were being considered in most cases reviewed where the child was of school age (82%, 27 of 33 relevant cases). This meant that there were opportunities for schools to understand any potential risk to children exposed to domestic abuse, recognise the impact, and intervene to provide support in a timely way. Of the other cases in the file sample there were three cases where a referral had not been made and three cases where it was unclear from the records, for example where school information was missing. In common with findings in relation to the Public Protection Notification Report and DASH risk assessment forms, there was evidence in this review that the quality of information contained in the referrals could be better in some cases.

33 See <https://www.operationencompass.org/>.

34 See <https://www.psnipolice.uk/safety-and-support/keeping-safe/protecting-yourself/domestic-abuse/operation-encompass#:~:text=Operation%20Encompass%20is%20a%20partnership,or%20abuse%20in%20the%20home>.

- 3.30 Police Officers advised that obtaining information on the school attended by the child or children could be difficult, particularly, for example, where the parent did not want to provide details. In many cases this reluctance was perceived to be borne out of a fear by parents that there would be negative consequences if social services were made aware that the child was living in a home where there was domestic abuse. Referrals were made by Police Officers in the Multi-Agency Support Hubs, who collated information from Local Policing Teams and passed it to the relevant education provider. Ensuring referrals were made in a timely way was raised as a challenge within existing police resources. Proposals to develop a secure method of electronic information sharing were being considered but, as additional financial resources would be required to implement this, Inspectors were advised that a solution was unlikely to be established soon. A review of existing processes for sharing information would be required once changes to the method of referral were introduced.
- 3.31 Inspectors consulted with the Operation Encompass leads in the Education Authority and the South Eastern Health and Social Care Trust. They were positive about partnership working but shared similar concerns about timely referrals and resource challenges for police and education providers. A significant amount of work was undertaken both by police and the Education Authority to ensure that the education provider of children identified at a domestic abuse incident was ascertained in order that a referral could be made. Partnership working had led to agreed approaches for referrals made during school holidays, particularly over the Summer.
- 3.32 The current arrangements used the legislative provisions of the Act as the sharing agreement framework. Unlike the *'Protocol for joint investigation by social workers and police Officers of alleged and suspected cases of child abuse - Northern Ireland'* ('Joint Protocol')³⁵ there was no formalised protocol between the Police Service and Education Authority setting out the processes, procedures and responsibilities underpinning the arrangements. Inspectors believe that this responsibility would sit best alongside the arrangements for child protection and Joint Protocol, with the Safeguarding Board for Northern Ireland, but understand that there is a reluctance for it to come within their remit. In the absence of agreement on this it appears that there is a need for the Police Service and Education Authority to develop such a protocol themselves.

STRATEGIC RECOMMENDATION 1

The Police Service of Northern Ireland should work with the Education Authority and education providers to develop an information sharing protocol within nine months of the publication of this report. They should hold discussions with the Safeguarding Board for Northern Ireland about how Operation Encompass can support, and be supported by, wider child safeguarding practices.

35 See <https://www.safeguardingni.org/sites/default/files/2020-11/Protocol%20for%20Joint%20Investigation%20-%202013.pdf>.

3.33 In more general terms the voice of the child and an understanding of the child's lived experience was often not evident in the case files, with too many referrals focusing more on the needs of the parent rather than demonstrating a child-centred approach. The voice of the child was rarely recorded at domestic abuse incidents. The 'officer observation' tab on the Public Protection Notification Report following a domestic abuse incident was sometimes left blank and Inspectors found little evidence recorded that the officer had considered the impact of the incident on the children. Frequently Inspectors did not see evidence recorded on the Public Protection Notification Report that the officer had considered the demeanour and behaviour of the child, or the living conditions and environment that children were living in (71%, 17 of the 24 relevant cases). Inspectors only saw evidence of children having been spoken to alone when it was age appropriate and in the best interests of the child to do so in 8% of cases (two). This means that the opportunity to understand the impact on children who are exposed to domestic abuse could be missed. The different approaches to children are highlighted in two case examples.

CASE EXAMPLES 4

Case Example 4a

Police received a report from an adult female that her ex-partner had assaulted her, attempted to strangle her and damaged property in her home, in front of their two small children. From arrival, police handling of both the complainant and the two small children was commendable. Officers captured the required evidence while at the same time they were kind and reassuring towards the children and their mother. The officer who spoke with the children put the children at ease to the point that they spoke freely about what they had witnessed.

Case Example 4b

A woman reported by a 999 call that her partner of 15 years had tried to strangle her. The initial emergency response by police was effective with Officers dispatched to the house quickly, good engagement with the victim, a prompt arrest of the suspect and correct early identification of the Section 1 domestic abuse offence. However, the victim's six-year-old child was sitting next to her while she made her disclosure to police. The child was crying and clearly distressed and yet the Police Officer did not engage with the child to check on their welfare. This case resulted in a poorly informed referral to social services, which was missing key details. The Body-Worn Video evidence was good, but no attempts were made to speak to the child alone and the Police Officer's statement did not include how upset the child was, having witnessed the incident, therefore missing key evidence. Although the Police Officer applied the Section 9 aggravator, recognising the impact on the child, there was no evidence obtained to support this. The victim withdrew support for the investigation and the case did not proceed due to evidential difficulties.

EFFECTIVE INVESTIGATION AND SUPERVISION

- 3.34 Investigations in the police file sample were timely with minimal delays seen across all cases and no evidence of forensic opportunities being lost in 97% of relevant cases (63 of 65). In 97% of relevant cases (55 of 57) there was evidence of the appropriate use of bail conditions as a protective factor, with 90% (63 cases) of investigations being effective and of a good standard. Some feedback was heard about files being submitted which referenced Body-Worn Video or the content of the emergency 999 call but that this evidence was missing from the file, causing delays due to the Prosecutor having to make a Decision Information Request to the police to get it. However, in the cases reviewed initial attending Officers were not routinely taking statements on attendance resulting in some cases experiencing delays in getting statements after the incident had been attended, and this seemed to be linked to victims disengaging.
- 3.35 Previous CJI and HMICFRS reports have highlighted the need for improvements in supervision with the Police Service. CJI's June 2023 report considered this area and concluded the following in relation to supervision: *'There were several examples of good supervision which ranged from keeping a Police Officer focused on the evidential requirements in a case to providing positive feedback on good work done by Police Officers. However, the concerns from 2015 remained and with the reducing role of Gatekeepers, Inspectors were concerned for the levels and quality of supervision being provided to the less experienced Police Officers that needed their support. Further to and in support of the recommendations made by CJI in the 2015 file quality inspection and HMICFRS's 2017 Peel inspection³⁶, CJI considered this area needed immediate attention.'*³⁷ The report recommended that the Police Service should provide a programme for enhanced training and ongoing support for supervision as part of new quality assurance measures to tackle quality and delay.
- 3.36 This review also found a mixed picture with some improvements noted in supervision from previous inspections but also some areas where supervision could be more effective. This can be summarised in the police case file review as follows:
- there was a lack of evidence of effective supervision in relation to the response or deployment of Officers in just-under two-fifths of cases (39%, 27);
 - in most cases (81%, 56) there was evidence of effective supervision providing direction and advice to the investigator, and oversight of investigative actions at the commencement and throughout the investigation;

36 CJI, *An Inspection of the Quality and Timeliness of Police Files (Incorporating Disclosure) Submitted to the Public Prosecution Service for Northern Ireland*, November 2015 available at

<https://www.cjini.org/getdoc/72d9e88c-9c4f-412f-bebe-9ab1b6716b2b/File-Quality-and-Disclosure>.

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

37 CJI, *File Quality, Disclosure and Case Progression and Trial Recovery from the COVID-19 Pandemic*, June 2023 available at <https://www.cjini.org/TheInspections/Inspection-Reports/2023/Apr-June/File-Quality,-Disclosure-and-Case-Progression-and>.

- when domestic abuse incidents were allocated to specialist teams such as the Rape Crime Unit or to Domestic Abuse Officers, this generally led to better supervisory oversight and case direction; and
- although many Officers in local policing appeared to have relevant expertise and experience and knowledge when investigating domestic abuse incidents, it was not clear how the supervisor was ensuring the allocation to the officer was correct based on the crime type or complexity. This could lead to cases being allocated based on current capacity and demand rather than skill.

In all cases, but particularly those which are difficult, Officers can be supported by supervisors from the outset to safeguard victims and ensure evidence is appropriately obtained.

PROTECTION OF VICTIMS

3.37 The Domestic Violence and Abuse Disclosure Scheme (DVADS) was introduced in June 2016 to help reduce the risk posed to a person who has entered into a relationship with someone who is a serial perpetrator of domestic abuse.³⁸ The DVADS gives members of the public a 'Right to Ask', a formal mechanism to make enquiries about an individual who they are in a relationship with, or who is in a relationship with someone they know, where there is a concern that the individual may be abusive towards their partner. It also gives the Police Service the 'Power to Tell' both men and women, who are potentially at risk of abuse from their partner, about that partner's past where a proactive decision is made to consider disclosing the information to protect a potential victim.

3.38 In this review in a significant proportion of the cases where it was relevant (77%, eight of 13 cases), there was no evidence that the DVADS was considered. This suggests a lack of understanding and recognition of whether the DVADS was relevant, and a lack of knowledge amongst Officers surrounding the 'Right to Ask' and the 'Power to Tell' criteria. Therefore, opportunities were being missed to share information and keep people safe. Subsequent to Inspectors concluding the fieldwork for this review, updated guidance on the DVADS was published.³⁹ This reflected the introduction of the Act as well as changing the existing threshold for disclosure under the scheme from 'risk from serious harm' to 'risk of harm', which aimed to ensure that more people at risk from domestic abuse would be able to benefit from the protections it offers. The new revisions also aimed to make the scheme easier to use and more accessible to the public. The Police Service advised that the DVADS was being covered in District Training with Officers, commencing in Autumn 2023 with plans to further enhance this with workshops in early 2024. Inspectors welcome this approach.

38 See <https://www.psnipolice.uk/safety-and-support/keeping-safe/protecting-yourself/domestic-abuse/domestic-violence-and-abuse>.

39 DoJ, *Domestic Violence and Abuse Disclosure Scheme, December 2023* available at <https://www.justice-ni.gov.uk/publications/dvad-scheme-guidance>.

- 3.39 Section 27 of the Act related to the protection of victims of domestic abuse. This section provided that the DoJ 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). CJI had recommended consideration of the creation of legislation to enable police to issue a Domestic Violence Protection Order (or Notice) in the 2010 Inspection Report on the handling of domestic violence and abuse cases by the criminal justice system in Northern Ireland.⁴⁰ The Orders were subsequently legislated for in the Justice Act (Northern Ireland) 2015. At the time of the 2019 *No Excuse* inspection CJI reported that work was ongoing on the practicalities and guidance surrounding implementation.⁴¹ However, Inspectors were also advised that secondary affirmative legislation was required in relation to the legal aid provision associated with the Orders and Notices before they could be introduced, which required the Northern Ireland Assembly, which was not functioning at that time, to be restored.
- 3.40 In England and Wales, the Domestic Abuse Act (2021)⁴² introduced Domestic Abuse Protection Notices to replace Domestic Violence Protection Notices. These were intended to give victims immediate protection following an incident. The Notice is issued by the police and could, for example, require a perpetrator to leave the victim's home for up to 48 hours. Domestic Abuse Protection Orders were also introduced to replace Domestic Violence Protection Orders, which police apply for in a Magistrates' Court. The Court was able to impose both prohibitions and positive requirements on perpetrators. These could include prohibiting the perpetrator from coming within a specified distance of the victim's home and/or any other specified premises, such as the victim's workplace, alongside requiring the perpetrator to attend a behaviour change programme, an alcohol or substance misuse programme or a mental health assessment.⁴³
- 3.41 CJI heard concerns from the Police Service about the resources required to implement Domestic Abuse Protection Notices in Northern Ireland. As in England and Wales these would be issued by the police and therefore costs of the applications would be incurred by the Police Service and estimated to be a significant additional financial cost. The Police Service also had concerns about how effectively the Notices would protect victims, based on the experiences in England and Wales, as well as the potential consequences for both individual Police Officers and the Police Service as a result of legal challenges where Notices were

40 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 at <https://www.cjini.org/getattachment/1b651b43-657b-471b-b320-101fca7c6930/Domestic-Violence-and-Abuse.aspx>.

41 CJI, *No Excuse: Public Protection Inspection II: A Thematic Inspection of the Handling of Domestic Violence and Abuse cases by the Criminal Justice System in Northern Ireland*, June 2019 available at <https://www.cjini.org/getattachment/079beabb-d094-40e9-8738-0f84cd347ae8/report.aspx>.

42 See <https://www.legislation.gov.uk/ukpga/2021/17/contents/enacted>.

43 Home Office, *Policy paper: Domestic Abuse Protection Notices / Orders factsheet*, July 2022 available at <https://www.gov.uk/government/publications/domestic-abuse-bill-2020-factsheets/domestic-abuse-protection-notices-orders-factsheet>.

served, and Orders applied for. At the time of drafting this report the DoJ and the Police Service were finalising the details of the Regulations and how they would be operationalised, as well as undertaking further work on the projected financial costs associated with implementation. At this stage it is too early to tell what impact the Regulations would have but CJI plan to re-visit the issue in future reviews.

3.42 The Police Service planned to develop expertise in Local Policing Teams regarding Domestic Abuse Protection Notices and Orders by utilising the role of Domestic Abuse Champions. As outlined earlier, Inspectors found a lack of awareness about the Champions, or who they were, and suggested reasons for this were due to Police Officer turnover or those who had been temporarily promoted to Sergeant rank (the rank of the Domestic Abuse Champions) reverting to the rank of Constable. It was intended to further develop the role of Domestic Abuse Champions in 2024, in respect of Domestic Abuse Protection Notices and Orders but also more generally on domestic abuse and elements of the Act itself. Ongoing continuing professional development was proposed to continue knowledge and skill-set maintenance but plans had not yet been finalised.

CHAPTER 4: PROSECUTION DECISION-MAKING

PROSECUTION DECISIONS

- 4.1 In the PPS case file review across all types of offences, the initial decision by the Prosecutor was to prosecute the suspect in 61% of cases (59). In 34% of cases (33) a no prosecution decision was reached while the remaining 5% of cases (five) were directed for a diversionary outcome, such as the suspect being cautioned or receiving a PPS-directed youth conference.
- 4.2 Overall, 48% of files (41) were decided on by the PPS within 30 days of receipt of the file from the police; 16% (14 cases) were decided within 31 to 60 days and a further 14% (12 cases) within 61 to 90 days. Timeliness of decision-making was therefore good overall with nearly four out of every five cases decided within 90 days.
- 4.3 When making a decision about whether to initiate or continue with a prosecution, the Prosecutor applies a two-stage test, known as the Test for Prosecution, as set out in the PPS Code for Prosecutors.⁴⁴ Each stage of the test must be considered separately and passed before a decision to prosecute can be taken. *'The Test for Prosecution is met if:*
(i) *the evidence which can be presented in Court is sufficient to provide a reasonable prospect of conviction – the Evidential Test; and*
(ii) *prosecution is required in the public interest – the Public Interest Test.*
In considering the decisions made by Prosecutors in the case file review, Inspectors assessed whether the Code for Prosecutors was applied correctly.'
- 4.4 In this review Inspectors assessed that the Evidential Test in the PPS Code was applied correctly in 98% or 96 out of 98 cases. The Public Interest Test was applied correctly in 99% or 75 out of 76 relevant cases. These figures are in keeping with previous CJI inspections which found decision-making to be sound. Most recently CJI's inspection of *File Quality, Disclosure and Case Progression and Trial Recovery from the COVID-19 Pandemic*, reported a 96% compliance rate with the Code.⁴⁵

44 PPSNI, *Code for Prosecutors*, May 2023 available at <https://www.ppsni.gov.uk/publications/code-prosecutors>.

45 CJI, *File Quality, Disclosure and Case Progression and Trial Recovery from the COVID-19 Pandemic*, June 2023 available at <https://www.cjini.org/TheInspections/Inspection-Reports/2023/Apr-June/File-Quality,-Disclosure-and-Case-Progression-and>.

IDENTIFICATION OF THE SECTION 1 DOMESTIC ABUSE OFFENCE

- 4.5 A consideration for the Inspection Team was how the Police Service and PPS were working together to assist Police Officers and Prosecutors to understand and apply the new Act effectively. As outlined in Chapter 3, in the prosecution file sample police correctly identified the Section 1 domestic abuse offence in 81% of cases (46 of 57) (where there was a single charge of the domestic abuse offence or combination with one or more other offences); a further 18% (10 cases) was missed as well as one case (2%) wrongly identified as the Section 1 domestic abuse offence.
- 4.6 Those cases where the Section 1 domestic abuse offence was missed by the police were caused either by a poor investigation or a lack of understanding of the new offence and its limits. There were instances of the police preferring to use previously existing offences such as harassment but not using Section 1 which was justified by the evidence.
- 4.7 The PPS correctly identified 76% of the Section 1 domestic abuse offence cases (38 of 50 relevant files). It was missed by the PPS in 16% of cases (eight); in the remaining 8% (four cases), they directed prosecution of the Section 1 domestic abuse offence where Inspectors assessed the evidence did not support it. In the three cases where the Section 1 domestic abuse offence had been missed by the police but was identified by the Prosecutor, they did not give feedback to the police on two cases, although did so in one case and in one further case they advised police that there was insufficient evidence to charge the domestic abuse offence. One example of apparent confusion over the use of Section 1 domestic abuse offences and related assaults aggravated by Section 15 is included in Case Example 5.

CASE EXAMPLE 5

A third party called the police indicating that a female victim wanted to make a complaint about ongoing issues with her partner (the defendant). The victim made numerous reports of assault, including that he had grabbed her throat and strangled her until she became dizzy from lack of breath, that he had thrown water over her head, spat at her and pulled her by the hair, hitting her head off a door frame, as well as verbal arguments.

The defendant was arrested and made a counter allegation of assault. He admitted pushing her when she was pregnant but referred to her drug taking behaviour and keeping secrets from him. He stated he was acting in self-defence as she was assaulting him at the time and denied all the assaults. The police charged him with a number of offences, including the Section 1 domestic abuse offence.

A prosecution was directed against the defendant, but the Prosecutor removed the Section 1 domestic abuse offence charge on the basis that assault charges were aggravated by Section 15. On the file it appeared though that only one charge of assault occasioning actual bodily harm was in fact aggravated. Therefore, if the prosecution could not prove this offence when the case was heard at Court, there would be no domestic aggravated charge left to indicate the nature of the offences and appropriate charges.

IDENTIFICATION OF THE SECTION 8 AND SECTION 9 AGGRAVATORS

4.8 In the prosecution case files assessed by Inspectors where the Section 1 domestic abuse offence was applicable, there were four cases where a child under 18 was the victim or one of the victims, where Section 8 of the Act should have been applied. Of these:

- the police did not record the Section 1 domestic abuse offence in one case (25%) and therefore could not apply the Section 8 aggravator;
- in three cases (75%) police correctly recorded Section 1 but did not record the Section 8 aggravator; and
- the PPS did not rectify these mistakes and therefore did not give feedback to the police on the omissions.

In all four cases therefore, both the police and PPS did not identify the fact that a child was a victim and that the Section 8 child aggravator could be applied.

4.9 There were 11 cases where a child under 18 was present at the time of the offence being committed (either witness to the offence(s) or in the house in a different room) and therefore a Section 9 aggravator should have been applied. Of these:

- the police correctly recorded the Section 9 aggravator in three cases (27%);
- in three cases (27%) the police did not record the Section 1 domestic abuse offence and therefore could not apply the Section 9 aggravator;
- in five cases (46%) the police correctly recorded the Section 1 domestic abuse offence but did not record the Section 9 aggravator;
- the PPS did not record the Section 1 domestic abuse offence in three cases (27%);
- the PPS identified the Section 1 domestic abuse offence and correctly recorded the Section 9 aggravator in two cases (18%); and
- the PPS did not record the Section 9 aggravator in six cases (55%).

In the cases where the Prosecutor did not record either the Section 1 domestic abuse offence or the Section 9 aggravator they were therefore not in a position to notify the Police Officer of their omissions.

4.10 As outlined in Chapter 3, the case file reviews show that there remains uncertainty both in applying the child aggravators and how these are communicated to the police. The number of cases in the case file sample which Inspectors assessed should have had an aggravator relating to a child applied is very low. However, this finding is reflective of the data collected on the use of child aggravators as required by the Act, and published in Police Service statistics, as outlined in Chapter 7. The accepted means is the ticking of the relevant 'aggravator flag' on the PPS complaint sheet but often only the domestic incident or domestic abuse flags were ticked. Case Example 6 illustrates a case where Section 9 was missed by the Police Service and the PPS.

CASE EXAMPLE 6

The defendant in this case was a female who was being abusive to her husband. The victim's sister phoned the police stating that he was being domestically abused by his wife.

Police attended and the victim indicated that he was punched and had water thrown over him. He told the Police Officer that he would send incidents and videos to his sister as his wife deletes everything on his phone. His sister had confronted his wife (the suspect) over her behaviour and was assaulted. The suspect then took his bank cards and mobile phone in an attempt to control him. The victim gave an account of the domestic abuse he had experienced over the previous five years, consisting of violence, jealousy, controlling behaviour and not allowing him to have friends.

There were children in the house who had clearly witnessed the abuse and been used as part of the domestic abuse against their father. Although the woman was charged with the Section 1 domestic abuse offence and common assault with a Section 15 aggravator applied, the Section 9 aggravator was missed by both the police and the PPS. There was no reference to social services involvement or referrals and insufficient evidence of risk assessment from the police.

The victim withdrew support for the prosecution. The main reason for this appeared to be that his wife was dealing with alcoholism and mental health issues which she was receiving treatment for. The prosecution therefore offered no evidence at Court.

USE OF THE SECTION 15 DOMESTIC ABUSE AGGRAVATOR

- 4.11 There were 81 cases in total in the prosecution case file sample where Inspectors assessed that a Section 15 aggravator could have been applied to an offence other than the Section 1 domestic abuse offence (either at charging or report stage by the police or direction stage by the PPS). As outlined in Chapter 3, of these, the police correctly identified 50% (40 cases). The remaining 51% (41 cases) were missed by police. In a further two cases Inspectors assessed that they wrongly applied the Section 15 aggravator.
- 4.12 Of the 52 cases where the PPS directed a prosecution and Inspectors assessed that a Section 15 aggravator was appropriate, this was applied in 71% of cases (39) but in 13 cases (25%) it was missed. The PPS provided feedback to the police that they had missed the Section 15 aggravator in only one case.

NOTICE OF PERSONAL CONNECTION

- 4.13 Section 5 (related to the Section 1 domestic abuse offence) and Section 18 (related to use of a Section 15 domestic abuse aggravator) of the Act set out the meaning of 'personal connection' to define what two people are personally connected for the purposes of Section 1. Sections 6 and 19 of the Act related to the establishment of a 'notice of personal connection' (in relation to a Section 1 domestic abuse offence or a Section 15 aggravator respectively) and Sections 7 and 20 respectively describe the processes by which the notice can be served on the defendant or their legal representatives. The Act provided that the personal connection is taken to be established unless challenged under the process set out for this.
- 4.14 The PPS process at the time of the fieldwork was the automatic generation of a document, informing the recipient of the intention to prove a personal connection between the defendant and the victim, which was then served electronically with the papers to the defence solicitor (or the defendant directly if they were unrepresented). Within the case file review Inspectors found some instances where the notice of personal connection did not appear on the file. The PPS indicated that may be due to technical issues with their case management system.
- 4.15 Importantly, Inspectors found no instances in the case file sample of defence challenges to either the Section 6 or Section 19 notices having been made where they had been served. Inspectors were also advised by the PPS that there had only been one challenge to the personal connection notice since the Act was introduced which related to the short-term nature of the relationship between the two parties. As around 90% of the cases in the case file sample related to two parties who were either current or ex-partners, or a parent and child, it is unlikely that the personal connection in the case would be challenged in the vast majority of cases.
- 4.16 The Act provides that the prosecution 'may' serve such a notice to prove the connection required for a Section 1 domestic abuse offence or for a Section 15 domestic abuse aggravator and therefore Inspectors do not believe this is an essential requirement on the PPS. It may be that the notice of personal connection could be sent by exception (for example where the connection between the two parties could be considered to be more tenuous, such as instances where the relationship was between in-laws or step-family members) which would save the PPS resources in producing and issuing the notices. In the Domestic Abuse (Scotland) Act 2018 there is a presumption of the relationship unless it is challenged in summary proceedings. Following the restoration of the Northern Ireland Assembly in February 2024 work by the DoJ to progress an amendment should be undertaken promptly.

OPERATIONAL RECOMMENDATION 6

Within six months of the publication of this report, the Department of Justice should review the relevant sections of the Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021 with a view to introducing a presumption of a personal connection, allowing for this be challenged by the defence in appropriate circumstances.

VICTIM RISK ASSESSMENTS

- 4.17 The Police Service supplied the PPS with an adequate risk assessment relating to the complainant in only 46% of the relevant cases (40 of 88). The material supplied was not adequate in the remaining 55% (48 cases). Police routinely did not provide the DASH risk assessment form or its content, although the overall assessment of risk as High, Medium or Standard was usually included. The information was sometimes augmented by a Domestic History Report or other background information, with details of previous criminal history of the suspect and complainant always available. Domestic History Reports tended to be confined to the incident leading to the proposed charges without detailing earlier domestic incidents involving the parties which was unhelpful.
- 4.18 Of those 48 cases with inadequate material supplied, the PPS only requested additional information from the police in 10% (five cases). No such request was made in the other 90% or 43 cases. In those cases where the PPS did make a request, the police responded in 60% (three of five cases). There was evidence that the PPS decision at direction stage was fully informed by the risk assessment in 45% or 36 cases. In a further 53% or 42 cases, it could not be said that the decision was so informed nor that the Prosecutor had requested more information. In the remaining two cases (3%) the police did not provide additional material.
- 4.19 CJI's 2019 *No Excuse* report on the approach of the criminal justice system to domestic violence and abuse noted similar inconsistencies about the procedures and practice relating to the provision of information about risk assessment.⁴⁶ The report recommended that an action plan be developed by the Police Service to further develop their approach to dealing with cases of domestic violence and abuse and address a number of issues highlighted in the report, including in relation to the risk assessment practices in cases of domestic violence and abuse. CJI's Follow-Up Review, published in April 2021, assessed this recommendation as partially achieved.⁴⁷ The Police Service update for the Follow-Up Review

46 CJI, *No Excuse: Public Protection Inspection II: A Thematic Inspection of the Handling of Domestic Violence and Abuse cases by the Criminal Justice System in Northern Ireland*, June 2019 available at <https://www.cjini.org/getattachment/079beabb-d094-40e9-8738-0f84cd347ae8/report.aspx>.

47 CJI, *No Excuse: Public Protection Inspection II: A Thematic Inspection of the Handling of Domestic Violence and Abuse cases by the Criminal Justice System in Northern Ireland: A Follow-Up Review of the Recommendations*, April 2021 available at <https://www.cjini.org/getattachment/48e855ca-cd40-4283-83c2-720cf49b5c94/report.aspx>.

highlighted that they had been working closely with the PPS on the issue of risk assessments and from June 2020 it was intended that the outcome (High/Medium/Standard) would be shared with the PPS through the Prosecutor Information Form. It appears from this case file review that there is more to be done to ensure the Prosecutor is sufficiently informed about the risk assessment issues to enable them to make appropriate prosecution decisions about the case.

RECORD KEEPING OF DECISION RATIONALE

- 4.20 The direction clearly set out the Prosecutor's reasoning for the decision in 54% of cases (53). The reasoning was not clearly set out in the other 46% (45 cases). Many files did not explain why the decision had been made, unless a file had become statute barred. If the reason for no prosecution was 'insufficient evidence', the Prosecutor did not state what additional evidence might have allowed a decision to prosecute. Two examples where there was a contrasting approach to the recording of the rationale for the decision are summarised in Case Example 7.

CASE EXAMPLE 7

Example 7a

Police were tasked to a home. The Police Officers spoke to the defendant's mother, sister (the first victim) and niece (second victim) who alleged the defendant had arrived home intoxicated, assaulted his sister and niece and thrown and broken various items in the home. The defendant was verbally abusive to police and resisted police when he was being escorted to the vehicle. He was arrested, interviewed and released on bail. The defendant made counter allegations against the victims, and they were interviewed regarding the allegations.

The police identified that a Section 1 domestic abuse offence was relevant in this case as well as the Section 15 aggravator.

The decision note from the Directing Officer was an example of best practice. They set out the offences which were being proceeded with in respect of each victim, those considered but not being proceeded with, outstanding evidence, whether the case involved hate crime or domestic abuse, bad character and hearsay evidence and applications to be made, the reason for the decision and considerations around special measures and restraining order applications.

The defendant was prosecuted for the Section 1 domestic abuse offence as well as criminal damage with a Section 15 aggravator applied. The case was still live at the time of reviewing.

Example 7b

This was a complicated case involving a serious violent offence and several potential charges. The defendant was an adult male and the victims were his mother and brother. He was under the influence of drugs at the time of the incident and had used a weapon in an attempt to assault his mother as well as threats to kill her. There was a previous history of minor assaults against his mother. About two months later, prior to the decision to prosecute, both victims withdrew support for the prosecution.

A decision was made, however, to prosecute the case and the Prosecutor recorded *'It is considered that the facts and circumstances of this case are adequately reflected by the directed charges.'* There was no rationale for the charges selected nor notes about the difficult aspects of the case, particularly relating to the issue of the withdrawal of the victims.

The case was discharged at Court because neither of the victims attended the Preliminary Inquiry. It took eight months for the case to be concluded.

- 4.21 The recording of notes outlining the Prosecutor's rationale has long been an issue that CJI has identified as an area for development within the PPS. It was previously raised in CJI's inspections of both sexual violence and abuse, *Without Witness*,⁴⁸ and domestic violence and abuse, *No Excuse*.⁴⁹ The first of these reports recommended that *'The Public Prosecution Service for Northern Ireland should issue further guidance for Prosecutors on the requirements to record their decision-making rationale in a review note when applying the Test for Prosecution. The review note should be proportionate to the complexity of the facts, issues and risks in the case. This should be issued within six months of this report. In addition, the Public Prosecution Service should develop a quality assurance process to assess compliance with this guidance.'* The report of the 2021 Follow-Up Review of *Without Witness*⁵⁰ found this recommendation to be partially achieved, in part because of a decision by the PPS to limit the formal requirement to record reasons for a decision to prosecute to indictable decisions only. The Follow-Up Review stated *'...it is disappointing that a decision has been taken to limit the scope of the Staff Instruction only to indictable cases, given that this is an issue CJI has raised in previous inspections of the PPS across many types of case. It is hoped therefore that, once there is greater compliance with the Staff Instruction, the scope of the Staff Instruction will be widened further to encompass summary cases, not least those of a potentially complex nature such as domestic offences.'*

48 CJI, *Without Witness*, Public Protection Inspection I: A thematic inspection of the handling of sexual violence and abuse cases by the criminal justice system in Northern Ireland, November 2018 available online <https://www.cjini.org/getdoc/8b1d12d8-ec8b-4ca3-bcc5-56bfd1c34a60/Sexual-Violence>.

49 CJI, *No Excuse*: Public Protection Inspection II: A Thematic Inspection of the Handling of Domestic Violence and Abuse cases by the Criminal Justice System in Northern Ireland, June 2019 available at <https://www.cjini.org/getattachment/079beabb-d094-40e9-8738-0f84cd347ae8/report.aspx>.

50 CJI, *Without Witness*: A thematic inspection of the handling of sexual violence and abuse cases by the criminal justice system in Northern Ireland: A Follow-Up Review of the Recommendations, March 2021 available online <https://www.cjini.org/TheInspections/Action-Plan-Reviews-Inspection-Follow-Up-Review/2021/January-March/Without-Witness-Public-Protection-Inspection-1>.

4.22 The internal PPS guidance was updated in November 2021 (Staff Instruction No. 6 of 2019) to widen the scope of recording to summary decisions. The guidance stated *'Reasons are also recorded as a matter of routine in many summary prosecutions. Prosecutors should continue to exercise their judgment as to when reasons are required in such cases and the level of detail that should be provided. However it should be regarded as best practice to record such reasons where:*

- *the case involves sexual offences, domestic violence and abuse or offences aggravated by hostility;*
- *the case involves offences committed by children/young people;*
- *there is a measure of complexity involved in the decision; or*
- *the basis for the prosecution is not immediately clear from a quick review of the statements and other evidence'.*

4.23 More recently in CJI's report on *File Quality, Disclosure and Case Progression and Trial Recovery from the COVID-19 Pandemic*⁵¹ Inspectors found: *In the Magistrates' Court cases, 32% received a proportionate case analysis and 22% partially met the standard. In the Crown Court cases 68% fully or partially met the standard. It was clear that the Senior Management Team had some way to go to continue to improve the culture of recording of rationale on files.'*

4.24 In the fieldwork for this review Inspectors again heard concerns about the impact of current PPS workloads on the ability of Prosecutors to record proportionate notes on case files. There is evidence, however, that the lack of notes continues to have an impact on decisions made on and the handling of case files, particularly where the case is passed from the Directing Officer to a different Prosecutor for Court.

4.25 On 29 November 2023, after fieldwork for this review had concluded, the Police Service and the PPS began a pilot project where the police would no longer be required to submit certain files to the PPS where a recommendation not to prosecute was made by the police for each of the suspects in the case. The details of this pilot were shared with stakeholders through a briefing note and an in-person briefing.⁵² Police would therefore be authorised to take a 'No File Decision' in cases involving certain offences, and where it was deemed appropriate to take no further action. The offences covered by the change were those known as 'case weight' categories 5-8, which included offences ranging from assault to less serious motoring offences, although not those involving Police Officers as defendants or victims. A number of the offences encountered in domestic abuse cases therefore, for example criminal damage, common assault, grievous bodily harm and harassment, as well as the new Section 1 domestic abuse offence, fall within these case weights. Offences such as murder, manslaughter, possessing firearms or explosives, rape, sexual assaults, and non-fatal strangulation fall within 'case weight' categories 1-4 which would still be sent to the PPS regardless of a police recommendation not to prosecute.

51 CJI, *File Quality, Disclosure and Case Progression and Trial Recovery from the COVID-19 Pandemic*, June 2023 available at <https://www.cjini.org/TheInspections/Inspection-Reports/2023/Apr-June/File-Quality,-Disclosure-and-Case-Progression-and>

52 Police Service of Northern Ireland and Public Prosecution Service for Northern Ireland, *Revised Arrangements in Cases Where a No Prosecution Recommendation is Made by Police - PSNI 'No File Decision': Stakeholder Briefing*, November 2023, unpublished document.

- 4.26 Information provided in the briefing note outlined data on case numbers affected by this pilot. Based on PPS data for the 2022-2023 financial year there were 9,086 files submitted by police in which there was a no prosecution recommendation for all suspects in the case. Of these 7,217 cases were in the case weight 5-8 categories. It is noted that a significant proportion of these cases related to domestic abuse as 4,468 cases were flagged as such by police. This accounts for 62% of all cases sent to the PPS with a no prosecution recommendation, suggesting that under this pilot domestic abuse cases are likely to form a majority of cases deemed to be a 'No File Decision' with no file subsequently submitted to the PPS.
- 4.27 The PPS announcement of the pilot stated that *'the pilot was initiated to address a shared recognition that a new, more proportionate approach is needed to deliver some services, particularly in the context of the long-term financial and resourcing pressures on both organisations.'*⁵³ The briefing note outlined the authorisation processes for No File Decisions and emphasised a specific approach for some cases of domestic abuse. This stated that Experienced 'Gatekeepers' (Inspector rank) within the Police Service's Criminal Justice Branch would have a role in domestic abuse cases, in addition to local Inspectors for volume crime and Detective Inspectors for more serious crimes. The Gatekeepers would complete reviews for investigations involving intimate partner domestic abuse (including stalking and harassment investigations), with repeat victims and/or suspects and where the Public Protection Notification Report indicated a risk above 'standard'. The briefing note also outlined that quality assurance of these cases would be undertaken by the joint Police Service/PPS Domestic Violence and Abuse Working Group, in keeping with the existing quality assurance arrangements.
- 4.28 CJI acknowledge the resource pressures on both the Police Service and the PPS at the time of this review and welcome efforts to deliver a more effective and efficient criminal justice system. Inspectors hope that the reduction in the volume of cases being sent from the Police Service to the PPS enables Prosecutors to place more emphasis on the quality of decision-making and case strategy, particularly recording the rationale for decisions and planning how the case should be prosecuted at Court.
- 4.29 Inspectors do, however, have concerns about the impact of this pilot on cases which take place in a domestic context, given the significant number of domestic abuse cases affected by this pilot, as well as the complexities of these cases and the potential for significant harm to occur if perpetrators are not brought to justice and dealt with effectively. It also should be noted that case law from the European Court of Human Rights published in July 2022 stated that *'offences linked to domestic violence should be classified among the most serious offences.'*⁵⁴

53 See <https://www.ppsni.gov.uk/pilot-file-submission-arrangements-between-pps-and-psni>.

54 In the case of *M.S. v Italy* the European Court of Human Rights held that there had been a violation of the substantive aspect of Article 3 (prohibition of inhuman or degrading treatment). See European Court of Human Rights, *The Italian authorities did not act with the requisite promptness and diligence in dealing with acts of domestic violence and did not comply with their Convention obligations, M.S. v Italy*, ECHR 236 (2022) July 2022 available at https://www.echr.coe.int/documents/d/echr/fs_domestic_violence_eng.

As outlined by the stakeholder briefing it is intended that there will be authorisation and quality assurance processes in place and Inspectors hope that there will be particular close scrutiny of No File Decisions in cases including the Section 1 domestic abuse offence, during the continuing period of learning by both organisations in applying the Act. Inspectors would encourage close monitoring and disaggregation of data and oversight to ensure any necessary preventative and protective and safeguarding measures are applied. Inspectors look forward to a robust evaluation of the pilot, including benefits realisation and will consider the outcomes in future reviews.

WITHDRAWAL AND EVIDENCE-LED PROSECUTIONS

- 4.30 Following the initial report of a domestic abuse incident, victims sometimes choose to disengage with the criminal justice process. This was the case in 39% of the police investigation cases reviewed (23) and in 48% of the 89 relevant prosecution cases reviewed. Of these 89 relevant prosecution files the victim withdrew support for the prosecution in 34% (30 cases) and in a further 15% (13 cases) the victim did not support the prosecution from the outset. The remaining 52% (46 cases) continued to have the victim's support.
- 4.31 However, in just under half of the police investigation case file sample (46%, 11 cases) this was not supported by a retraction statement that included the reasons why the victim had retracted their statement. Similarly in the prosecution case file sample, there was a record that police had re-engaged with the complainant in 40% (14 cases) of the relevant withdrawal cases but in 60% (21 cases) there was no record that they made any attempt to re-engage. These findings mean that the Police Service could be missing the opportunity to fully understand if a victim had been intimidated into retracting their statement and, if so, to take measures to address this.
- 4.32 There were 43 cases in the prosecution case file sample where an evidence-led prosecution was an option for the prosecution (the cases where the complainant withdrew or had never supported the prosecution). The PPS pursued an evidence-led prosecution in 10 of these cases (23%). The decision whether to pursue an evidence-led prosecution or not was assessed as reasonable in 86% (36) of the relevant cases; it was not thought to be reasonable in the other 14% (six cases). In one case the victim did not withdraw formally but did not respond to contact or appear at Court. It was unclear from the prosecution Court records whether there was a decision to continue without evidence from the complainant. It was positive to see almost a quarter of potential evidence-led prosecution cases were authorised to proceed.

- 4.33 Both the police and prosecution file samples showed the extensive use by police of Body-Worn Video to capture the initial accounts of victims in domestic abuse cases. Apart from the value of observing the first version of the complaint, these can be vital to the prosecution at any contest where the victim has withdrawn their support for the prosecution or is otherwise unable to give live evidence. Body-Worn Video footage was often used in the prosecution cases through successful application of the rules on admissibility where a complainant did not attend Court. The quality of these recordings varied considerably however and depended on the circumstances but there appeared to be some difference in practice among Prosecutors when deciding whether a Body-Worn Video initial account was likely to be admissible or not. Interpretations of the common law principle of *res gestae* were not consistent.⁵⁵
- 4.34 Prosecutors described the challenges of dealing with Body-Worn Video. Although acknowledging the usefulness of the footage recorded at the scene and the benefits for making an application to submit it as *res gestae* evidence there were concerns raised, which were shared by Inspectors reviewing the files. These included the length of the footage provided on the file that could amount to several hours and which, on many occasions was not edited nor a summary provided to direct the Prosecutor to the relevant part(s), as well as cases where the Body-Worn Video was not recorded on initial attendance and therefore could not be said to be *res gestae* evidence. Although a Police Service and PPS Service Level Agreement set limits on the length of Body-Worn Video footage that should be provided by the Police, Prosecutors told Inspectors that on many occasions they went beyond this when the footage was not sufficiently edited, to ensure that all the evidence was reviewed or to identify potential disclosure issues. In addition, quality of recording could be mixed, with the camera, located on the chest of the Police Officer's body armour, pointing at the chest of the victim making it difficult to hear what the victim had said properly or capturing the face of the victim which was particularly important in evidencing the fact they were 'emotionally overpowered.' Finally, on some occasions when police undertook a written statement from the victim at a later point this could contain contradictions to the original Body-Worn Video evidence, leading to disclosure issues.
- 4.35 When used well however footage from Body-Worn Video could be vital to the successful prosecution of a case and help to avoid further harm being caused to victims. It can also be particularly important where the evidence from the victim is used in support of a charge of the Section 1 domestic abuse offence, particularly in relation to emotional or psychological harm where the ability to gain additional physical evidence is more difficult. A case which illustrates a successful evidence-led prosecution using Body-Worn Video footage is outlined in Case Example 8.

⁵⁵ Evidence amounts to *res gestae* when the statement was made by a person so emotionally overpowered by an event that the possibility of concoction or distortion can be disregarded. PPSNI, Staff Instruction No. 4 of 2023: Evidence Led Prosecutions and the Use of Res Gestae in Cases involving Domestic Abuse, May 2023, internal document.

CASE EXAMPLE 8

A man aged in his sixties called the police and told them that his mother was becoming verbally aggressive. When the police arrived at the address his mother, who was aged in her eighties, said that her son had in fact grabbed her by throat, preventing her breathing, and had spat at her.

The son denied the allegation and suggested his mother's account may be influenced by her medication. She appeared to be very unwell with significant mobility issues. There were no visible injuries evident but the Domestic History Report from the police noted that the son had assaulted his mother before.

The police charged the son with assault occasioning actual bodily harm, common assault and threats to kill. A Section 15 domestic abuse aggravator was applied.

The Prosecutor directed the case for prosecution and the file contained a thorough note on the rationale for the selection of the charges and the trial strategy to be adopted. The Prosecutor made a *res gestae* hearsay application to submit the statement given by the victim on Body-Worn Video as her first account. The notes indicated the Prosecutors intention to make a hearsay application on the basis that the victim was too unwell to give evidence.

Although the Prosecutor Information Form indicated that special measures should be considered, the victim would never have been able to attend Court and, ultimately, they were not used as she was too unwell.

The *res gestae* hearsay application was successful and the Court admitted the victim's evidence. Her son was convicted of common assault and threats to kill. In this case the Prosecutor worked hard to get a just outcome for an older victim who was very unwell.

- 4.36 Internal quality assurance processes between the Police Service and the PPS had also identified the need to develop evidence-led prosecutions. Recommendations in joint quality assurance reviews identified the requirement for training on evidence-led prosecutions and how no prosecution assessments were reached by police as well as the requirement for Prosecutors to receive further training on evidence-led prosecutions, Body-Worn Video and the use of hearsay in domestic abuse cases.⁵⁶ Inspectors agree with these recommendations, particularly in relation to Body-Worn Video issues.

⁵⁶ Police Service of Northern Ireland & PPSNI, *Joint Quality Assurance Review: Domestic Abuse Cases with a Full File No Prosecution Recommendation, September 2022 and Joint Quality Assurance Review: Domestic Abuse Cases with a Not Guilty Anticipated Plea (NGAP) Recommendation, May 2023, internal documents.*

- 4.37 The PPS had recently completed training on evidence-led prosecutions and the use of hearsay evidence. This was to be uploaded to the intranet for use by Prosecutors. The Police Service were planning an in-person event on evidence-led prosecutions in late-Spring or early Summer 2024 which could then be recorded and shared further internally. Inspectors welcome the focus on the issue of evidence-led prosecutions by both organisations and look forward to hearing more about these developments in due course.
- 4.38 Of the cases in the file sample which proceeded to Court there were 12 (46%) cases where the decision by the PPS was to Offer No Evidence to at least one charge and there was one more such case where the outcome was not known due to a lack of prosecution Court records (4%). Inspectors assessed the 12 cases where records showed no evidence was offered for compliance with the PPS Code for Prosecutors. Of these 12 cases the Evidential Test in the PPS Code was met in 92% (11 cases). It was not met in 8% (one case). Of the ten cases where the Public Interest Test at this stage was applied it was met in all nine cases (100%).
- 4.39 The PPS *Policy for Prosecuting Cases of Domestic Violence*⁵⁷ was published in March 2016 and in November 2022 the PPS launched a consultation on an updated draft policy.⁵⁸ The final version had not been published at the time of this review. In the interim the PPS had issued *Domestic Abuse: Guidance for Prosecutors* in the form of a Staff Instruction in January 2022.⁵⁹ Inspectors considered whether Prosecutors had complied with the PPS policy in the cases reviewed against the existing *Policy for Prosecuting Cases of Domestic Violence* and the *Guidance for Prosecutors*, which was more reflective of the current approach to these types of cases. The PPS policy and guidance was complied with when deciding whether to proceed or not in 76% cases (34); it was not complied with in a further 20% (nine cases) with another 4% (two cases) not known. The cases where Inspectors assessed the policy was not complied with were mainly where a decision had been made not to proceed when the victim withdrew or to change the prosecution decision to a caution.
- 4.40 In the case files reviewed there were 12 cases which resulted in an out of Court disposal; in two of these cases the defendant was a child and the final outcome was a PPS-directed diversionary youth conference and the remainder were adults dealt with by way of a caution. The *Domestic Abuse: Guidance for Prosecutors* stated, 'It will rarely be appropriate to deal with a domestic abuse case by way of a caution', which CJI agree with. Inspectors assessed that in five of the cases reviewed the decision to offer a caution was not appropriate. In addition, there was one case in the sample where Inspectors did not agree with the decision to offer a caution, but ultimately it was not accepted by the victim, and it was not proceeded with. In some of the others there was an insufficient rationale recorded as to why a caution was offered or whether the victim had been consulted.

57 PPSNI, *Policy for Prosecuting Cases of Domestic Violence*, May 2016 available at

<https://www.ppsni.gov.uk/publications/policy-prosecuting-cases-domestic-violence>.

58 PPSNI, *Policy for Prosecuting Cases of Domestic Abuse - draft for consultation*, November 2022 available at

<https://www.ppsni.gov.uk/publications/policy-prosecuting-cases-domestic-abuse-draft-consultation>.

59 PPSNI, *Staff Instruction No. 6 of 2022: Domestic Abuse: Guidance for Prosecutors*, January 2022, internal document.

- 4.41 Although the figures here are not indicative of the proportion of cases involving domestic abuse which would result in a caution, Inspectors do not believe that the cases demonstrate an approach where it is 'rarely' appropriate. Data collated by the DoJ for reporting purposes under Section 33 of the Act as outlined in Table 6 of this report (see Chapter 7) also suggests cautions are used more than 'rarely'. The PPS advised that there had been changes to guidance around the use of cautions, to lessen the wording from the use of 'rarely' and that this may be reflected in the updated *Policy for Prosecuting Cases of Domestic Violence*. Inspectors believe this would be an error and lead to more instances of cautions being administered inappropriately. Case Example 9 illustrates where the decision to offer a caution was inappropriate in the circumstances of the case.

CASE EXAMPLE 9

Police received a call from a man of anti-social behaviour at his house. When police attended the man alleged that a young man (the defendant), had come to the house twice in the early hours of the morning in an attempt to see his ex-girlfriend, who was the man's teenage daughter.

The first time, after he punched and kicked the door, the man opened the door and told him to leave. He 'squared up' to the man and then left. He returned later and kicked and punched the door again and threw stones at the window. The man again opened the door, told him to leave and again he 'squared up' to him. The daughter subsequently made statements to police setting out physical and mental abuse she suffered from the defendant during their one-year relationship.

The Directing Officer's note for the original decision to prosecute was detailed and set out the justification for each offence. The original decision was to prosecute the defendant for six offences, including the Section 1 domestic abuse offence, common assault, threats to kill and attempted criminal damage.

When the case was listed for review in the Magistrates' Court, prior to contest, the decision to prosecute was then changed to a caution. There was no file note to explain what other factors the Directing Officer took into consideration in changing the decision. There was no new evidence on file put forward in mitigation by the defence when they requested that a caution be considered. There was e-mail correspondence from police confirming the victims had been spoken to and were agreeable to a caution.

It is unclear why a caution was considered appropriate after the initial decision was to prosecute the defendant, particularly as some of the offences related to a youth victim, the times it had been listed at the Magistrates' Court and resources used in listening the case for contest. The decision to offer a caution does not appear to be in line with the PPS guidance where a caution should 'rarely' be considered.

- 4.42 In light of the findings of this review Inspectors would urge the PPS to continue to limit the use of cautions to 'rare' cases. Although the view of the victim is sought prior to a decision there is significant potential for the victim to agree to a caution because they have been subjected to coercive or controlling behaviour and ongoing domestic abuse by the defendant. The use of cautions in domestic abuse cases, particularly where there is a lack of detailed rationale or mitigating evidence to support a caution, does not support the prioritisation of domestic abuse as a serious offence, as intended by the new Act.

OPERATIONAL RECOMMENDATION 7

Within three months of the publication of this report, the Public Prosecution Service for Northern Ireland policy and guidance should clarify and direct the use of cautions in domestic abuse cases in rare circumstances only, with a requirement for a detailed record of reasoning and rationale if they are used. Quality assurance processes for domestic abuse cases should include an analysis of the quantity and quality of cautions directed by Prosecutors, particularly where a Section 1 domestic abuse offence has been directed in the first instance.

- 4.43 The CJI 2019 *No Excuse* inspection report⁶⁰ called for the Police Service and the PPS to adopt a case building approach whereby there was a focus on working together to build the case from the outset. The report recommended the production of an implementation plan to further develop the Prosecution Team approach for cases involving domestic abuse or with a domestic motivation. The 2021 Follow-Up Review⁶¹ stated '*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.*' In assessing all the recommendations in that Follow-Up Review it was noted that '*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.*'
- 4.44 Although not included in the initial action plan in response to the *No Excuse* report recommendations, at the time of the 2021 *No Excuse* Follow-Up Review the PPS had agreed a proposal to train a cohort of specialist Domestic Abuse Prosecutors to take decisions in domestic abuse cases. The aim of this initiative

60 CJI, *No Excuse: Public Protection Inspection II: A Thematic Inspection of the Handling of Domestic Violence and Abuse cases by the Criminal Justice System in Northern Ireland*, June 2019 available at <https://www.cjini.org/getattachment/079beabb-d094-40e9-8738-0f84cd347ae8/report.aspx>.

61 CJI, *No Excuse: Public Protection Inspection II: A Thematic Inspection of the Handling of Domestic Violence and Abuse cases by the Criminal Justice System in Northern Ireland: A Follow-Up Review of the Recommendations*, April 2021 available at <https://www.cjini.org/getattachment/48e855ca-cd40-4283-83c2-720cf49b5c94/report.aspx>.

was to improve consistency of approach and the effectiveness of decision-making by concentrating regional domestic violence and abuse caseloads across a smaller group of Prosecutors at both Senior and Public Prosecutor level. The new arrangements took effect in October 2021, however, discontinued before the time of this review. The PPS advised that this decision was taken as additional resources were not forthcoming and the model was considered unsustainable given the substantial increase in the number of domestic abuse cases being received and the range of competing demands experienced by the PPS, including recovery from the COVID-19 pandemic. Domestic abuse casework was therefore extended to experienced Prosecutors across the PPS Regions.

- 4.45 This review considered whether a Prosecution Team approach was being utilised between Police Officers and Prosecutors under the current working arrangements. Inspectors heard from those working across the criminal justice system about the complex nature of the legislation and agree that it is not straightforward and that it can be challenging to understand and apply the various provisions of the Act, particularly the domestic abuse offence and child aggravators. The evidence from both the file reviews, and from those spoken to within the Police Service and the PPS, suggests that there would be benefits from the use of a more collaborative approach, to build a case from the outset that is more likely to achieve a successful outcome for the victim and the public.
- 4.46 CJI would encourage the Police Service and the PPS to re-emphasise the need for a Prosecution Team approach and continue to address the issues highlighted in this and the previous inspection report. One example where the Prosecution Team approach worked well to build a case in this review is outlined in Case Example 10.

CASE EXAMPLE 10

The police received a 999 call from a witness, reporting a possible domestic incident occurring at a flat. The witness reported the sounds of an altercation including a female screaming. Police also received a call from the Northern Ireland Ambulance Service reporting a call received from a male stating a female had been assaulted when she was at the shops but was now located at the same address as the witness had reported.

Police attended the property and eventually the door was opened by a woman who was on her own, very upset and with significant head injuries. The woman stated she had been attacked on her way home but couldn't provide any details. She was taken to hospital by ambulance.

Police confirmed the person who rang the Northern Ireland Ambulance Service was the defendant and located him outside his home. He repeated the allegation that the victim had been assaulted at the shops. Police attended the area where the victim had alleged she had been assaulted and there was no blood. Enquiries about Closed-Circuit Television coverage of the area proved negative.

Two days later the victim attended a police station and admitted having lied to police about what happened. She stated the defendant had viciously assaulted her, causing significant injuries and told her to lie to police. She outlined a number of other domestic incidents with the defendant and said she was terrified. After she was released from hospital the defendant took her to his flat and wouldn't let her contact family or friends.

The defendant was arrested by the police and denied all the offences. He was charged with Section 18 wounding with intent to do grievously bodily harm, with a Section 15 aggravator applied, as well as the Section 1 domestic abuse offence.

The PPS made a successful application for the defendant to be remanded into custody to protect the victim. The Directing Officer requested additional evidence to enable a decision to be made, including information around the vulnerability of the victim prior to a decision which was not initially provided by the police.

As this was a Crown Court case there was a note to counsel which was very detailed and included a detailed summary of the Body-Worn Video and audio calls, what evidence was being served and what evidence was being disclosed and the reasons for this. Outstanding evidence was listed and the Prosecutor had addressed issues of hearsay evidence, special measures and the criminal records of witnesses. A request was made for counsel to apply for a restraining order.

At the time of the review the case was still live but had been well handled by the Police Service and the PPS to that point.

- 4.47 It is clear from the findings from both the police and prosecution case file reviews as well as discussions with Police Officers and Prosecutors that there is insufficient consistency on how cases of domestic abuse should be dealt with. This is particularly the case where there are multiple possible charges and decisions to be made about prosecuting individual stand-alone offences or using the course of behaviour as evidence for a Section 1 domestic abuse offence. As outlined in Chapters 3 and 4 of this report, there is a need for greater collaboration and feedback between Police Officers and Prosecutors to enhance understanding of decision-making, charge selection and evidence gathering, better adherence to agreed file standards, particularly in relation to Body-Worn Video footage, and supervision and quality assurance of decisions in relation to the Section 1 domestic abuse offence and domestic abuse aggravators.
- 4.48 There has been a significant amount of time and resources dedicated to the implementation of the Act by both the Police Service and PPS in respect of planning, stakeholder engagement, development and delivery of training and guidance documentation and IT updates. This has been a considerable volume of work on top of the already existing partnership working and joint quality assurance and reviews of domestic abuse cases more generally. Senior management in both the Police Service and the PPS have demonstrated that they consider domestic abuse to be a priority, with a substantial investment in training across the organisations. The leads for this work in each organisation are to be commended for their commitment to implementation and to enhancing the focus on domestic abuse.
- 4.49 While acknowledging the challenges experienced in delivering the specialist domestic abuse Prosecutor initiative, Inspectors still believe that there is merit in a model which further develops expertise in prosecuting domestic abuse cases within the PPS. The plans for a Specialist Domestic Abuse Court in Belfast (see Chapter 6) will require the allocation of specialist Prosecutors and proposals to reduce the volume of cases being sent to the PPS, as outlined previously, could enable this initiative to be reconsidered. Both organisations are still learning how to most effectively use the Section 1 domestic abuse offence and the various aggravators, which is understandable given the recency and complexities of the Act, and specialist Prosecutors could assist in this regard.
- 4.50 As illustrated in the findings from both case file reviews, Inspectors identified issues that have been reported in previous CJI reports including file quality, timeliness, supervision, record keeping and rationale for decisions, resource challenges and a greater focus on victims, but these must be addressed in order to fully realise the intention and benefits of the Act. These include:
- a greater understanding of evidential thresholds for the Section 1 domestic abuse offence and charge selection where the evidence may support a Section 1 domestic abuse offence or stand-alone charges or both;

- a focus on the impact of domestic abuse on children and the voice of the child being heard in cases of domestic abuse, including through the use of the Section 8 and 9 aggravators;
- a more effective approach to the use of special measures, including earlier identification of vulnerable and intimidated victims and a greater use of video-recorded evidence (see Chapter 5); and
- supervisory and quality assurance processes which support the effective use of the Act.

4.51 Inspectors therefore make a similar recommendation to that made in the 2019 *No Excuse* report regarding the need for the organisations to work together to achieve positive outcomes.

STRATEGIC RECOMMENDATION 2

The Police Service of Northern Ireland and the Public Prosecution Service for Northern Ireland should further develop and embed the Prosecution Team approach for cases involving domestic abuse, focusing on the issues highlighted in this review, within six months of the publication of this report. This should include re-visiting the concept of specialist domestic abuse Prosecutors.

CHAPTER 5: POST DECISION: TRIAL AND COURT

THE TRIAL

- 5.1 There were 64 cases in the prosecution case file sample that went to Court at some stage during the lifetime of the case. Of these 81% of cases (52) were heard in the Magistrates' Court, 14% of cases (nine) were heard in the Crown Court and 5% of cases (three) were heard in the Youth Court.
- 5.2 Conditional bail and custody applications at Court were relevant in 58 cases. Of these, all such applications, where there was evidence on the file, were made appropriately in 97% of cases (56). In two (3%) cases it was not possible to tell from the records. This is a positive finding in the approach to protecting victims. Section 24 of the Act amended the Criminal Evidence (Northern Ireland) Order 1999, in order to prohibit the defendant from cross-examining a partner or connected person in person, where they are to give evidence.⁶² Inspectors are not aware of any attempts by defendants to do so.
- 5.3 In several complex cases there did not appear to be a clear and flexible case or trial strategy that could withstand significant developments such as withdrawal by victims or unexpected pleas at Court. In common with the findings in relation to recording of rationale at the decision-making stage, as outlined in Chapter 4, the quality of prosecution Court outcome records was poor in many cases. Details of sentencing were found in many different locations on the PPS file but were not always matching or identical. For example, letters to victims were not the same as Court outcome notes particularly regarding ancillary orders and the use of measures to assist victims at trial. Communication with victims and the use of special measures is covered in more detail in Chapter 6.

SENTENCING AGGRAVATION

- 5.4 The number of cases in the sample which resulted in a prosecution where the Section 8 and 9 aggravators were relevant was too low to allow any meaningful assessment of the PPS approach at Court. The data available on outcomes at Court is discussed further in Chapter 7.

62 See <https://www.legislation.gov.uk/nisi/1999/2789/contents>.

- 5.5 There were 32 cases in the file sample where the case was brought before the Court and the existence of a Section 15 domestic abuse aggravator should have been drawn to the Court's attention for the purposes of sentencing. This was achieved in 34% cases (11) but was not done in a further 13% cases (four). In 17 cases it was not possible to tell due to a lack of Prosecutor Court records (53%). The PPS advised that under the agreed arrangements, the Section 8, Section 9 and Section 15 aggravators were part of the relevant charge text and therefore included on the various instruments of prosecution (for example the charge sheet or summons). This was intended to aid transparency during the various stages of the Court process and to ensure that relevant aggravators were readily identified by the Court at sentencing. Inspectors acknowledge the steps taken by the PPS to make the Court aware that the offence is aggravated by reason of involving domestic abuse, however believe it would be prudent for the Prosecutor to clarify whether or not this has resulted in an enhanced sentence.
- 5.6 Court staff were required to ensure that the result of domestic abuse cases was recorded as follows:
- DASE - 'Aggravated by Domestic Abuse Sentence Enhanced' - this order should be recorded alongside the sentence for the substantive offence when the aggravator is proven and the Judge specifically states in Court that the sentence reflects the presence of the aggravator; or
 - DANA - 'Aggravated by Domestic Abuse - Sentence Not Enhanced' - should be recorded alongside the substantive offence when the aggravator is proven and the Judge specifically states that he has considered the aggravator but it is not altering the sentence as a result.
- 5.7 A NICTS post-implementation operational issues log from September 2022⁶³ noted that analysis of statistics suggested that the element of enhanced or non-enhanced sentencing was being overlooked. This was for a mixture of reasons including that the enhancement or non-enhancement of a sentence was not being explicitly articulated by the Judiciary, the PPS were not requesting clarity on enhancement or non-enhancement, or this part of the sentence was not being accurately reflected in the result recorded by Court staff. The NICTS noted that they had referenced this in discussions held with the Judicial Studies Board who agreed to take the issues forward with Judges. All NICTS staff were to be further reminded of the need to record DASE and DANA orders in the quarterly operational bulletins. The figures relating to the recording of sentencing are covered further in Chapter 7.
- 5.8 Aggravated sentencing, using a similar legislative mechanism, was introduced in relation to hate crimes twenty years ago through Section 2 of the Criminal Justice (No. 2) (Northern Ireland) Order 2004.⁶⁴ This required the Court to treat hostility as an aggravating factor that increased the seriousness of the offence and to state this fact in open Court. A report by the Northern Ireland Human Rights Commission

63 NICTS, *Domestic Abuse Operational Issues*, September 2022, internal document.

64 See <https://www.legislation.gov.uk/nisi/2004/1991/article/2>.

published in September 2013⁶⁵ found that *'The 2004 Order, Article 2, requires the sentencing judge to state in open Court whether the offence was aggravated. There was inconsistent practice in this regard.'* The report was available on the sentencing guidelines section of the Judiciary NI website noting that the then Lord Chief Justice's Sentencing Group, chaired by Lord Justice Gillen, had asked the Judicial Studies Board to draw the attention of sentencers to the report and in particular the concerns raised regarding the practices of the criminal justice agencies and the experiences reported by the victims and non-governmental organisations, including the finding noted above. The experience of the hate crime aggravator shows that, although this approach to sentencing is well established, there can be persistent challenges in ensuring consistent recording of sentencing outcomes.

- 5.9 The views of Court staff varied about how easy it was to record the sentencing outcomes on the NICTS Integrated Court Operations System, both in the extent to which it was clear that the Judge was aggravating the sentence and in terms of the recording processes. Clarification was sometimes sought from the Judge to ensure the sentence was recorded accurately but, if the aggravator was not mentioned by the Judge, it was the role of the Prosecutor to raise this in the Court.
- 5.10 Inspectors met with the Presiding District Judge (Magistrates' Court) who emphasised that, even prior to the introduction of the Act and the statutory aggravators, Judges had often referred to domestic abuse in their sentencing remarks and the enhancing of sentences because of the aggravating circumstances of the offence occurring in a domestic context. Sentencing guidelines for the Magistrates' Court in relation to assault offences stated, even prior to the introduction of the Act, that if the offence was 'committed in the context of domestic violence' the starting point for a custodial sentence was higher than that prescribed and that the Court may impose a sentence outside the prescribed sentencing range.⁶⁶ The Section 15 aggravator however was designed to enhance the sentence, whatever type of offence the defendant was convicted of, if it was committed in the context domestic abuse.
- 5.11 It was felt therefore that the introduction of the Section 1 domestic abuse offence was more important from a sentencing perspective as it enabled Judges to use increased sentencing powers, due to the maximum sentence for this offence being 12 months' imprisonment for a summary conviction (in a Magistrates' Court) or 14 years' imprisonment when tried on indictment (in the Crown Court). This is why the focus on using the Section 1 domestic abuse offence, where the evidence is available to prove a course of behaviour, rather than individual offences, as outlined in previous Chapters of this report and in the issues to be addressed in Strategic Recommendation 2, is particularly important.

65 NI Human Rights Commission, *Racist Hate Crime: Human Rights and the Criminal Justice System in Northern Ireland*, September 2013 available at <https://nihrc.org/publication/detail/racist-hate-crime-human-rights-and-the-criminal-justice-system-in-nort>

66 See <https://www.judiciaryni.uk/sentencing-guidelines-magistrates-court-assault-offences>.

5.12 Section 13 of the Act provided that, where the Court is not satisfied that the Section 1 domestic abuse offence has been committed, it can convict the accused of a specified alternative offence of harassment or putting people in fear of violence under the Protection from Harassment (Northern Ireland) Order 1997. There were seven cases in the prosecution case files where the Court could have dealt with the defendant for specific alternative offences at disposal under Section 13 domestic abuse. This did not occur in any of these cases.

5.13 Section 12 of the Act provides for a defence on the grounds of reasonableness. This Section provides that it is a defence for the accused to show that the course of behaviour was, in the particular circumstances, reasonable. This could apply where, for example, the accused acted to prevent their partner from associating with certain persons or frequenting certain places if they are recovering from alcohol or drug addiction or to restrict their freedom of movement for their own safety due to the effects of suffering from dementia. In the consultation process the Northern Ireland Human Rights Commission raised concerns about Section 12, stating in their submission that: *'there are concerns that this clause could be misused as a justification for abuse. There is the risk that particularly vulnerable victims that suffer from mental health issues or have disabilities and have inadequate legal support and representation could be disproportionately impacted by the implications of such a defence.'*⁶⁷ Inspectors did not see any cases in the case file review where the defence attempted to show that the behaviour was reasonable. However, it is important that the DoJ, in conjunction with the PPS, monitor the use of this Section of the Act, particularly as it was expected to apply in very limited circumstances.⁶⁸

5.14 Restraining Orders to protect victims from further harassment were appropriate in 26 cases in the sample. It was not possible to tell whether the Prosecutor had made an application for a Restraining Order in 39% of these cases (10). An application was made in 42% (11 cases) but not in 19% (five cases).

PERPETRATOR PROGRAMMES AND PUBLIC PROTECTION

5.15 The PBNI 2022-23 Annual Report stated *'Over the past year, we have also prioritised our work tackling domestic abuse. We know that there has been a significant increase of more than 100% over the last year in those registered with the victim information scheme who are victims of domestic abuse. We expect to see our workload in this area increase in light of the new legalisation introduced in Northern Ireland. We have provided training to staff on coercive control and domestic homicide reviews and continue to work closely with the police and others to supervise high risk violent and sexual offenders in order to protect the public.'*⁶⁹

67 Northern Ireland Human Rights Commission, *Advice to the Department of Justice: Domestic Abuse and Family Proceedings Bill*, June 2020 available at <https://nihrc.org/publication/detail/advice-to-the-department-of-justice-domestic-abuse-and-family-proceedings-bill>.

68 See Section 12 of explanatory notes of Domestic Abuse and Civil Proceedings (Northern Ireland) Act 2021 available at <https://www.legislation.gov.uk/nia/2021/2/notes/division/4/1/12>.

69 PBNI, *Annual Report 2022-23*, July 2023 available at <https://www.pbni.org.uk/publication/probation-board-annual-report-22-23>.

- 5.16 When producing a pre-sentence report for the Court, Probation Officers risk assess the perpetrator using the 'B-SAFER' (Brief Spousal Assault Form for the Evaluation of Risk) risk assessment tool with defendants convicted of intimate partner violence. This was used to advise the Court of the appropriate programme pathway. The PBNI facilitated the Respectful Relationships Intervention which aimed to develop educational awareness about what constitutes healthy, unhealthy and abusive relationships for males assessed as lower risk of Intimate Partner Violence. In addition, the PBNI facilitated the accredited programme Building Better Relationships which is designed to reduce reoffending by adult males convicted of violence against an intimate partner and is for males assessed as a high risk of Intimate Partner Violence. Inspectors were advised that resource challenges within the PBNI had reduced the available capacity of programmes for those convicted of intimate partner violence. The focus therefore was on high-risk perpetrators with those scoring high-risk on B-SAFER being placed on a programme, those scoring medium risk having their case assessed by a panel who made decisions about the perpetrator attending a group programme, and those who were low risk undertaking one-to-one work with their Probation Officer.
- 5.17 Since 2010 those convicted of a violent offence in domestic or family circumstances could be managed under public protection arrangements as set out in the PPANI guidance to agencies under Article 50 of the Criminal Justice (Northern Ireland) Order 2008.⁷⁰ The guidance limited this to those who had been convicted of an offence of assault occasioning actual bodily harm or a more serious offence.
- 5.18 A review of the Article 50 guidance had led to a widening of the threshold for referral into the PPANI, which reflected the changes to legislation and recognition that the seriousness of domestic abuse is not always related to the level of physical violence. An updated PPANI Manual of Practice, finalised in November 2022⁷¹ stated, in relation to those convicted of domestic abuse, *'The criteria for initial assessment to determine if management of risk through the Public Protection arrangements is required are as follows;*
- *Persons who have been convicted of a violent offence (including homicide) against a child or vulnerable adult (an adult at risk of harm/ an adult in need of protection); or who have a previous conviction for a violent offence against a child or vulnerable adult and about whom an agency has current significant concerns.*

70 DoJ, *Guidance to agencies on public protection arrangements (PPANI): Article 50, Criminal Justice (Northern Ireland) Order 2008, October 2017* available at

<https://www.justice-ni.gov.uk/publications/guidance-agencies-public-protection-arrangements>.

71 PPANI, *Manual of Practice (Revised and approved by PPANI SMB April 2021, subsequently further revised October 2021 to November 2022 to reflect outcome of Article 50 Review), November 2023* available at

<https://www.publicprotectionni.com/app/uploads/2023/11/PPANI-Manual-of-Practice-November-2023-Final.pdf>.

- *Persons who have been convicted of a violent offence, Coercive Controlling Behaviour, Harassment or stalking in domestic or family circumstances; or who have a previous conviction for a violent offence in domestic or family circumstances and about whom an agency has current significant concerns.*

5.19 The Manual also noted that *‘Whilst, it is not possible to be prescriptive in relation to identifying behaviours evidencing Serious Harm, examples could include; a verifiable pattern of on-going domestic violence; the nature of the domestic violence conviction; multiple victims; or a new charge for a serious assault in family or domestic circumstances.’* This approach ensured a focus on the level of risk and potential for serious harm, recognising patterns of behaviour and escalation, rather than just individual instances of physical violence.

CHAPTER 6: VICTIM CARE

BARRIERS TO REPORTING

- 6.1 As in previous inspections on the topic of domestic abuse and most recently in CJI's inspection of the criminal justice system's approach to older vulnerable people,⁷² Inspectors heard about the many and significant barriers to reporting crimes faced by victims from different backgrounds and Section 75 groups.⁷³ Stakeholders from the disability, Lesbian, Gay, Bi-sexual, Transgender, Queer, Intersex (LGBTQI+), older people and male victims' sectors who worked with or advocated for those who had been victims of crime, including domestic abuse, raised concerns about those from minority or unseen communities being able to report domestic abuse to the Police Service. Concerns included not feeling that the police would believe them, lack of trust in the criminal justice system, the ability or freedom to report, reliance on abusers for their daily living needs and particular vulnerabilities faced by victims.
- 6.2 Although these groups welcomed the focus on coercive or controlling behaviour within the Act, they felt that there was more to be done by the criminal justice system, particularly the Police Service, to encourage reporting by victims and ensure that every contact was a positive, supportive experience. Greater understanding about the needs of victims for whom there were additional barriers to reporting was requested, avoiding making assumptions or stereotyping and acknowledging the significant courage it took victims to make contact. Resourcing challenges in some of the organisations had led to a reduction in the ability to provide bespoke support for victims of domestic abuse.

72 CJI, *An Inspection of the Criminal Justice System's Approach to Vulnerable Older People in Northern Ireland*, September 2023 available at <https://www.cjini.org/TheInspections/Inspection-Reports/2023/July-Sept/Vulnerable-Older-People#:~:text=Vulnerable%20older%20people%20who%20are,with%20a%20sense%20of%20urgency>.

73 Section 75 of the Northern Ireland Act (1998) places a duty on public authorities to have due regard for the need to promote equality of opportunity between:

- persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation;
- men and women generally;
- persons with a disability and persons without; and
- persons with dependants and persons without.

VICTIM FIRST CONTACT AND SUPPORT

- 6.3 Inspectors reviewed Body-Worn Video during the reviews of both police and prosecution case files and observed some excellent examples of Police Officer engagement with victims. Inspectors found that Officers engaged effectively with domestic abuse complainants in most cases, demonstrating compassion and empathy to encourage them to engage (88%, 59 cases). Officers were patient and tenacious and Inspectors did not see evidence of Officers discouraging complainants from engaging with the criminal justice process at the point of initial contact. This is positive as it reflects the seriousness in which Officers view domestic abuse incidents and is likely to have a positive impact on victim confidence. In one example police received a report from an adult male who was alleging coercive or controlling behaviour from his partner. The caller and his partner both had a hearing impairment and were unable to speak. It was challenging for the Officers in engaging with the victim due to his communication and learning needs, but they did so effectively using text and by writing, and the interaction was recorded on the Body-Worn Video.
- 6.4 Where it was evident that the complainant had any additional vulnerabilities, for example age or being a person with a disability, this was recorded in most cases (17 of 21 cases, 81%). The Police Service had a range of agencies in place to refer domestic abuse victims to for support. These included Women's Aid, ASSIST NI and the Men's Advisory Project. Inspectors found evidence of referrals having been offered or made in 85% of relevant cases (56 of 66). Where referrals had been made, there was evidence they were done in a timely manner in almost all cases (95%, 52 of 56). In most cases where it was appropriate to do so, referrals had been made to a MARAC (73%, 16 of 22). An example of excellent victim care during first response is outlined in Case Example 11.

CASE EXAMPLE 11

Police received a 999 call to the house of a woman in her seventies who had been assaulted by her husband, sustaining a gash to the back of her head. The victim said her husband had been behaving strangely in the week leading up to this assault. There was excellent victim and suspect care given their age and the potential undiagnosed illness of the accused which may have affected the suspect's behaviour.

Police ensured the safety of the victim through the arrest of the suspect, made appropriate referrals in respect of both the suspect and victim and confirmed suitable living arrangements to ensure the safety of both on his release. They kept their daughter, who was caring for the victim, updated on case progress.

EARLY VICTIM NEEDS ASSESSMENT

- 6.5 CJI have previously highlighted the requirement for more effective victim needs assessment by the criminal justice agencies. The 2020 report on the treatment of victims and witnesses⁷⁴ noted that the Police Service's *'evolving response to vulnerability and its need to effectively assess risk and needs had produced various tools for specific areas of vulnerability'* and recommended a review of the use of existing risk and needs assessment tools. The Follow-Up Review of this report, published in October 2023,⁷⁵ welcomed the introduction of the Public Protection Notification Report as a positive development but noted that it had not been developed to encompass other areas of risk or needs assessment. Plans to progress a digital application to record and share the Public Protection Notification Report were highlighted as being promising, although Inspectors noted that was not yet implemented. The recommendation was assessed as being partially achieved. As outlined in Chapter 3, Inspectors were advised that this work was progressing and due to begin testing in 2024.
- 6.6 This current review also found that there was no formal process or template for Police Officers to record a victim needs assessment, and where this was recorded it therefore appeared in various places throughout the case records. Their understanding of a victim needs assessment was not consistent after the initial response, leading to missed opportunities to engage victims and keep them safe. In most cases, the importance and impact on individual adult and child victims' lived experiences were not consistently considered by Police Officers throughout the investigation.
- 6.7 The Northern Ireland Victim Charter states, in relation to special measures and additional support for victims with particular needs that *'In the context of the individual assessment by the police or Victim and Witness Care Unit, particular attention will be paid to you if you have suffered considerable harm due to the severity of the crime, the crime involves a bias or discriminatory motive that could, in particular, be related to your personal characteristics or where you may be particularly vulnerable due to a relationship with or dependence on the alleged offender. This would include consideration of...if you are a victim of sexual abuse or violence; domestic abuse or violence; gender-based violence...'*⁷⁶ Gender-based violence is noted to include violence in close relationships.

74 CJI, *The care and treatment of victims and witnesses by the Criminal Justice System in Northern Ireland*, July 2020 available at <https://www.cjini.org/TheInspections/Inspection-Reports/2020/July-September/Victims-Witness>.

75 CJI, *The care and treatment of victims and witnesses by the criminal justice system in Northern Ireland. A Follow-Up Review of recommendation implementation*, October 2023 available at <https://www.cjini.org/TheInspections/Action-Plan-Reviews-Inspection-Follow-Up-Review/2023/Oct-Dec/Victims-and-Witnesses-Follow-Up-Review>.

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

- 6.8 An inspection of the Police Service by HMICFRS published in October 2023 reported no evidence of THRIVE being used outside the service control room.⁷⁷ It was suggested that ensuring THRIVE assessments were used throughout investigations would improve the service to victims. Similarly in this review, in many cases, Inspectors found that assessment of risk and/or need was not reviewed by the police where there were identified changes during the investigation and case preparation that would impact on this, such as after suspect arrest or at the point of bail. One example of this was a case where an older woman was the victim of a domestic incident and her main carer (her daughter) was the suspect. There was no consideration of alternative care arrangements, after bail conditions were imposed preventing the daughter providing necessary care to the victim. Although the bail conditions were an appropriate measure to keep the victim safe, there was no consideration of a victim needs assessment.

SPECIAL MEASURES

- 6.9 Section 23 of the Act amended Part 2 of the Criminal Evidence (Northern Ireland) Order 1999, relating to special measures directions. This enabled those subject to the Section 1 domestic abuse offence, or an offence aggravated by domestic abuse, to automatically be eligible for consideration of special measures when giving evidence, which could include the use of a Remote Evidence Centre, live links, screens and other measures.
- 6.10 CJI's *No Excuse* report found evidence from the file review and discussions with Prosecutors that greater consideration of the use of special measures was required, as well as efforts to ensure special measures were tailored to the needs of the victim.⁷⁸ It recommended a review of the use of special measures in cases of domestic abuse to assess compliance with paragraph 48 of the Victim Charter⁷⁹ and action taken to address any issues arising. The Follow-Up Review found that although the PPS had undertaken work with the Police Service to improve the police recording of the need for special measures on the Prosecutor Information Form, a specific piece of work on special measures to assess compliance with paragraph 48 had not been completed. The PPS were therefore unable to explore in more detail and evidence the use of special measures by Prosecutors to identify whether improvements could be made. The Recommendation was assessed as not achieved.⁸⁰

77 HMICFRS, *The Police Service of Northern Ireland: An inspection of police effectiveness, efficiency, vetting and standards*, October 2023 available at <https://hmicfrs.justiceinspectorates.gov.uk/publications/psni-inspection-of-police-effectiveness-efficiency-vetting-and-standards/>.

78 CJI, *No Excuse: Public Protection Inspection II: A Thematic Inspection of the Handling of Domestic Violence and Abuse cases by the Criminal Justice System in Northern Ireland*, June 2019 available at <https://www.cjini.org/getattachment/079beabb-d094-40e9-8738-0f84cd347ae8/report.aspx>.

79 Paragraph 48 of the Victim Charter states 'You are considered to be an intimidated victim, when giving evidence if the quality of your evidence is likely to be affected because of your fear or distress about testifying.....You may also be considered to be intimidated, when giving evidence, if you:...have experienced domestic violence'; DoJ, *Victim Charter: A Charter for victims of crime*, December 2015 available at <https://www.justice-ni.gov.uk/sites/default/files/publications/doj/victim-charter.pdf>.

80 CJI, *No Excuse: Public Protection Inspection II: A Thematic Inspection of the Handling of Domestic Violence and Abuse cases by the Criminal Justice System in Northern Ireland: A Follow-Up Review of the Recommendations*, April 2021 available at <https://www.cjini.org/getattachment/48e855ca-cd40-4283-83c2-720cf49b5c94/report.aspx>.

- 6.11 This review found that police were often poor at identifying special measures when submitting a file and would often mark the case as 'not relevant' or 'to be confirmed' on the Prosecutor Information Form, when the use of special measures seemed to be extremely relevant to the case. In addition, it was highlighted that often the evidence was not contained on the file to support a special measures application. However, some Police Officers noted that Prosecutors were contacting them more frequently since the introduction of the Act to request further information for special measures applications.
- 6.12 The provision of special measures for victims of domestic abuse can include the opportunity to have their witness evidence obtained during a video recorded interview. Inspectors found that in more than half of cases where a video recorded interview would have been appropriate, there was no evidence noted that it had been considered (58%, 11 cases). Statements of evidence had been obtained as an alternative, but they often lacked detail on the points to prove for the offence, or the description of the circumstances. The gravity of the incident or the impact on the victim at that time may not therefore have been fully understood. The Police Service advised that the District Training which commenced in November 2023, included a focus on the use of video-recorded interviews. This is a positive step.
- 6.13 There were 47 relevant cases in the prosecution case file review where it was necessary to deal with special measures for victims attending Court to give evidence. In 68% or 32 cases, these were dealt with appropriately; in a further 23% (11) they were not dealt with appropriately and in 9% (four) the answer was not known. These figures are a significant improvement on those found in CJI's *No Excuse* report⁸¹ and therefore a positive finding. There is still room for further development, however, through the Prosecution Team approach to enable early identification of special measures by the police and applications by the PPS. Anecdotally, Court staff did not report a significant increase in special measures applications since the introduction of the Act. As has been found in previous reports, the need for special measures for victims was insufficiently addressed until late in the process and this was also a significant concern in this review. This could potentially lead to victim withdrawal in advance of a contest or trial in Court and was particularly important as defendants are less likely to plead guilty to these types of cases, often not offering a plea until the day of the contest or trial when the victim has attended Court to give evidence. Strategic Recommendation 2 highlights the need for the Police Service and the PPS to work together to ensure special measures are dealt with in an effective way.
- 6.14 Figures collated by the DoJ in relation to special measures cases at defendant level indicated a low level of special measures compared to the number of cases prosecuted in the Crown and Magistrates' Courts since the Act was introduced as outlined in Table 1. However a number of factors can impact on these figures

81 CJI's *No Excuse* report found 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.

including the identification of the need for special measures by the Police Service and the PPS, whether the victim wished to avail of special measures or not, whether special measures were applied for and granted by the Court, whether the victim withdrew from the case and therefore an evidence-led prosecution was used or the Prosecutor offered no evidence, when the application was heard (for example whether this was heard in advance of the day of the contest or trial) or whether the defendant entered a late guilty plea on the day of contest or trial, therefore removing the need for the victim to give evidence and utilise the special measures. It is important that the DoJ collects and analyses a greater amount of data from the NICTS about the number of special measures applications, such as numbers made and granted, granted but not required due to a guilty plea being entered (and at what point it was entered), rather than just cases where they were used. This is particularly important to monitor planned and actual usage of the new Remote Evidence Centre in Belfast but also wider consideration of the use of special measures.

Table 1: Cases (at defendant level) where there were special measures between February 2022 and September 2023

Court	Total cases dealt with at Courts	Special measures granted and used (at defendant level)
Crown Court	49	9
Magistrates' Courts	3,174	173
Total	3,223	182

VICTIM COMMUNICATION

- 6.15 Numerous previous CJI inspection reports have found improvements are needed in communication with victims of all types of crime, including those who have been victims of domestic abuse. The *Without Witness* report⁸² recommended 'the PPS undertake further work within six months of this report to fully deliver the standards contained in the Victim Charter and in the PPS Victim and Witnesses Policy to ensure communication with victims is more empathetic, understandable, accurate, consistent and appropriate for the needs of the recipient.' At the time of the 2021 Follow-Up Review this recommendation had not been achieved, in part due to delays caused by the COVID-19 pandemic.⁸³

82 CJI, *Without Witness*, Public Protection Inspection I: A thematic inspection of the handling of sexual violence and abuse cases by the criminal justice system in Northern Ireland, November 2018 available online <https://www.cjini.org/getdoc/8b1d12d8-ec8b-4ca3-bcc5-56bfd1c34a60/Sexual-Violence>.

83 CJI, *Without Witness: A thematic inspection of the handling of sexual violence and abuse cases by the criminal justice system in Northern Ireland: A Follow-Up Review of the Recommendations*, March 2021 available online <https://www.cjini.org/TheInspections/Action-Plan-Reviews-Inspection-Follow-Up-Review/2021/January-March/Without-Witness-Public-Protection-Inspection-1>.

- 6.16 CJI's most recent Inspection Report on the care and treatment of victims and witnesses across the criminal justice system, published in July 2020, extensively reviewed communication with victims across all crime types.⁸⁴ When the Follow-Up Review report was published in October 2023, the Chief Inspector of Criminal Justice drew attention to the urgent need for leadership, action and adequate resources to enhance the care and treatment of victims and witnesses involved in the criminal justice system in Northern Ireland. While recognising some positive progress, it was emphasised that further efforts were required to ensure the delivery of quality services to produce better outcomes and support for victims and witnesses.⁸⁵
- 6.17 Section 1.8 of the Northern Ireland Victim Charter sets out what information should be shared by the Police Service with victims about the investigation into their case, such as the offences for which the suspect is to be prosecuted, the outcome of Court or bail hearings, and when the offender is to be released.⁸⁶ Although Inspectors found some evidence of victims being updated during the course of the investigation, in a third of police cases reviewed (31%, 22 of 69) there was a lack of recording to evidence any victim updates as the investigation progressed in accordance with their entitlements.
- 6.18 Section 1.9 of the Northern Ireland Victim Charter sets out that victims are entitled to be informed by the police and have reasons explained to them about charging of suspects, granting of bail and or summons proceedings. In nearly three-quarters of the relevant cases (74%, 51 of 69) victims were provided with these updates in accordance with their entitlements in Standard 1.9.
- 6.19 Overall, in this review, communication with the victim by the PPS, where it was required, was judged adequate in 67% cases (44 of 66); it was assessed as insufficient in a further 32% (21) and in one other case (2%), it could not be assessed at all. Communications with victims continues to need improvement, with many only evidenced by a letter from the Victim and Witness Care Unit in preparation for trial or contest.

84 CJI, *Victims and Witnesses: The Care and Treatment of Victims and Witnesses by the Criminal Justice System in Northern Ireland*, July 2020 available at <https://www.cjini.org/TheInspections/Inspection-Reports/2020/July-September/Victims-Witness>.

85 CJI, *Victims and Witnesses: The Care and Treatment of Victims and Witnesses by the Criminal Justice System in Northern Ireland: A Follow-Up Review of the Recommendation Implementation*, October 2020 available at <https://www.cjini.org/TheInspections/Action-Plan-Reviews-Inspection-Follow-Up-Review/2023/Oct-Dec/Victims-and-Witnesses-Follow-Up-Review>.

86 DoJ, *Victim Charter: A Charter for Victims of Crime*, September 2015 available at <https://www.justice-ni.gov.uk/publications/victim-charter>.

VICTIMS AT COURT

- 6.20 In the 39 relevant cases there was only one victim personal statement on the prosecution case file, representing 3% of the total.
- 6.21 The 2022-23 Northern Ireland Victim and Witness Survey⁸⁷ reflected that the two concerns most frequently cited by respondents about Court attendance related to potential contact with the defendant and/or his/her supporters and fear of intimidation from the defendant and/or their supporters. Additionally, the proportions of respondents who expressed concern on both these aspects of Court attendance in 2022-23 were significantly higher at both overall and at victim level compared with the equivalent figures for 2019-20. Although the Northern Ireland Victim and Witness Survey does not include victims and witnesses involved in domestic violence crimes it is likely that victims of domestic abuse share the same concerns.
- 6.22 Stakeholders working with victims of domestic abuse that Inspectors consulted during this review, highlighted Court attendance as one of the key concerns for victims of domestic abuse, primarily for the reasons highlighted in the Northern Ireland Victim and Witness Survey. Some concerns were expressed about backwards steps in relation to the protection of victims, such as security restrictions in some Courts ending previous arrangements where some vulnerable victims could enter the Courthouse by a rear door.
- 6.23 The Belfast Remote Evidence Centre ('the Centre') was officially opened in September 2023.⁸⁸ The Centre enables vulnerable or intimidated victims and witnesses to provide their evidence to the Court using live link video technology. This complemented arrangements already in place in Derry/Londonderry and in Craigavon. However, Inspectors were advised that utilisation levels had been very low. Plans had also been developed to pilot a Domestic Abuse Contest Court in Belfast which was due to commence listings at the end of 2023 and could use the Belfast Centre. CJI has previously highlighted the significant difficulties faced by victims who are required to give evidence in an environment that potentially brings them into contact with the defendant and their supporters as well as the benefits of Specialist Domestic Abuse Courts. Inspectors therefore welcome these developments, particularly the effective use and benefits realisation of the Centre.

87 DoJ, *Victim and Witness Experience of the Northern Ireland Criminal Justice System: Key Findings - 2022-23, August 2023* available at <https://www.justice-ni.gov.uk/publications/victim-and-witness-experience-northern-ireland-criminal-justice-system-key-findings-202223>.

88 DoJ, *Official opening of Belfast Remote Evidence Centre, September 2023* available at <https://www.justice-ni.gov.uk/news/official-opening-belfast-remote-evidence-centre>.

CIVIL LEGAL AID

- 6.24 Section 28 of the Act provided access to civil legal aid for victims of domestic abuse. It waived the financial eligibility rules that would otherwise apply in determining a person's application for civil legal services to enable them to be represented as a respondent in proceedings under Article 8 of the Children (Northern Ireland) Order 1995.⁸⁹ Proceedings under Article 8 involve contact, residence, specific issues and prohibited steps orders relating to the care of children by people with parental responsibility for them. The waiver applied in circumstances where the person is a victim of domestic abuse, and where the person bringing the application against them is their abuser. This waiver recognised the fact that perpetrators may seek to abuse their victim by continuing to require them to attend hearings in the Family Proceedings Court, placing the financial burden on them of paying for legal representation.
- 6.25 Up to 27 November 2023 the number of solicitors who had applied for a waiver of the financial eligibility rules was incredibly low at only 25 cases. Of these, five had reached conclusion and been paid and closed, in a further four the 'report on case' had been received from the solicitor and was in the process of being paid, with the remainder all 'ongoing'. In July 2023 CJI Inspectors attended a Continuing Professional Development event at the Law Society of Northern Ireland that provided an overview of the Act. This session included an input from the Legal Services Agency and a representative from a Belfast solicitor's firm to raise awareness of the waiver amongst legal representatives.
- 6.26 CJI met with representatives from DoJ Civil Legal Aid Reform Branch and heard about the issues that had been identified from an evaluation undertaken after 12 months from the introduction of the waiver. These related to the low uptake of the waiver and the work that had been undertaken to address these. Firstly, it was clear that there was a lack of awareness amongst both legal professionals and the general public and secondly, issues had been raised about barriers to applying. In relation to awareness raising, the DoJ and Legal Services Agency had engaged with partners in the legal profession on several occasions, including through the Law Society event attended by CJI Inspectors.
- 6.27 In an attempt to enhance public awareness, the DoJ had developed communication materials for the general population, with a short film produced for social media and information on its website. It was recognised however that this type of awareness raising was unlikely to be impactful unless it was relevant to those receiving the messages at the point of being made aware of the waiver and needing to use it. The DoJ were exploring options to raise awareness at the point of need, for example the start of family proceedings when they were served with Article 8 papers. However, a proposed solution had yet to be identified.

89 See <https://www.legislation.gov.uk/nisi/1995/755/article/8>.

6.28 Concerns had been expressed regarding the high threshold in place to evidence that the applicant was a victim of abuse when making a legal aid application. The required evidence for the waiver was published on the DoJ website in February 2022 as follows:⁹⁰

- *'evidence that the Applicant in the children's proceedings had received a conviction for domestic abuse or a crime aggravated by domestic abuse against the Respondent in children's proceedings;*
- *evidence that the Applicant in children's proceedings had received a conviction for a crime of violent behaviour, including crimes of sexual violence and/or violence, against the Respondent in the children's proceedings;*
- *evidence that an inter-partes Non-Molestation Order or Occupation Order had been considered and granted by a Judge against the Applicant in children's proceedings and in favour of the Respondent in children's proceedings;*
- *evidence provided by the Police Service that the Respondent in the children's proceedings has been a reported victim of domestic abuse perpetrated by the Applicant in the children's proceedings; and*
- *or other evidence providing an equivalent level of assurance that a person is eligible for the waiver.'*

6.29 The DoJ had been developing ways to make the evidential test less of a barrier by making more forms of evidence applicable, as covered by the 'other evidence', which did not require the victim to have had reported abuse to the criminal justice system. The DoJ was working with statutory colleagues, specifically General Practitioners, social workers, health visitors and the Northern Ireland Housing Executive who may have domestic abuse reported to them. To date this had led to varying degrees of success, with concerns among some groups about what they would be asked to say in the letter. Similarly, the DoJ had been working with voluntary and community organisations who work with victims of domestic abuse to develop a process for providing evidence of eligibility for the waiver. CJI would encourage the DoJ to continue in their efforts to reduce barriers to victims of domestic abuse applying for legal aid and raising awareness of the waiver.

90 DoJ, *Guidance on the Domestic Abuse Waiver in Legal Aid application, February 2022* available at <https://www.justice-ni.gov.uk/sites/default/files/publications/justice/guidance%20on%20the%20domestic%20abuse%20waiver%20for%20access%20to%20legal%20aid.pdf>.

CHAPTER 7: OUTCOMES

AWARENESS RAISING

- 7.1 As reported in Chapter 2, a multi-media advertising campaign ‘#StillAbuse’ was launched in February 2022, coinciding with the introduction of the Act. This campaign ran a further four times in 2022-23 during high peak audience events such as the football World Cup and Christmas media campaigns. The primary aim of the campaign was to inform the public about the introduction of the new domestic abuse offence, including coercive or controlling behaviour, and to raise awareness of the issue of domestic abuse more generally. A second campaign focussed on the DVADS also ran in 2022-23. Prior to launch all campaign materials underwent pre-testing by a separate research company to assess public reaction and effectiveness.
- 7.2 A media review was conducted by the advertisement agency who developed the campaigns to assess their impact.⁹¹ The coercive control media campaign ran on UTV, Channel 4 and Sky and achieved reaches ranging from 67% to 72% of the adult population, with an opportunity to see ranging from 5.2 occasions to 6.3. Radio coverage ranged from 10% to 47% of the adult population depending on radio channel. A digital campaign included Facebook, Instagram, Google Display and Search, Tik Tok, Acast, Spotify and YouTube; social media reach is outlined in Table 2 below:

Table 2: Coercive control campaign social media reach, February 2022 - February 2023

	Total reach ⁹²	Total impressions ⁹³
Facebook/Instagram	1,735,293	4,474,680
Spotify	117,469	583,589
TikTok	489,763	3,850,130
	Views	Viewable impressions
Google Display		5,696,368
Google Search (paid)		33,242
YouTube (phase 2,3 & 4)	426,406	2,240,258
	Total impressions delivered	
Acast		363,018

91 Navigator Blue, Campaign Media Review, Department of Justice, Domestic Abuse NDAO - 2022-23, June 2023.

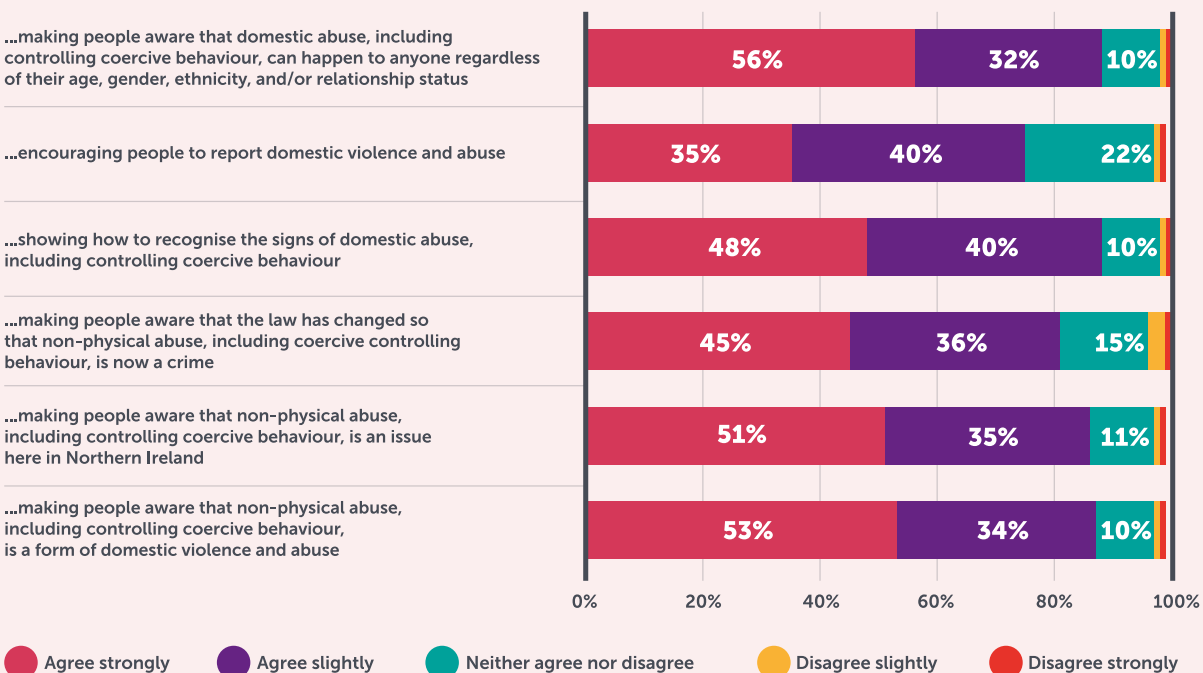
92 Reach - the number of people who see the advert.

93 Impressions - the number of times the advert is served on the platform.

- 7.3 The DVADS campaign ran in February and March 2023 using the same media channels as the primary campaign. The television advert achieved coverage of approximately 71% of the adult population, with an opportunity to see of 6.2 occasions. Radio coverage ranged from 14% to 48% of the adult population and online reach included 1,552,356 impressions on Facebook, 1,968,757 viewable impressions on Google Display, 6,540 impressions on Google Search, 97,511 views on YouTube, a reach of 82,219 on Tik Tok, 83,822 impressions on Acast and 196,274 impressions on Spotify.
- 7.4 Awareness of and attitudes to the advertising campaigns were assessed through Omnibus Surveys conducted in February and March 2023.⁹⁴ Spontaneous awareness of domestic abuse related advertising had increased from 29% pre-campaign to 51% in March 2022 and to 59% in February 2023. Prompted awareness of the campaign increased from 60% in March 2022 to 74% in February 2023.
- 7.5 As shown in Figure 2, 88% of those surveyed agreed that the advertising campaign had been successful in making people aware that domestic abuse, including controlling coercive behaviour, can happen to anyone. Three quarters of participants agreed that the campaign had been successful in encouraging people to report domestic violence and abuse. Almost nine in ten participants agreed that the campaign had been successful in showing people how to recognise the signs of domestic abuse, including controlling or coercive behaviour.

Figure 2: Impact of advertising, extent of agreement, Coercive Control campaign, February 2023

This advertising has been successful in...



94 Cognisense, Department of Justice - Domestic Abuse Offence Advertising Evaluation, February 2023, unpublished document.

7.6 The impact of the advertising campaign on awareness that the law had changed to criminalise non-physical abuse, including coercive or controlling behaviour, was high at 81%, alongside 86% of participants who agreed that the campaign had been successful in identifying that non-physical abuse is an issue in Northern Ireland. Furthermore, 87% of those surveyed agreed that the campaign had been successful in making people aware that non-physical abuse, including coercive or controlling behaviour, is a form of domestic abuse and violence.

7.7 As shown in Table 3, high levels of agreement were also recorded in relation to several attitudinal statements, including 95% of those surveyed who agreed that people from all walks of society can be victims of domestic abuse and violence, 94% who agreed that domestic violence and abuse is more than just physical violence and 92% who agreed that non-physical abuse, including coercive or controlling behaviour, is a hidden form of domestic abuse and violence.⁹⁵ Higher levels of agreement were recorded for each statement where the respondents were aware of the advertising campaign.

Table 3: Impact of advertising, extent of agreement towards attitudinal statements, Coercive Control campaign, February 2023

	Level of agreement		
	Total agreement	Aware of advertising	Not aware of advertising
Domestic violence and abuse is a serious issue here in Northern Ireland	82%	85%	74%
Domestic violence and abuse is more than just physical violence	94%	95%	90%
Non-physical abuse, including controlling coercive behaviour, is often ignored as form of domestic violence and abuse	84%	86%	81%
Non-physical abuse, including controlling coercive behaviour, is a hidden form of domestic violence and abuse	92%	94%	87%
The Northern Ireland Executive could do more to address the problem of domestic violence and abuse here in Northern Ireland	82%	84%	76%
People from all walks of society can be victims of domestic violence and abuse	95%	97%	92%
I would feel confidence reporting incidents of domestic violence and abuse	61%	68%	44%
If I was a victim of domestic violence and abuse, I would know where to get help	58%	62%	44%

95 Cognisense, Department of Justice - Domestic Abuse Offence Advertising Evaluation, February 2023, unpublished document.

- 7.8 Awareness of the advertising campaign had the greatest impact on confidence to report incidents of domestic violence and abuse, at 68% of those who were aware of the campaign compared to 44% of those who were not, and awareness of where to seek help, at 62% relative to 44%.

REPORTING REQUIREMENTS

- 7.9 Section 34 of the Act required the DoJ to prepare a report on the operation of the domestic abuse offence, child aggravators and Section 15 aggravator. The report was required to set out a range of information including: the number of offences recorded by the Police Service (broken down by police District); the number of files submitted to the PPS; prosecutions; convictions; and the average length of time for disposal of cases. This data was to be provided to the DoJ by NISRA statisticians working within the Police Service, PPS and NICTS.
- 7.10 The reporting requirement provision in the Act was the result of a Justice Committee amendment tabled at Consideration Stage. This was supported by the Northern Ireland Assembly and became part of the Act once it received Royal Assent. A Reporting Requirements Group was set up in the implementation phase, as outlined in Chapter 2. Inspectors were advised that NISRA statisticians working within the Police Service raised concerns about reporting against the Section 15 domestic abuse aggravator and the resources that would be required to ensure the accuracy of the data, however the legislation was already passed and was strongly supported by legislators.
- 7.11 The DoJ were required to produce their first report between two and three years from the introduction of the domestic abuse offence and aggravators coming into operation. There was also an ongoing reporting requirement, with each reporting period three years after the previous one. CJI understands that it is planned that the first report will be published by the DoJ in June 2025 and look forward to this publication. Some data was already being collated by the DoJ and it was intended that further work would be done in advance of the first publication to gather all the relevant statistics.
- 7.12 At the time of this review therefore the DoJ provided the collated data to CJI from the introduction of the Act to September 2023 for the purposes of this report. Where available, this data and other publicly available statistical information is outlined in this review report. The Police Service had published statistical data on domestic abuse incidents and crimes since 2004-05 and therefore included figures on the domestic abuse offence since February 2022. Bulletins and annual trends were published on the Police Service website and relevant data is included in the 'Domestic abuse statistics' section of this report. At the time of this Review, the Police Service statistical publications included figures for the child aggravators (Section 8 and Section 9) but not for the Section 15 aggravators.

This, as outlined at the time of implementation, was due to concerns about the accuracy of the data and the differences in the way in which aggravators are recorded in comparison to crimes.⁹⁶

- 7.13 CJI were also advised by the PPS that they intended to publish an annual domestic abuse bulletin, of a similar format to that of their sexual offences bulletin⁹⁷ that would contain data on files submitted by the Police Service to the PPS, prosecutions and convictions of domestic abuse offences. CJI welcome the publishing of this data to raise awareness about domestic abuse cases submitted to, and dealt with by, the PPS and the outcomes of those cases.

DOMESTIC ABUSE STATISTICS

- 7.14 The number of domestic abuse incidents and crimes recorded in Northern Ireland has steadily increased since the time series began in 2004-05. There were 32,875 domestic abuse incidents recorded in 2022-23; a 1% decline from 2021-22, however this was the second highest level recorded since 2004-05. There were 22,343 domestic abuse crimes recorded in 2022-23, a 3% increase from 2021-22 and the highest number since 2004-05. This was within the 3-4% predicted increase in domestic abuse related demand anticipated by the Police Service following the introduction of the domestic abuse offence. In 2022-23 domestic abuse crimes accounted for one in five of all crimes recorded by the Police Service⁹⁸, this compared to 16% of all offences recorded in England and Wales.⁹⁹ Between April 2023 and September 2023 there were a further 17,044 domestic abuse incidents and 10,319 crimes recorded by the Police Service.¹⁰⁰
- 7.15 The largest volume decrease in domestic abuse related crimes between 2021-22 and 2022-23 was in criminal damage which declined by 11%. Increases were evident in theft offences (14%), sexual offences (10%) and violence against the person offences (4%), committed in a domestic context. Increases in violence against the person offences were largely seen within the stalking and harassment sub-category (10%). Some of these increases can be attributed to changes in

96 The Home Office Crime Recording Rules for frontline Officers and staff provide a national standard for the recording and counting of 'notifiable' offences recorded by police forces in England and Wales (known as 'recorded crime'). Crime recording in Northern Ireland follows the same Rules as in England and Wales. Crimes should be recorded as soon as sufficient information exists to meet the crime recording steps and this should be on the same day the report is received and no later than 24 hours after the initial report was received. See <https://www.gov.uk/government/publications/counting-rules-for-recorded-crime>. A Section 15 aggravator is added to an offence when charging/reporting a suspect.

97 PPSNI, Statistical Publication - Cases Involving Sexual Offences 2022-23, November 2023 available at

<https://www.ppsni.gov.uk/publications/statistical-publication-cases-involving-sexual-offences-2022-23>.

98 Police Service of Northern Ireland, Domestic Abuse Statistics, Domestic Abuse Annual Trends 2004-05 to 2022-23, November 2023 available at <https://www.psnipolice.uk/about-us/our-publications-and-reports/official-statistics/domestic-abuse-statistics>.

99 Office for National Statistics, Domestic abuse in England and Wales overview: November 2023, November 2023 available at <https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/bulletins/domesticabuseinenglandandwalesoverview/november2023>.

100 Police Service of Northern Ireland, Domestic Abuse Statistics, Quarterly update, period ending 30 September 2023, 30 November 2023 available at <https://www.psnipolice.uk/about-us/our-publications-and-reports/official-statistics/domestic-abuse-statistics>.

recording practices, of which a significant impact occurred within the stalking and harassment sub-category.¹⁰¹

- 7.16 Crimes under the Act were recorded under the stalking and harassment sub-category. Between 21 February 2022 and 31 March 2022, 97 offences of coercive or controlling behaviour were recorded by the Police Service and 916 offences in 2022-23. A further 335 offences were recorded between April and September 2023-24.¹⁰² Analysis of percentage change over time was not possible. The Protection from Stalking Act (Northern Ireland) 2022 created offences to provide protection from stalking and threatening or abusive behaviour and recording of these offences started on 26 April 2022, 113 offences were recorded in 2022-23.¹⁰³ Table 4 summarises published data in relation to domestic abuse and the stalking and harassment sub-categories.

Table 4: Police Service recorded domestic abuse statistics, Northern Ireland, 2022-23 and April to September 2023-24

	2021-22	2022-23	% change 2021-22 to 2022-23	April to September 2023-24
Domestic abuse incidents	33,186	32,875	-0.9%	17,044
Domestic abuse crimes	21,664	22,343	+3.1%	10,319
Stalking and harassment	4,716	5,198	+10.2%	1,039
Domestic abuse offence/controlling or coercive behaviour ¹⁰⁴	97	916	-	335
Section 8 aggravator - victim under 18	2	14	-	3
Section 9 aggravator - relevant child involved	38	324	-	118

- 7.17 As shown in Table 4, of the 1,348 domestic abuse offences recorded by the Police Service between the introduction of the domestic abuse offence in February 2021 and September 2023, the Police Service applied the Section 8 child aggravator (victim under 18 years of age) 19 times (1.4% of cases). The Section 9 child aggravator (the 'relevant child') was applied by the Police Service 480 times (35.6% of cases).¹⁰⁵ As outlined, data relating to the Section 15 aggravator was not included in Police Service official statistical publications due to concerns regarding the

101 Police Service of Northern Ireland, *Domestic Abuse Statistics, Domestic Abuse Annual Trends 2004-05 to 2022-23, November 2023* available at <https://www.psni.police.uk/about-us/our-publications-and-reports/official-statistics/domestic-abuse-statistics>.

102 Police Service of Northern Ireland, *Domestic Abuse Statistics, Domestic Abuse Annual Trends 2004-05 to 2022-23, November 2023* available at <https://www.psni.police.uk/about-us/our-publications-and-reports/official-statistics/domestic-abuse-statistics>.

103 Police Service of Northern Ireland, *Domestic Abuse Statistics, Domestic Abuse Annual Trends 2004-05 to 2022-23, November 2023* available at <https://www.psni.police.uk/about-us/our-publications-and-reports/official-statistics/domestic-abuse-statistics>.

104 Recording of the Domestic Abuse and offence began on 21 February 2022.

105 Police Service of Northern Ireland, *Domestic Abuse Statistics, Domestic Abuse Annual Trends 2004-05 to 2022-23, November 2023* available at <https://www.psni.police.uk/about-us/our-publications-and-reports/official-statistics/domestic-abuse-statistics>.

resources required to ensure sufficient accuracy of the data and the differences between crime recording and aggravator data. Inspectors reviewed an internal paper provided by the Police Service outlining these issues.

- 7.18 Inspectors believe that regular publishing of this data would enable greater transparency of the identification and use of the Section 15 aggravator by the Police Service, better monitoring by scrutiny bodies and interested parties over time and highlight to victims, perpetrators, stakeholders and the wider public that offences committed in a domestic context were being identified and aggravated by reason of domestic abuse. While acknowledging the concerns highlighted about the resource requirements of producing statistical data which is at a sufficient level of accuracy, Inspectors believe that work undertaken to enhance the recording of Section 15 aggravators as required by Operational Recommendation 5 of this report, will assist in increasing the accuracy of the data. It may be more appropriate for data on aggravators to be published separately to the existing domestic abuse official statistical publications, and that data caveats need to be applied, but Inspectors still believe that reporting on this data is in accordance with the spirit of the Act.

OPERATIONAL RECOMMENDATION 8

As required by Section 34 of the Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021, the Police Service of Northern Ireland should produce data on offences alleged to be aggravated by domestic abuse as referred to in Section 15. Within six months of the publication of this report plans should be developed as to how this data can be published at regular time intervals.

POLICE SERVICE OUTCOME RATES

- 7.19 One in four crimes (25.5%) with a domestic abuse motivation resulted in a charge or a summons in 2022-23, up from 24.4% in 2021-22. Out of Court disposals accounted for 3.8% of domestic abuse crimes in 2022-23 and 4.1% in 2021-22. Almost three in five domestic abuse crimes (57.4%) did not proceed due to evidential difficulties, including 40.3% where the victim did not support prosecution; this was similar to that recorded in 2021-22. Victim withdrawal and a lack of support for proceeding with a prosecution was higher for domestic abuse crimes compared to all crime where in 2022-23 25.3% of crimes were recorded as 'victim does not support action'.¹⁰⁶

¹⁰⁶ Police Service of Northern Ireland, *Police Recorded Crime Statistics, Outcomes of Crimes Recorded by the Police Service of Northern Ireland, 2015-16 to 2022-23, November 2023* available at <https://www.psnl.police.uk/about-us/our-publications-and-reports/official-statistics/police-recorded-crime-statistics>.

7.20 As shown in Table 5 outcome rates for domestic abuse crime varied by offence type. In 2022-23 the outcome rate for violence against the person offences was 29.5%; this incorporated a rate of 29.7% for harassment offences, 48.7% for stalking offences, 26.1% for malicious communications and 45.4% for the domestic abuse offence/coercive or controlling behaviour. The outcome rate for theft offences had declined by 6.4% to 35.3% and the rate for sexual offences had reduced by 2.9% to 10.1%.¹⁰⁷

Table 5: Outcome rates for crimes with a domestic abuse motivation by offence type, 2021-22 to 2022-23

	2021-22 (%)	2022-23 (%)	% change 2021-22 to 2022-23
Total violence against the person	25.8	29.5	+3.6%
<i>Harassment</i>	24.8	29.7	+5%
<i>Stalking</i>	-	48.7	-
<i>Malicious Communications</i>	19.0	26.1	+7.1%
<i>Controlling or coercive behaviour</i>	23.7	45.4	+21.7%
Total sexual offences	13.0	10.1	-2.9%
Theft offences	41.7	35.3	-6.4%

CASE DISPOSAL

7.21 Although statistical information presented by the Police Service related to victims of domestic abuse offences, data in the rest of the criminal justice system was collected on a case or defendant basis. Case disposal data provided by the DoJ reported that 3,299 cases with a domestic abuse offence or an offence aggravated by Section 15 of the Act had been disposed of between 17 February 2022 and 30 September 2023. As shown in Table 6, 77 cases (2%) related to a Section 1 offence only, including 74 which resulted in a prosecution, resulting in 26 convictions, and three in a diversion. Most cases (89%) which had been disposed of were cases with other offences which had been aggravated by the Section 15 statutory aggravator. Of these 2,606 resulted in a prosecution, of which 1,379 resulted in a conviction. The remaining 276 cases (8%) were cases with both the domestic abuse offence and another offence aggravated by Section 15; these resulted in 272 prosecutions, of which there were 146 convictions, and four diversions.

¹⁰⁷ Police Service of Northern Ireland, *Domestic Abuse Statistics, Domestic Abuse Annual Trends 2004-05 to 2022-23, November 2023* available at <https://www.psni.police.uk/about-us/our-publications-and-reports/official-statistics/domestic-abuse-statistics>.

Table 6: Cases with domestic abuse offence or with other offence(s) aggravated by Section 15 by disposal, 17 February 2022 to 30 September 2023

	Court disposal		Out of Court disposal		Total
	Prosecution	Conviction	Diversion	Penalty Notice for Disorder	
Domestic abuse offence only	74	26	3	-	77 (2%)
Cases with other offence(s) aggravated by Section 15	2,606	1,379	#	*	2,946 (89%)
Cases with both the domestic abuse offence and other offence(s) aggravated by Section 15	272	146	4	-	276 (8%)

Note: # means a figure of 3 or more had been treated to prevent disclosure of a small number elsewhere

*means a figure relating to fewer than 3 cases has been treated under rules of disclosure

7.22 Of the 345 domestic abuse offence cases dealt with at the Crown Court and the Magistrates Court¹⁰⁸ between 17 February 2021 and 30 September 2023 just 16 (5%) had a Section 8 or Section 9 child aggravator attached. The remaining 95% of domestic abuse offence cases which were dealt with at Court since the introduction of the Act had no child aggravator attached. Due to small numbers and data disclosures applied to the data received from the DoJ it is not possible, at the time of this review to report outcome data on Section 8, Section 9 and no child aggravator. Inspectors will continue to monitor this data during future reviews and report on outcomes when datasets with increased numbers of child aggravators are available.

7.23 Table 7 shows the outcome data for other offences aggravated by Section 15 of the Act and dealt with at the Crown Court and Magistrates' Court.¹⁰⁹ A greater proportion of Crown Court cases resulted in a custodial sentence (70%) than in the Magistrates' Court (18%), reflecting the seriousness of the charges. There was also a lower proportion of cases in which there was a not guilty outcome in the Crown Court (14%) than in the Magistrates' Court (48%).

108 Figures include adult and youth Courts

109 Figures include adult and youth Courts

Table 7: Outcomes for other offence(s) aggravated by Section 15, dealt with at Crown and Magistrates' Court, 21 February 2022 to 30 September 2023

	Other offence(s) aggravated by Section 15			
	Crown Court		Magistrates' Court	
	Number	Percentage	Number	Percentage
Custodial sentence	31	70%	501	18%
Suspended sentence	4	9%	361	13%
Community sentence	3	7%	268	9%
Monetary penalty	0	-	258	9%
Other	0	-	99	3%
Not guilty	6	14%	1,247	48%
Total	44	100%	2,878	98%

7.24 Data collated by the DoJ also showed that a majority of the other offences which attracted the Section 15 domestic abuse aggravator were violence against the person offences, accounting for 63% of prosecutions, 58% of convictions and 57% of out of Court disposals. This was followed by criminal damage offences (22% of prosecutions, 23% of convictions and 32% of out of Court disposals) and public order offences (7% of prosecutions, 10% of convictions and 4% of out of Court disposals). Out of Court disposals were utilised in 344 cases involving the use of the Section 15 domestic abuse aggravator. Inspectors have concerns about the use of cautions (which appear within the Out of Court disposals category) in cases of domestic abuse as discussed further in Chapter 4.

7.25 In accordance with the requirements of Section 31 of the Act, data was collected by the DoJ in relation to sentencing outcomes for cases aggravated by domestic abuse. As outlined in Chapter 5, Court staff were required to record the sentence as either 'DASE' (Aggravated by Domestic Abuse Sentence Enhanced) or DANA (Aggravated by Domestic Abuse - Sentence Not Enhanced). Table 8 shows a low number of recorded sentence outcomes against these two categories when compared to the number of cases aggravated by domestic abuse resulting in a conviction.

Table 8: Outcomes for Cases (defendant level) between February 2022 and September 2023 which were Aggravated by Domestic Abuse-Sentence Enhanced (DASE) or Domestic Abuse - Sentence Not Enhanced (DANA)

	DANA	DASE
Custodial Sentence	#	81
Suspended Imprisonment	*	45
Community Sentence	*	27
Monetary penalty	4	#
Other	5	*
Not guilty	-	*
Total	16	166

Note:

1. The figures relate to cases where a Domestic Abuse - sentence enhanced or Domestic abuse - sentence not enhanced was recorded for at least one offence.
 2. Figures relate to the main outcome in each case.
 3. Figures relate to initial disposals. Appeals are not included.
- * means a figure relating to fewer than 3 cases has been treated under rules of disclosure.
means a figure of 3 or more had been treated to prevent disclosure of a small number elsewhere.

7.26 Table 6 shows that between the introduction of the Act and September 2023 there were 1,525 cases resulting in a conviction which included other offence(s) aggravated by Section 15 (both with and without the Section 1 domestic abuse offence). When comparing the number of case outcomes recorded as DASE or DANA to this figure it is clear that there are significant issues with the recording of the sentencing aggravators applied in Court. As outlined in Chapter 5, issues were identified by the NICTS after the implementation of the Act in relation the recording of DASE and DANA (that the element of enhanced or non-enhanced sentencing was being overlooked for a variety of reasons) and it appears that these continue to have an impact. The intent of the Section 15 aggravator of the Act in demonstrating to victims, perpetrators and the public that offences committed in a domestic context will result in an enhanced sentence is therefore not being met. A forthcoming inspection report by CJI will outline findings in relation to a wider examination of criminal Court administration.

OPERATIONAL RECOMMENDATION 9

Within three months of the publication of this report, the Northern Ireland Courts and Tribunals Service should, in conjunction with its partners across the Courts, review and take action to ensure accurate, complete and consistent recording of Domestic Abuse - Sentence Enhanced and Domestic Abuse - Sentence Not Enhanced outcomes.

CASE PROCESSING TIME

- 7.27 Provisional figures provided by the DoJ up to 1 July 2023 identified that the median number of days taken between a domestic abuse offence being reported and Court disposal at the Magistrates' Court was 117 days for an offence which was aggravated by Section 15 and 136 days for a Section 1 domestic abuse offence. Where the victim was a child aged under 16 the median number of days increased to 253 and where there was a relevant child involved, and a Section 9 aggravator was applied, the median number of days was 177. In cases with no child aggravator the median number of days was 136. This compares to an average of 103 days for a charge case (of any type) to be dealt with at the adult Magistrates' Courts in 2022-23, a decrease of 4.6% from the previous year (108 days).¹¹⁰ This data shows that domestic abuse cases dealt with at the Magistrates' Court take longer than other types of case. This inevitably has impacts on both victims and defendants and is more likely to lead to victim withdrawal or the potential for further offending.
- 7.28 The median number of days taken to process Crown Court cases was 323 days for cases which were aggravated by Section 15 and 327 days for domestic abuse offence cases.¹¹¹ In 2022-23, the average time taken for a charge case (of any type) to be dealt with at Crown Court was 561 days, an increase of 4.9% from 2021-22 (535 days).¹¹² It is positive that domestic abuse cases do not take longer than other types of case, however the time taken remains excessive.

CONCLUSIONS

- 7.29 The introduction of the Act provided a significant opportunity to recognise patterns of abusive behaviour and take action to protect victims and hold perpetrators to account. Offences occurring in a domestic context prior to the introduction of the Act were, in the main, taken from the Offences Against the Person Act, introduced in 1861. These were singular offences, relating to individual acts of violence. The new Act recognises that abusive behaviour does not always have to be physical to result in harm and that it usually does not occur as a one-off instance. In addition, it provides an opportunity to reflect the significant impact that domestic abuse has on children, whether or not they were present at the time the abuse occurred. There has been a significant investment in planning for implementation, awareness raising, training and guidance in preparation for the introduction of the Act. This needs to translate into an effective response to this type of offending with rigorous evaluation and monitoring as it is embedded into delivery.

110 DoJ, *Case Processing Time for Criminal Cases dealt with at Courts in Northern Ireland 2022-23*, August 2023 available at [https://www.justice-ni.gov.uk/news/case-processing-time-criminal-cases-dealt-courts-northern-ireland-202223#:~:text=In%202022%2D23%2C%20the%20average,%2D22%20\(1%2C029%20days\).](https://www.justice-ni.gov.uk/news/case-processing-time-criminal-cases-dealt-courts-northern-ireland-202223#:~:text=In%202022%2D23%2C%20the%20average,%2D22%20(1%2C029%20days).)

111 Data correct as of 1 July 2023

112 DoJ, *Case Processing Time for Criminal Cases dealt with at Courts in Northern Ireland 2022-23*, August 2023 available at [https://www.justice-ni.gov.uk/news/case-processing-time-criminal-cases-dealt-courts-northern-ireland-202223#:~:text=In%202022%2D23%2C%20the%20average,%2D22%20\(1%2C029%20days\).](https://www.justice-ni.gov.uk/news/case-processing-time-criminal-cases-dealt-courts-northern-ireland-202223#:~:text=In%202022%2D23%2C%20the%20average,%2D22%20(1%2C029%20days).)

- 7.30 At the time of this review the Act was still new and continuing to be implemented fully by the criminal justice system organisations. For the Act to fulfil its intention and be fully effective there is an important element of cultural change required relating to the Section 1 domestic abuse offence in particular. Some of the findings reported in this review show the combined effect of where Police Officers and Prosecutors do not correctly identify the Section 1 domestic abuse offence from the outset and the decisions made where 'old' substantive offences are preferred. Although every case must be considered and determined on its own merits it is important that the domestic abuse offence and the associated child aggravators are at the forefront of the minds of Police Officers and Prosecutors when dealing with a pattern of abusive behaviour. Staff across the criminal justice organisations must be empowered to use the domestic abuse offence and its aggravators and have confidence in the application of the Act.
- 7.31 Where Section 1 isn't charged or directed for prosecution this impacts on the prosecution case, including the inability to sufficiently recognise the impact of domestic abuse on children as explicitly required by the Act. The potential sentences available to a Judge are more limited, with offences pre-dating the domestic abuse offence, having a lower maximum sentence than the domestic abuse offence. This has an impact on the perceptions of victims and perpetrators and the wider public as to how serious domestic abuse is, how they are treated by the criminal justice system, the impact of the Act and their confidence in justice. It is also not sufficiently reflective of the lived experience of the victim who is subject to persistent and ongoing abuse. There is some evidence to suggest that perpetrators are then more likely to plead guilty to a minor offence that attracts a lesser sentence (such as harassment or improper use of a public communications network) which fails to send the message that domestic abuse is an issue that will be taken more seriously by the police, Prosecutors and Courts. It will be important to continue to monitor and analyse outcomes and, as datasets increase in size, to disaggregate published data, particularly across the Section 75 categories. These are areas Inspectors will re-visit in subsequent reviews.

APPENDIX 1: METHODOLOGY

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

The legislation and guidance documentation was reviewed in relation to the Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021 as well as the wider *Stopping Domestic and Sexual Violence Strategy 2017-22*.¹¹³ Other relevant documents included DoJ documents, crime statistic reports and reports from other jurisdictions.

Self-assessment

The DoJ, Police Service and PPS were requested to complete a self-assessment process in relation to the Act against a template framework across the areas of strategy and governance, delivery and outcomes. Governance, project management, policy and guidance documents were provided as evidence of the self-assessment document. Statistical information, as collected in accordance with the requirement in Section 34 of the Act was also provided by the DoJ.

Document review

A review was undertaken of the documentation collated to cross-reference information against the inspection framework. This was used to inform interview questions during the fieldwork phase as well as the development of the case review methodology.

Fieldwork

One-to-one and focus groups interviews were conducted with a range of personnel within the relevant agencies. Interviews were also conducted with stakeholders from across the domestic abuse sector as well as those working in the criminal justice system. Representatives from the following areas were interviewed during the fieldwork:

Department of Justice:

- Violence Against the Person Branch; and
- Civil Legal Aid Reform Branch.

Northern Ireland Courts and Tribunals Service:

- Acting Head of Court Operations;
- Operations Policy Branch (now Operational Support Branch); and
- Court Clerks (as part of CJJ's inspection of Court Administration).

Probation Board for Northern Ireland:

- Assistant Director, Risk.

113 DoJ/DoH, *Stopping Domestic and Sexual Violence Strategy 2017-22*, March 2016 available at <https://www.health-ni.gov.uk/sites/default/files/publications/dhssps/stopping-domestic-sexual-violence-ni.pdf>.

Public Prosecution Service for Northern Ireland (PPS):

- Head of Policy and Information Unit and Policy Leads;
- Public Prosecutors; and
- Senior Public Prosecutors.

Police Service of Northern Ireland (Police Service):

- Contact Management Centre Chief Inspector and Inspectors;
- Contact Management Centre Urban Call Handlers/Dispatchers;
- Custody Sergeants (Belfast and Rural);
- Detective Chief Superintendent and Detective Superintendent, Public Protection Branch;
- District Inspectors and Chief Inspectors (Belfast and Rural);
- Local Policing Team Constables (Belfast and Rural);
- Local Policing Team Sergeants (Belfast and Rural); and
- Public Protection Branch Detective Constables - Belfast, North and South.

Stakeholders:

- ASSIST NI;
- Bar Council;
- Disability Action;
- Education Authority/Southern Health and Social Care Trust (Operation Encompass leads);
- Hourglass;
- Law Society;
- Men's Advisory Project;
- Nexus;
- NSPCC;
- Presiding District Judge (Magistrates' Court);
- Victims Commissioner of Crime Designate;
- Victim Support Northern Ireland; and
- Women's Aid Federation.

Case file reviews

A review was conducted of police investigation files with support from Associate Inspectors from His Majesty's Inspectorate of Constabulary Fire & Rescue Services (HMICFRS). A question set was developed based on that used by HMICFRS for their inspections which considered vulnerability or domestic abuse. This was used to review 70 investigation files encompassing cases flagged as having a domestic motivation where there was a charge or report to the PPS for either a Section 1 domestic abuse offence, offences which occurred in a domestic context (and therefore the Section 15 aggravator could or should apply) (for example common assault, harassment or sexual offences) or a mixture of both. The files related to reports to police received between 1 June 2023 and end of August 2023. A random sample was chosen from a full list of reports to police provided by the Police Service. Further details can be found in Appendix 3.

PPS

A review was conducted of prosecution files with support from Associate Inspectors from His Majesty's Crown Prosecution Service Inspectorate (HMCPsi). A question set was developed based on that used by HMCPsi for previous inspections in England and Wales. This was used to review 96 prosecution files encompassing cases flagged as being in a domestic context. In two files there were two defendants who perpetrated domestic abuse on a person to whom they were personally connected. The decisions made in relation to each of these defendants were therefore reviewed and recorded as separate case files. The total number of cases reviewed was therefore 98. Similarly to the police files this included cases of either the Section 1 domestic abuse offence, other offences or a mixture of both. The cases related to files received from the Police Service between 1 August 2023 and end September 2023. Further details can be found in Appendix 3.

APPENDIX 2: TERMS OF REFERENCE

A REVIEW OF THE EFFECTIVENESS OF PART 1 OF THE DOMESTIC ABUSE AND CIVIL PROCEEDINGS ACT (NORTHERN IRELAND) 2021

TERMS OF REFERENCE

Introduction

Criminal Justice Inspection Northern Ireland (CJI) has been appointed by the Department of Justice (DoJ/the Department) to undertake independent oversight of Part 1 of the Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021 ('the Act') as provided for in Section 33 of the Act.

This review will focus on the three main elements of the CJI inspection framework as they apply to the effectiveness of the Act; these are strategy and governance, delivery and outcomes.

The main organisations to be reviewed will be the Police Service of Northern Ireland (the Police Service), the Public Prosecution Service for Northern Ireland (PPS), the Northern Ireland Courts and Tribunals Service (NICTS) and the Probation Board for Northern Ireland (PBNI). The role of the DoJ will be considered where Departmental strategy and policy is relevant to this area as well as its role in developing the draft legislation.

This review will complement previous thematic inspections that CJI has conducted in considering the approach to domestic and sexual violence and abuse through the criminal justice system. In 2018 and 2019 respectively CJI published inspections of the handling of cases of sexual violence and abuse ('Without Witness') and domestic violence and abuse ('No Excuse'), follow-up reviews were published in 2021. Where possible this review will avoid duplicating previous work.

CJI will work in partnership with Inspectors from His Majesty's Inspectorate of Constabulary and Fire & Rescue Services (HMICFRS) and His Majesty's Crown Prosecution Service Inspectorate (HMCPSI) during the planning and fieldwork for this review.

Context

The Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021 received Royal Assent in February 2022 (the Act).¹¹⁴ The domestic offence covers behaviour that is coercive or controlling or that amounts to psychological, emotional or financial abuse of another person. The Act also provided the potential for increased sentencing in other offences up to the maximum available, where there was a single incident rather than a pattern of abuse behaviour. In Part 1 of the Act, Chapter 1 details the domestic abuse offence, Chapter 2 details the aggravation as to domestic abuse and Chapter 3 contains miscellaneous provisions (including civil legal aid for domestic abuse victims).

Section 33 outlined the independent oversight of Part 1 of the Act. Section 33(1) required the DoJ to appoint a person (a) to (i) report to the Department on the person's assessment of the effectiveness of this Part, and (ii) make recommendations to the Department in relation to the operation of this Part, and (b) to advise, and make recommendations to the Department on the content and review of guidance under Section 30. Section 33(2) noted that this report must be completed within two years of the Act coming into operation and annually thereafter.

In September 2021 the Minister of Justice asked the Chief Inspector of Criminal Justice in Northern Ireland to undertake the independent oversight role provided for in Section 33 of the Act. CJI were requested to provide a report to the DoJ by 21 February 2024 on the effectiveness of Part 1 of the Act and make recommendations in relation to its operation. This would include the provisions in Part 1 relating to civil legal aid, which are usually outside the remit of CJI. The Minister requested that CJI report on this matter as part of the requirement to report on Part 1 of the Act more generally. CJI was also requested to advise, and make recommendations to, the DoJ on the content and review of the statutory guidance produced in line with Section 30 of the Act.¹¹⁵

In other parts of the United Kingdom (UK) legislation has been introduced in the last decade on patterns of coercive or controlling behaviour. In Scotland, The Domestic Abuse (Scotland) Act 2018 created an offence of engaging in an abusive course of conduct against a current partner or an ex-partner, as well as an 'associated statutory aggravation', where children are involved or affected, by an offence.¹¹⁶ In England and Wales Section 76 of the Serious Crime Act 2015 legislated for the offence of controlling or coercive behaviour in an intimate or family relationship.¹¹⁷ The Domestic Abuse Act 2021 extended coercive or controlling behaviour to post-separation abuse.¹¹⁸

114 See <https://www.legislation.gov.uk/nia/2021/2/contents>.

115 DoJ, *Abusive Behaviour in an intimate or family relationship – Domestic Abuse Offence - Statutory Guidance*, March 2022 available at <https://www.justice-ni.gov.uk/publications/abusive-behaviour-intimate-or-family-relationship-domestic-abuse-offence-statutory-guidance>.

116 See <https://www.legislation.gov.uk/asp/2018/5/contents/enacted>.

117 See <https://www.legislation.gov.uk/ukpga/2015/9/section/76/enacted>.

118 See <https://www.legislation.gov.uk/ukpga/2021/17/contents/enacted>.

Inspectorates across the UK have also reviewed the response of the criminal justice agencies to this offending. HMICFRS published an update report on the police response to domestic abuse in 2019¹¹⁹ and a review of policing domestic abuse during the pandemic in June 2021.¹²⁰ Both these reports considered the approach of police to coercive or controlling behaviour. A joint inspection by HMICFRS and HMCPsi in 2017, 'Living in Fear', looked at the police and Crown Prosecution Service response to stalking and harassment included consideration of the approach to coercive or controlling behaviour.¹²¹ HMCPsi published an inspection report *The Service from the CPS to Victims of Domestic Abuse* in March 2023.¹²²

Aims of the Inspection

This review aims to undertake an assessment of the effectiveness of Part 1 of the Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021 (the Act). It will therefore follow the timeline of the 'victim journey' through the criminal justice system from the reporting of a potential domestic abuse offence to the conclusion of Court proceedings. The review will not seek to examine the manner in which the criminal justice system deals with offenders in prison or on their release into the community.

The focus of this review will be the approach of the criminal justice organisations in implementing the Act and in dealing with cases where there is a suspected incident of domestic abuse or where the offences are aggravated by domestic abuse. Inspectors will review how the domestic abuse offence or an offence aggravated by domestic abuse was investigated and prosecuted, not the overall systemic approach to domestic abuse. CJI will concentrate on the effectiveness of Part 1 of the Act and endeavour to avoid repeating previous work undertaken for the 2019 'No Excuse' inspection on the handling of cases of domestic violence and abuse.

The broad aims of the review are to:

- Examine the effectiveness of organisational strategies with regard to the offence of domestic abuse and its aggravating features, including the approach to prevention and enforcement;
- Examine the response to the domestic abuse offence and offences aggravated by domestic abuse - how operational delivery is structured to meet the needs and expectations of stakeholders and victims and to determine effectiveness and potential areas for improvement. This will specifically include, as requested by the previous Minister of Justice:

119 HMICFRS, *The police response to domestic abuse: An update report, February 2019* available at <https://www.justiceinspectorates.gov.uk/hmicfrs/wp-content/uploads/the-police-response-to-domestic-abuse-an-update-report.pdf>

120 HMICFRS, *Review of policing domestic abuse during the pandemic – 2021, June 2021* available at <https://www.justiceinspectorates.gov.uk/hmicfrs/publications/review-of-policing-domestic-abuse-during-pandemic/>

121 HMICFRS & HMCPsi, *Living in fear – the police and CPS response to stalking and harassment, July 2017* available at <https://www.justiceinspectorates.gov.uk/hmicfrs/wp-content/uploads/living-in-fear-the-police-and-cps-response-to-harassment-and-stalking.pdf>

122 HMCPsi, *The Service from the CPS to Victims of Domestic Abuse, March 2023* available at <https://www.justiceinspectorates.gov.uk/hmcpsi/inspections/the-service-from-the-cps-to-victims-of-domestic-abuse/>

- An assessment of the effectiveness of Part 1 of the Act (including provisions in Part 1 relating to civil legal aid), including the use of the domestic abuse aggravator sentencing provisions;
- To make recommendations in relation to the operation of Part 1 of the Act; and
- To advise, and make recommendations to, the Department on the content and review of guidance under Section 30;
- Examine and assess the outcomes of strategies and delivery mechanisms for the domestic abuse offence against targets and expectations;
- Examine management information and the performance of the justice agencies in addressing offences of domestic abuse; and
- Examine how the above aspects of the approach to the domestic abuse offence are benchmarked against good practice.

Methodology

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

- Strategy and governance;
- Delivery; and
- Outcomes.

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

Design and Planning

Preliminary research

Data and initial information has been reviewed in order to inform the scope of this review.

Benchmarking, research and data collection

Collection of benchmarking information and data, where available, from other jurisdictions and sectors in Northern Ireland and a review of inspection and research reports will be undertaken. Data, which is being collated and provided to the DoJ in accordance with Section 34 of the Act (for the purposes of the DoJ producing a report on its operation), will be requested and reviewed.

Contact with agencies

Terms of reference will be prepared and shared with the DoJ, the Police Service, the PPS, the Lady Chief Justice's Office, NICTS and the PBNI prior to the initiation of the review. Liaison Officers from the organisations should be nominated for the purposes of this review.

Policies and procedures, management information, minutes of meetings and related documentation from the reviewed organisations will be requested and reviewed.

Delivery

Stakeholder consultation

The following stakeholder organisations will be consulted:

- ASSIST NI Domestic Abuse and Sexual Violence Advocacy Service;
- Bar Council Criminal Law Committee;
- Belfast Solicitors' Association;
- Cithrâh Foundation;
- Disability Action;
- District Judges (Magistrates' Court);
- Hourglass;
- Law Society Criminal Law Committee;
- Nexus (including the Domestic and Sexual Abuse Helpline);
- Northern Ireland Policing Board;
- Men's Action Network;
- Men's Advisory Project;
- NSPCC;
- Rainbow Project;
- Women's Aid Federation and representatives from local groups;
- Victim Support NI; and
- Victims of Crime Commissioner Designate.

CJI will seek assistance from stakeholder organisations who work with victims to seek the views of people who have been victims of domestic abuse offences.

Development of fieldwork plan

CJI will liaise with the inspection liaison points of contact in each organisation to arrange a series of meetings and focus groups with relevant individuals within the DoJ, Police Service, PPS, NICTS and PBNI.

Case file reviews of police and prosecution files will be undertaken during the fieldwork with support from HMICFRS and HMCPSI respectively. A case file review methodology will be developed and shared with the Police Service and PPS.

Initial feedback to agency

On conclusion of the fieldwork the evidence will be collated, triangulated and analysed and emerging recommendations will be developed. CJI will then present the findings to appropriate organisations.

Drafting of report

Following completion of the fieldwork and analysis of data, a draft report will be shared with the reviewed bodies for factual accuracy check. The Chief Inspector will invite the reviewed bodies to complete an action plan within six weeks to address the recommendations and if the plan has been agreed and is available it will be published as part of the final review report. The report will be shared, under embargo, in advance of the publication date with the reviewed bodies.

Publication and Closure

A report will be sent to the Minister of Justice, or in their absence the DoJ Permanent Secretary, for permission to publish. When permission is received the report will be finalised for publication. A press release will be drafted and shared with the reviewed agencies prior to publication and release. A publication date will be agreed and the report will be issued.

Indicative Timetable

Scoping/Research: March-June 2023.

Stakeholder consultation: August-September 2023.

Agency fieldwork: October-November 2023.

Draft Report to agencies: January 2024.

Factual accuracy feedback received: February 2024.

The above timetable may be impacted by factors outside CJI's control. The reviewed organisations will be kept advised of any significant changes to the indicative timetable.

APPENDIX 3: CASE FILE REVIEW DETAILS

This Appendix provides a summary of the cases which were examined by Inspectors. Data presented here is not representative of all domestic abuse crimes reported to the Police Service or submitted to the PPS. Case data was collated from the information available on the Police Service NICHE Records Management System or PPS Case Management System, as appropriate. Assigned outcomes were determined by case file reviewers based on information available within the case file.

POLICE SERVICE CASE FILES

Offences

	Percentage	Number
Section 1 domestic abuse offence only	14%	10
Section 1 domestic abuse offence and other offence(s)	40%	28
Other offences only	46%	32
Total	100%	70

Aggravators

	Percentage	Number
Section 8 - victim under 18	3%	2
Section 9 - relevant child involved	6%	4
Section 15 - other offence(s) aggravated by domestic abuse	81%	56
Section 8 and/or Section 9 and Section 15	-	0
No aggravator - Section 1 offence only with no aggravator/domestic abuse legislation not relevant to case	11%	8
Total	100%	70

Assigned outcome

	Percentage	Number
Not yet resolved	16%	11
Charge/summons	49%	34
Community resolution	3%	2
No prosecution directed - PPS, not in public interest	4%	3
Prosecution prevented - suspect too ill	1%	1
Evidential difficulties - suspect identified; victim supports police action	1%	1
Evidential difficulties - suspect not identified; victim does not support further action	3%	2
Evidential difficulties - suspect identified; victim does not support further action	16%	11
Diversionary, educational or intervention activity	3%	2
Other	4%	3
Total	100%	70

Victim-suspect relationship

	Percentage	Number
Current partners	27%	19
Ex-partners	40%	28
(Adult) child and father (including step)	6%	4
(Adult) child and mother (including step)	17%	12
(Adult) child and grandfather	-	0
(Adult) child and grandmother	1%	1
Under 18 child and other family member	1%	1
Siblings (child or adult)	4%	3
Other	3%	2
Total	100%	70

Victim gender

	Percentage	Number
Male	16%	11
Female	84%	59
Total	100%	70

Victim age

	Percentage	Number
0-18 years	7%	5
19-25 years	17%	12
26-29 years	9%	6
30-39 years	23%	16
40-49 years	26%	18
50-59 years	9%	6
60-69 years	7%	5
70 years and over	3%	2
Total	100%	70

Suspect gender

	Percentage	Number
Male	77%	54
Female	23%	16
Total	100%	70

Suspect age

	Percentage	Number
0-18 years	13%	9
19-25 years	21%	15
26-29 years	10%	7
30-39 years	30%	21
40-49 years	17%	12
50-59 years	6%	4
60-69 years	-	0
70 years and over	3%	2
Total	100%	70

PPS CASE FILES

Offences

	Percentage	Number
Section 1 domestic abuse offence only	8%	8
Section 1 domestic abuse offence and other offence(s)	40%	39
Other offences only	52%	51
Total	100%	98

Aggravators

	Percentage	Number
Section 8 – victim under 18	2%	2
Section 9 – relevant child involved	3%	3
Section 15 – other offence(s) aggravated by domestic abuse	83%	81
Section 8 and/or Section 9 and Section 15	2%	2
Not applicable – Section 1 offence only with no aggravator/domestic abuse legislation not relevant to case	10%	10
Total	100%	98

Assigned outcome

	Percentage	Number
No prosecution	34%	33
Guilty plea	18%	18
Convicted after trial	8%	8
Acquitted after trial	4%	4
No case to answer	-	0
Discharged committal	1%	1
Judge Direct Acquittal	-	0
Offered no evidence	7%	7
Out of Court disposal	12%	12
Live cases	15%	15
Total	99% (due to rounding error)	98

Victim-suspect relationship

	Percentage	Number
Current partners	28%	27
Ex-partners	46%	45
(Adult) child and father (including step)	6%	6
(Adult) child and mother (including step)	11%	11
(Adult) child and grandfather	1%	1
(Adult) child and grandmother	-	0
Under 18 child and other family member	1%	1
Siblings (child or adult)	3%	3
Other	4%	4
Total	100%	98

Victim gender

	Percentage	Number
Male	16%	16
Female	84%	82
Total	100%	98

Victim age

	Percentage	Number
0-18 years	6%	6
19-25 years	16%	16
26-29 years	8%	8
30-39 years	18%	18
40-49 years	25%	24
50-59 years	14%	14
60-69 years	4%	4
70 years and over	8%	8
Total	100%	98

Suspect gender

	Percentage	Number
Male	83%	81
Female	17%	17
Total	100%	98

Suspect age

	Percentage	Number
0-18 years	6%	6
19-25 years	13%	13
26-29 years	7%	7
30-39 years	31%	30
40-49 years	26%	25
50-59 years	10%	10
60-69 years	6%	6
70 years and over	1%	1
Total	100%	98



First published in Northern Ireland in April 2024 by

**Criminal Justice Inspection
Northern Ireland**

Block 1, Knockview Buildings

Belfast BT4 3SJ

www.cjini.org