

Specialist Domestic Violence Courts (SDVC) **How special were they in 2020?**

Authored by
Doctor Catherine Hannon
(DProf, MSc)

Preface

I was a police officer for 30 years at a strategic and operational level, then dedicated nine years to working with the West Midlands Police and Crime Commissioner. For many years I worked closely with survivor support agencies, as well as other strategic partners to improve the multi-agency response to domestic abuse so I am well placed to comment on policing and the criminal justice system.

It is sometimes difficult to find alternative frameworks for multi-agency research; however, Dame Vera Baird QC, former Northumbria Police and Crime Commissioner and the current Victims Commissioner for England and Wales, advocated for an innovative and effective multi-agency technique.

In 2018 Dame Vera Baird initiated a unique partnership between Soroptimist International and criminal justice partners in Northumbria. She supported an analysis of Specialist Domestic Violence Courts (SDVC), asking, “How Special Are They?”. That work provided the foundation to replicate the same initiative in the Midlands region, in 2020.

This report articulates a similar perspective to the 2018 initiative and echoes recommendations from historical and current reports and research documents, but more importantly it highlights the continued failure of systems and processes that serve victims poorly.

Although the pandemic weakened an already precarious criminal justice system it has also provided an opportunity to reflect on how and why services are delivered and seeks out new responses or revive those that previously worked well.

The recommendations highlight opportunities to improve multi-agency relationships and processes by enhancing current practice, introducing innovation through the application of agile methodologies to deliver new approaches and ways of supporting victims.

Doctor Catherine Hannon (DProf, MSc)

Joint Foreword

Dame Vera Baird DBE QC -

Victims' Commissioner for England and Wales

Louisa Rolfe OBE -

Assistant Commissioner Met Operations, Metropolitan Police Service, NPCC

Lead Domestic Abuse

Domestic abuse destroys the lives of victims and their families, with far reaching impacts upon employment, education, housing, health and wellbeing. It is in everyone's interests that we intervene but too few victims disclose their experience of domestic abuse, and research suggests this can be influenced by their experience and expectations of policing, prosecutors and courts.

When a victim of domestic abuse takes the courageous step to seek justice, they should experience empathy, care and professionalism from all of those aspects of our criminal justice system. However, it is sometimes the experience of victims' services that they become as the Government accepts in its Victims' Strategy 'Victims of the process as well as the crime'

Police and CPS are inspected by professional inspectorates but there is no inspectorate for the courts. In 2018, the North of England Soroptimists, doughty campaigners for women, decided to observe the work of their local Specialist Domestic Violence Courts. Local prosecutors offered helpful training and these lay observers simply saw how the courts worked through the eyes of the public and reported their findings to the legal professionals and to the community.

The partnership behind this report has gone several steps better. Firstly, the observations, carried out in 2020, were on a much larger scale. The work was done between two Midlands regional groups of Soroptimists and West Midlands regional criminal justice agencies involving over 800 hours observing the courts in many different geographical locations. Secondly, unlike Northumbria the West Midlands recommendations are not confined to the courts. Observers saw through the facts of individual cases into both underlying causes and loopholes in protection and they want to bring wider societal change. Thus, for instance, they propose that employers should develop and promote abuse strategies, so that victims can disclose domestic abuse to someone in their workplace, confident that their employer will support them.

Technology has moved on in the pandemic and this report argues strongly for better use of remote evidence centres so that victims can give their evidence without the fear of being waylaid on the way to court by their adversary. But unsurprisingly some of Northumbria's issues feature in this report too. Both exercises found a clear and continuing shortage of Independent Domestic Violence Advocates to help victims at court.

Other Soroptimist areas are taking on this observation role, a great exercise in citizen empowerment and a tribute to the criminal justice professionals who welcome them, conscious that expert as they are they should seize the chance of hearing how they may do better.

Acknowledgements

We would like to acknowledge our thanks to the Soroptimists in Midland Chase and Midland Arden Regions who took part in the observations and worked in partnership with police in West Midlands, Staffordshire and West Mercia forces and court personnel at Birmingham, Cannock, Hereford, Newcastle-under-Lyme, Redditch, Telford and Wolverhampton.

We would like to thank Dame Vera Baird QC, Victims Commissioner and the former Northumbria Office of the Police and Crime Commissioner for help and support in setting up the project.

We would also like to thank Christine Corless, representing Soroptimists in Midland Chase, Lorraine Garratley and Raj Thind from Black Country Women's Aid for their time and energy to validate the report.

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List of Abbreviation

BBR	Better Building Relationships
CRC	Community Rehabilitation Companies
CPS	Crown Prosecution Service
DAPO	Domestic Abuse Protection Order
DAPN	Domestic Abuse Protection Notice
DJ	District Judge
DVPN	Domestic Violence Protection Notice
DVPO	Domestic Violence Protection Order
FGM	Female Genital Mutilation
FM	Forced Marriage
HBV	Honour Based Violence
HMCTS	Her Majesty's Court and Tribunal Service
HMICFRS	Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services
IDAC	Integrated Domestic Abuse Court
IDVA	Independent Domestic Violence Advisor
M	Magistrate
MARAC	Multi Agency Risk Assessment Conference
PCC	Police and Crime Commissioner
RCJB	Regional Criminal Justice Board
SDVC	Specialist Domestic Violence Court
T	Total result
VAWG	Violence Against Women and Girls
VPS	Victim Personal Statement

Executive Summary

This report describes partnership working between the Soroptimist International, Midland Chase and Midland Arden regions and the Midlands regional criminal justice partners to explore the question “Specialist Domestic Violence Courts (SDVC), How Special Were They In 2020?”

The process replicates a 2018 initiative led by Dame Vera Baird QC, former Northumbria Police and Crime Commissioner and current Victims Commissioner for England and Wales. She called for a report on Specialist Domestic Violence Courts (SDVC), asking, “How Special Are They?”

In 2020 the same initiative was repeated between 6 January and 3 March by lay volunteers from Soroptimist International, who spent over 800 hours at courts and completed more than 200 online questionnaires, as they observed the practices of Specialist Domestic Violence Courts.

In addition, a structured debriefing process took place to record the qualitative observations from the Soroptimists, identify areas of good practice and make recommendations to improve the Soroptimist SDVC review process. A review of the findings is incorporated into this report and the full document is attached at Appendix B.

Notwithstanding the delayed publication of this report, the content demonstrates the strengths and continuing deficiencies of the criminal justice system and practice. To answer the question “Specialist Domestic Violence Courts (SDVC), How Special Were They in 2020?”, the answer is “not very special at all”

Despite the goodwill of individuals and changes throughout the criminal justice system at a national, region and local level, there are still systemic flaws that create additional vulnerabilities for victims and families. The 2018 initiative made several recommendations which included:

- *focusing on additional training for court personnel*
- *greater use of Victim Personal Statements*
- *greater recognition of defendants playing the system (gaming)*
- *remedying the absence of Independent Domestic Violence Advisors*
- *appropriate use of sentencing guidelines and mitigation*
- *fully engaging with victims about their options regarding special measures*
- greater availability of Building Better Relationship (BBR) courses, which are the Probation Service behavioural change programmes for perpetrators.
- allocation of all domestic abuse cases to SDVC
- more encouragement for early guilty pleas
- greater utilisation of restraining orders
- better use of witness summons

- using the term economic abuse to replace financial abuse
- tackling the evidential failings of the CPS and Police.

The bullet points in italics represent the same issues present in the 2020 initiative and are highlighted in italics in recommendations for change below.

Recommendation 1 RCJCF (Regional Criminal Justice Collaboration Forum) to work with partners to reaccredit the format, function, and services provided by Specialist Domestic Violence Courts (SDVC).

From 2000 onwards the model for SDVCs remained constant but systems, processes and partner involvement altered, seeking to improve all aspects of the model. Two additional factors now influence the timeliness of reviewing SDVCs.

Firstly, the pandemic which has created an enormous backlog of cases hindering the delivery of justice and transformation of how courts operate with the introduction of new technology and redeployment of resources.

Secondly, the Integrated Domestic Abuse Courts (IDACs) pilots to consider family and criminal matters in parallel, providing more consistent support for victims.

The SDVCs must be responsive to the changing judicial environment and the increasing demands of domestic abuse cases. The insights provided by the volunteers indicate there is a weariness about the management and delivery of justice in these courts that can become a catalyst for change by reaccrediting the entire system.

Recommendation 2 (Recommended in the 2018 initiative) RCJCF to work with partners and review the training of criminal justice professionals to include an understanding of threat and risk as well as other facets of offending behaviours, the effects of domestic abuse on children, stalking and harassment, links to animal abuse, coercion, control, places of employment and disclosure schemes

These topics are highlighted because there was a gap in knowledge which undermined decision making.

The clearest example was the description of stalking and harassment incidents. Incidents were presented by the police as a single occasion when the circumstances were a series of events which constituted additional criminal offences. Breaches of court orders were managed in a similar manner with several incidents being represented by one charge.

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In cases where animals were mentioned, more attention was given to the circumstances of the animal than the people involved. Abused animals can be a sign of other types of violence in a family. Acts of animal abuse may be used to coerce, control or intimidate family members and can prevent a victim leaving situations of domestic violence.

The impact and destructive nature of domestic abuse seeping into places of employment can be immense, having a negative effect on productivity and undermining an individual's security and safety.

The Domestic Abuse Act (2021) identifies children in domestic abuse settings as victims and as such should receive the protection and support they need in childhood which can enhance their ability to thrive in adulthood.

Understanding all these inter-relationships can only strengthen the combined efforts of criminal justice partners to recognise the true nature of abuse and keep victims safer.

Recommendation 3

RCJCF, HMCTS and criminal justice partners to create familiarisation opportunities and joint agency training with each other

Joint training should be more dynamic and include work experience or secondments so practitioners can gain a better understanding of the whole criminal justice system and the challenges faced by partners.

Recommendation 4 (Recommended in the 2018 initiative)

RCJCF to work with partners and develop an effective training programme, supervision and monitoring framework for Domestic Violence Protection Notices (DVPNs) and Domestic Violence Protection Orders (DVPOs).

Domestic Violence Protection Orders (DVPOs) were only referred to in two cases out of 193 cases. This was a very poor use of the legislation and indicative of poor understanding and application by the police.

Recommendation 5 (Referred to in the 2018 initiative) RCJCF and HMCTS to work with the judiciary to challenge improper use of sentencing guidelines and create an appropriate cultural environment for hearings, ensuring they are equitable and impartial for all parties

There are examples of the inappropriate use of mitigating factors which do not conform to sentencing guidelines. Defence advocates claimed that provocation was present because of an unproven affair or difficulties in child access. References to the

consumption of alcohol as a mitigation were made in 25% of cases, yet there is no known causative link. It may be a compounding factor, but it is not the cause of abuse.

In another case a plea was accepted by the court for a lesser offence, following which the defence advocate successfully argued that a restraining order should not be granted based on the plea even though the original offence was significant.

It is essential that court proceedings are seen to be fair and impartial and as such sentencing outcomes must be based on sentencing guidelines and not distorted by misleading or disingenuous submissions as illustrated in the examples provided.

Each case is unique, as are the people involved, so there should always be an opportunity to acknowledge mitigating factors regarding the offender but not to the detriment of the victim.

CPS advocates and judiciary should recognise these issues and act accordingly to challenge where appropriate. This limitation of the adversarial system can be modified by creating an appropriate cultural environment so that all parties receive an equitable and impartial response.

Recommendation 6

RCJCF and HMCTS to assess digital links for victims to establish a virtual presence in guilty plea hearings

An option to create a more equitable hearing is to allow victim participation even if they are not providing primary evidence in a guilty plea. This can be achieved through the HM Courts and Tribunal Service (HMCTS) reform programme to introduce user-friendly digital services, by further developing the programme to allow victims to see and hear the guilty plea court cases. The prosecution advocate could communicate indications of support or otherwise about the mitigation factors offered, bringing another level of scrutiny and inspiring trust with victims of domestic abuse.

Recommendation 7

RCJCF and HMCTS (Her Majesty's Court and Tribunal Service) to accelerate the proposal for third sector partners to collaborate with the development of remote evidence giving facilities.

Accelerating the ambition to establish digital court services at locations managed by the voluntary sector or other suitable partners would improve evidence giving and create additional safe and secure locations which are not traditional court facilities.

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Recommendation 8

RCJCF and specialist partners to review the domestic abuse in places of employment policies for criminal justice agencies

Places of employment featured in 4% of the cases where the offenders continued a cycle of stalking and harassment or other abusive behaviours.

Employers have a duty to take reasonable care of the health and safety of employees, arising from common law, the Health and Safety at Work Act 1974 and other health and safety regulations. As such an employer that fosters a culture of openness, commits to protecting workers from all forms of abuse and seeks to support victims is also likely to be well placed to recruit and retain high-performing employees.

Following a consultation on workplace support for victims of domestic abuse in 2020, the Government published a report and open letter to employers in January 2021, urging employers to "look at what more their organisation could do to help survivors of domestic abuse".

Although there is currently no specific domestic abuse legislation giving rise to obligations on employers, all employers should develop a domestic abuse strategy, informed by specialist agencies.

Ensuring all criminal justice agencies have the appropriate policies and support in place is essential to demonstrate their commitment to tackling domestic abuse in their places of work.

Recommendation 9

RCJCF and partners to promote the protection of women and girls by the development of public information campaigns about disclosure schemes and safe facilities for animals from domestic abuse settings

Recommendations 2 and 3 focus on training criminal justice partners; however, there is also a necessity to inform the public about opportunities to protect them and their family. Public information campaigns about the Domestic Violence Disclosure Scheme ('Clare's law') and how to foster their pet away from a domestic abuse setting can only enhance public safety.

Recommendation 10

RCJCF and HMCTS to assess the feasibility of an enhanced role for the judiciary to review sentencing outcomes in domestic violence courts

One feature of the SDVC model which was not introduced is an enhanced role for the judiciary in following up and reviewing how defendants progress

during their sentence. This enhanced role does feature in other specialist courts in England and Wales and may be particularly appropriate in future domestic abuse cases. The role could provide additional oversight, coordination of cases and feedback regarding the effectiveness of sentencing options.

Recommendation 11

RCJCF and criminal justice partners to examine the effect of covid 19 restrictions on sentencing outcomes related to the data collected for this initiative

This initiative concluded in March 2020. In the same month, the country went into the first lockdown period because of the pandemic. It would be useful to understand how the sentence outcomes were progressed, particularly unpaid work, community orders and rehabilitation activities and their value to the victims and offenders' rehabilitation.

Recommendation 12 (Referred to in the 2018 initiative)

RCJCF and partners to instigate a review of the Victim Personal Statement (VPS) process from first contact with the police to finalising a case, revealing the strengths and deficiencies in the system

It was extremely disappointing to discover that Victim Personal Statements (VPS) were still not being obtained by the police and it was unclear if they were effective in assisting the court to understand the impact of the crime.

Only 47% of victims in this initiative had an opportunity to have their voices heard even though some of them had suffered significant violence. This was a missed opportunity to provide information to the court which can be used to determine sentences for offenders and really understand the impact of crime on victims.

Court proceedings should be shaped to reflect the voice of the victim and court and police practices amended to ensure the opportunity is not continually missed as it has been for the past 6 years. Instigating a review of the VPS process from first contact with the police to finalising a case at court will reveal the strengths and deficiencies in the system.

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Recommendation 13 (Referred to in the 2018 initiative)

PCC (Police and Crime Commissioner) and RCJCF to work with specialist partners and review the availability of Independent Domestic Abuse Advisors (IDVAs) and other challenges that impede the provision of services

There is substantial research, statistics and information available about the role of IDVAs and their value to victims, their families and the criminal justice system. However, the challenges facing the current IDVA services are significant. They include very high caseloads involving complex client needs, increasing demands for service because of the backlog of court cases in the criminal justice system and 'burn out' issues for IDVAs who suffer vicarious trauma.

There is a high staff turnover of IDVAs due to the stress and high workloads. The funding is insufficient to support an efficient recruitment process and does not include supervision and other mental health support.

The pandemic led to increased homeworking causing IDVAs to engage with survivors remotely which was not ideal and often using inadequate technology to facilitate the engagement process. Safety planning became more of a priority as options for victims to leave reduced as did safe options to remain at home.

IDVA services are continually weakened by underfunding which could be addressed by greater Government spending. Better partnership working and an improved understanding of the role of IDVAs is essential to create synergy with criminal justice partners. Addressing the fundamental vulnerability of poor information sharing should be addressed as a priority as well as the inconsistent allocation of IDVAs to courts.

It was established that in 111 cases an IDVA was not involved or not present in court. From the 44 guilty cases the IDVAs had no influence or contact with 85% of cases. When an IDVA was available in court they sat in the public gallery and did not contribute to the court proceedings.

Their value is not just the ability to directly contact victims but provide support, coordinate other agencies, and offer a professional commentary about the cases and the people involved.

Recommendation 14

RCJCF and HMCTS, Witness Care Units and IDVAs should develop more inclusive ways of working to enhance service delivery to those attending court

Although the satisfaction rates were assessed to be about 66% more work is required to keep victims engaged and this should be a high priority for all criminal justice professionals. Dedicated support does have a beneficial impact on victim attrition and reducing non-attendance at trials. The relationship between Witness Care Unit staff and IDVAs is critical to ensure victims and witnesses are adequately supported and involved in explaining special measures and ensuring coordination with court staff.

Recommendation 15 (Referred to in the 2018 initiative)

RCJCF, HMCTS and partners to ensure that victims are fully informed about their options regarding special measures and digital technology works effectively

The likelihood of victims and witnesses of domestic abuse requiring special measures is very high and they should be consistently made available. The most problematic measure was access to a video link and the administration of the process. In 50% of the cases where it was requested, the link was unavailable or did not function properly.

Although the data was incomplete, it is assessed that victims were not fully aware of the special measures and the technology did not support the video link.

Recommendation 16 (Referred to in the 2018 initiative)

RCJCF and HMCTS to work with domestic abuse services to develop data sharing protocols and easier access to listing information about court

A fundamental vulnerability was poor information sharing arrangements with the courts. Court staff claimed this was a data protection issue which was not accurate. There was a clear disconnect about the information sharing practices between court staff and other professionals such as police officers and IDVAs. The art of listing cases for hearing at a court was described as 'cloak and dagger', even the police officers were not aware of when cases were to be listed. The listing process in all the courts caused similar frustrations with late cancellations, which caused inconvenience and delays for victims/witnesses. IDVAs found it difficult to access the information they needed to support victims.

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Recommendation 17

RCJCF and HMCTS to review court facilities to ensure the safety and security of victims and witnesses including separate entrances, access to private areas, the acoustics, and the evacuation plans

A key feature of an SDVC is to cater for the safety and security of victims and witnesses. None of the courts had facilities to ensure that victims/witnesses and offenders/their supporters were separated at any point in the proceedings except inside the courtroom where the hearing was taking place. There were no separate entrances and some courts did not have facilities for victims to have a private area to compose themselves before giving evidence. On one occasion a victim and offender were directed to wait in the same room whilst waiting to give evidence.

In one instance there was an evacuation because of a bomb alert. Once outside the building, there were no arrangements to maintain the security of the victim or witnesses and no concern about how these circumstances could interfere with evidence giving. Such situations provide an opportunity to impede justice and negatively influence court witnesses.

Recommendation 18

RCJCF, HMCTS and family court representative to explore the use of family courts for domestic abuse hearings involving children

Courts were assessed to be intimidating and unsuitable for vulnerable witnesses including children. It was suggested that family court premises might be a more suitable location for hearings that involved child witnesses.



Court Observers - SI Bilston

Matrix of Recommendations

No	Page	Recommendations	Owner			
			Regional Criminal Justice Collaboration Forum (RCJCF)	Regional Police and Crime Commissioners (PCC)	Her Majesty's Court and Tribunal Service (HMCTS)	Criminal Justice and Voluntary Sector Partners (CJVSP)
1		RCJCF to work with partners to reaccredit the format, function and services provided by Specialist Domestic Violence Courts	*	*	*	*
2	29 35-37	RCJCF to work with partners and review the training of criminal justice professionals to include an understanding of threat and risk as well as other facets of offending behaviours, the effects of domestic abuse on children, stalking and harassment, links to animal abuse, coercive control, places of employment and disclosure schemes	*		*	*
3	29	RCJCF, HMCTS and Criminal justice partners to create familiarisation opportunities and joint agency training with each other	*		*	*
4	30	RCJCF to work with police and partners to develop an effective training programme, supervision and monitoring framework for Domestic Violence Protection Notices (DVPNs) and Domestic Violence Protection Orders (DVPOs)	*		*	*
5	33-34	RCJCF and HMCTS to work with the judiciary to challenge improper use of sentencing guidelines (gaming) and create an appropriate cultural environment for hearings, ensuring they are equitable and impartial for all parties	*		*	
6	34	RCJCF and HMCTS to assess digital links for victims to establish a virtual presence in guilty plea hearings	*		*	*
7	34	RCJCF and HMCTS to accelerate the proposal for third sector partners to collaborate with the development of remote evidence giving facilities	*		*	*
8	36	RCJCF and specialist partners to review the domestic abuse in places of employment policies for criminal justice agencies	*	*	*	*
9	35-37	RCJCF and partners to promote the protection of women and girls by the development of public information campaigns about disclosure schemes and safe facilities for animals from domestic abuse settings	*	*	*	*
10	38	RCJCF and HMCTS to assess the feasibility of an enhanced role for the judiciary to review sentencing outcomes in domestic violence courts	*		*	*
11	38	RCJCF and criminal justice partners to examine the effect of covid 19 restrictions on sentencing outcomes related to the data collected for this initiative	*		*	*
12	40	RCJCF and partners to instigate a review of the Victim Personal Statement process from first contact with the police to finalising a case, revealing the strengths and deficiencies in the system	*			*

No	Page	Recommendations	Owner			
			Regional Criminal Justice Collaboration Forum (RCJCF)	Regional Police and Crime Commissioners (PCC)	Her Majesty's Court and Tribunal Service (HMCTS)	Criminal Justice and Voluntary Sector Partners (CJVSP)
13	40-41	PCC and RCJCF to work with specialist partners and review the availability of Independent Domestic Abuse Advisors (IDVAs) to support victims at court hearings	*	*		*
14	42-43	RCJCF, HMCTS, Witness Care Units and IDVAs to develop more inclusive ways of working to enhance service delivery to those attending court	*		*	*
15	42	RCJCF, HMCTS and partners to ensure that victims are fully informed about their options regarding special measures and digital technology works effectively	*		*	*
Structured Debriefing Recommendations						
16	44-45	RCJCF and HMCTS to work with domestic abuse services to develop data sharing protocols and easier access to listing information about court	*		*	*
17	44-45	RCJCF and HMCTS to review court facilities to ensure the safety and security of victims and witnesses including separate entrances, access to private areas, the acoustics, and the evacuation plans	*		*	*
18	44-45	RCJCF, HMCTS and family court representative to explore the use of family courts for domestic abuse hearings involving children	*		*	*

Introduction

This report emerges at a time when the coronavirus pandemic continues to challenge every aspect of British Society including the essential public service to access justice fairly and promptly through courts and tribunals.

There is no doubt Her Majesty's Courts and Tribunals Service and other organisations that form the criminal justice system are facing their greatest challenge. Prior to the pandemic, challenges were many such as lack of Government funding leading to the closure of court buildings and fewer HMCTS staff, delays in transforming court IT systems and changes to the legal aid system.

These challenges have been exacerbated by the effects of the pandemic resulting in an extraordinary backlog of cases, introduction of remote justice, social distancing in courts and rapidly changing operational requirements between justice professionals.

The first Covid 19 restrictions began in March 2020, just after the conclusion of the data collection process. The management of cases changed thereafter so this initiative captures the final cases dealt with by the traditional criminal justice system.

This report does not comment in detail on the widespread and unprecedented change to the operation of courts and tribunals in England and Wales. However, the recommendations consider key developments which continue to influence the criminal justice system.

Domestic abuse-related crime accounts for 1 in 6 (15%) of all crime recorded by the police in England and Wales and over a third (35%) of all recorded violence against the person crimes.¹ Each year, more than 100,000 people² in the UK are assessed as being at a high and imminent risk of being murdered or seriously injured as a result of domestic abuse. Women are much more likely than men to be the victims of domestic abuse. Two women a week are killed by a current or former partner in England and Wales³. It is estimated that there are 2.3 million victims of domestic abuse each year of which two thirds are women.⁴ These figures include violence, honour-based abuse, sexual assault and stalking by family members and current or former partners.

Although the cost of domestic abuse is considerable, there is no national body that measures governmental spending. However, a government study, in the year ending 31 March 2017, estimated that domestic abuse cost over £66 billion in England and Wales⁵. The biggest component of the estimated cost was the physical and emotional harms incurred by victims (£47 billion). The cost to the economy was considerable, with an estimated £14 billion arising from lost output due to time off work and reduced productivity because of domestic abuse. Some of the cost was borne by Government such as the costs to health services (£2.3 billion) and the police (£1.3 billion), housing costs totalling £550 million, which includes temporary housing, homelessness services, repairs and maintenance. Victim services costs include expenditure by charities and the time given up by volunteers to support victims.

A range of agencies in both civil and criminal settings acknowledges that domestic abuse requires focused attention to address issues of prevention, protection and support of victims. One of the measures identified to improve access to justice was the introduction of Specialist Domestic Violence Courts (SDVC).

International evidence gathered over the past 20 years has consistently demonstrated that, where effectively implemented, dedicated domestic violence courts can reduce the number of cases dismissed and increase the rate of guilty pleas⁶; record higher rates of satisfaction than traditional court processing⁷ and reduce repeat offending.⁸

England and Wales adopted some elements of the domestic violence court model, which became a component of the criminal justice system focused on the safety of victims and holding offenders to account. The courts, overseen by magistrates or District Judges, represent a partnership approach to domestic violence by the police, prosecutors, court staff, the probation service and specialist support services for victims. The features of the SDVCs are discussed more fully later in the report.

1 www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/datasets/domesticabuseprevalenceandvictimcharacteristicsappendixtables

2 safelives.org.uk/policy-evidence/getting-it-right-first-time

3 www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/articles/homicideinenglandandwales/yearendingmarch2019

4 www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/datasets/domesticabuseprevalenceandvictimcharacteristicsappendixtables

6 Mazur, R. & Aldrich, L. (2003). What makes a domestic violence court work? Lessons from New York. *American Bar Association's Judges' Journal* 5, 42 (No. 2) available at <http://www.tribal-institute.org/2010/D3-KathrynFordHO.pdf>; Centre for Court Innovation. (2006). Responding to Domestic Violence: The role of the court system. Crown Prosecution Service (2008) Specialist Domestic Violence Courts Review - 2007/08.

7 Petrucci, C. (2002). Respect as a component in the judge-defendant interaction in a specialised domestic violence court that utilises therapeutic jurisprudence. *Criminal Law Bulletin*, 38 (2); Casey, P. & Rottman, D. (2003). Problem-Solving Courts: Models, commonalities, and trends: The view from the United States. Problem-Solving Courts: An International Perspective', Psychology and Law International, Interdisciplinary Conference, Pre-Conference Workshop. Edinburgh; Valley, C et al. (2005). Evaluation of Domestic Violence Pilot Sites at Caerphilly (Gwent) and Croydon 2004/05

8 Mazur, R. & Aldrich, L. (2003). What makes a domestic violence court work? Lessons from New York. *American Bar Association's Judges' Journal* 5, 42 (No. 2) available at <http://www.tribal-institute.org/2010/D3-KathrynFordHO.pdf>; Ventura, L. & Davis, G. (2004). Domestic Violence: Court case conviction and recidivism in Toledo. Urban Affairs Centre

Introduction

In 2018 Dame Vera Baird QC, former Northumbria Police and Crime Commissioner and currently the Victims Commissioner for England and Wales called for a report on Specialist Domestic Violence Courts (SDVC), asking, “How Special Are They?”⁹

At the time there were concerns in Northumbria about the limited data sharing agreement to support the work of Independent Domestic Violence Advisors (IDVAs); reduced funding for IDVA services; the impact of the courts closure programme on the delivery of justice; reduction in training for all agencies including the judiciary, police and CPS and lack of strategic, multi partnership oversight of SDVC.

The report described a unique partnership approach to assessing justice for domestic abuse victims through the perspective of lay volunteers from the North of England Soroptimist International. The organisation is a women’s global volunteer movement, organised into five Federations, which include Soroptimist International, Great Britain and Ireland¹⁰ where there are 270 clubs with over c6,000 members.

The movement works for human rights and gender equality and has consultative status at the United Nations. Local members pursue grassroots projects that help women and girls achieve their individual and collective potential, realise aspirations and have an equal voice in communities.

Members became trained observers and, with the aid of a questionnaire for data collection, assessed various aspects of the court process and support services for victims.

Several recommendations followed which included:

- focusing on additional training for court personnel
- allocation of all domestic abuse cases to SDVC
- more encouragement for early guilty pleas
- greater recognition of defendants playing the system (gaming)
- remedying the absence of Independent Domestic Violence Advisors

- fully appraising victims of their options regarding special measures
- use of witness summons
- poor utilisation of restraining orders
- appropriate use of sentencing guidelines and mitigation
- greater availability of Building Better Relationship (BBR) courses, which are the Probation Service behavioural change programmes for perpetrators.
- the term economic abuse to replace financial abuse
- greater use of Victim Personal Statements
- tackling the evidential failings of the CPS and Police.

The recommendations emphasised key areas for development and change across the criminal justice system.

In 2020 a similar initiative was organised across the Midlands region as there were clear parallels with the areas of concern identified in Northumbria including a lack of sharing agreement to support the work of IDVAs; reduced funding for IDVA services; the impact of the courts closure programme on the delivery of justice; reduction in training for all agencies including the judiciary, police and CPS; and lack of strategic, multi partnership oversight of SDVC.

This document reports the outcomes of that process, comparing the findings for differences and similarities of the two initiatives.

⁹ vhsfletchers.co.uk/wp-content/uploads/2018/08/OPCC_037_Specialist-domestic-violence-courts-Court-Observers-Panel-A4-booklet-2018-V2.pdf

¹⁰ sigbi.org/get-involved/membership/

Context

Domestic abuse occurs between intimate partners rather than strangers. It has far reaching effects that extend well beyond just the victim and offender. For many years what happened in a family home was not considered a public matter and did not receive the attention required to protect adults and children from violence, abuse or coercive situations. Following high profile cases, such as the death of 8-year-old Maria Colwell in the 1970's, opinion started to support the idea that the private domain had become a place for public intervention.

In 1975, the House of Commons set up a Select Committee to report on violence in marriage. The committee heard much evidence on the issue and agreed that 'battered wives were a matter of public concern'.¹¹ Jo Richardson MP gained Government backing for a Private Members Bill to give individuals the right to apply to the family court for protective orders.

The Domestic Violence and Matrimonial Proceedings Act 1976 emphasised the unacceptability of violence and demonstrated that domestic abuse was no less an offence against the state because it took place in a private sphere. The protective orders offered immediate protection through the removal of the offender. However, they were primarily designed to alleviate the ineffectuality of the criminal justice system.

The range of new legislation that followed provided a national framework to tackle domestic abuse which includes:

- Protection from Harassment Act 1999
- Female Genital Mutilation Act 2003
- Crime and Victims Act 2004
- The Domestic Violence, Crime and Victims Act 2004
- The Forced Marriage (Civil Protection) Act 2007
- The Crime and Security Act 2010 - introduced Domestic Violence Protection Notice (DVPN), Domestic Violence Protection Orders (DVPO) issued by the police, or a non-molestation order issued by a civil court which if breached could result in a criminal prosecution
- The Anti-Social Behaviour Act 2014, which made it a criminal offence in England, Wales and Scotland to force someone to marry
- The Domestic Violence Disclosure Scheme (known as Clare's Law) 2014 - allowed an individual to ask for information about a partner to make informed choices about their safety
- The Care Act 2014, which included new duties to protect vulnerable adults affected by gender violence

- The Serious Crime Act 2015 - recognised controlling or coercive behaviour in an intimate or family relationship
- The Modern Slavery Act 2015, which can be used to address the cross-border issues linked to trafficking
- The Domestic Abuse Act 2021

In 2010 the Government introduced the "Call to End Violence Against Women and Girls" which detailed a series of action plans to address VAWG across all agencies. This was followed by "The National Ending Violence Against Women and Girls (VAWG) Strategy, 2016 - 2021" and "Tackling Violence against Women and Girls Strategy, 2021"

The Government strategy introduced a new National Statement of Expectations. The statement reiterated the framework of prevention of violence, provision of services, partnership working and pursuing perpetrators as the model to tackle all forms of VAWG including Domestic Abuse.¹²

The most recent legislation, the Domestic Abuse Act (2021), introduced categories of harm within the revised definition of domestic abuse including economic abuse, coercive control and recognised children as victims in their own right. Harmful practices such as Female Genital Mutilation (FGM), Forced Marriage (FM) and Honour Based Violence (HBV) were also included as, although they are distinctive forms of VAWG, they also align with the definition of domestic abuse as the perpetrators are often family members.

Although this Act was introduced after the end of the initiative in March 2020 it is important to mention as the recommendations reflect the current legislation requirements and policy changes.

The key aims of the Domestic Abuse Act are to:

- Raise awareness and understanding of the devastating impact of domestic abuse on victims and their families
- Improve the effectiveness of the justice system in providing protection for victims of domestic abuse and bringing perpetrators to account
- Strengthen the support for victims of abuse by statutory agencies
- Create the role of Domestic Abuse Commissioner responsible for raising public awareness and holding both agencies and government to account in tackling domestic abuse
- Introduce a new definition of Domestic Abuse¹³

¹¹ www.jstor.org/stable/23636188

¹² www.gov.uk/government/publications/tackling-violence-against-women-and-girls-strategy

¹³ www.legislation.gov.uk/ukpga/2021/17/contents

Context

Before the commencement of the Act, domestic abuse had not been defined. This situation has now been rectified with a statutory definition which also includes 'economic abuse'. The Act also includes reference to a child who sees, hears or experiences the effect of the abuse, and is related to A or B as described below. Section 1 (2) provides that behaviour of a person ("A") towards another person ("B") is domestic abuse if:

- A and B are each aged 16 or over and
- are personally connected to each other, and
- the behaviour is abusive.

Behaviour is "abusive" if it consists of any of the following—

- physical or sexual abuse
- violent or threatening behaviour
- controlling or coercive behaviour
- economic abuse
- psychological, emotional or other abuse

and it does not matter whether the behaviour consists of a single incident or a course of conduct.

Economic abuse means any behaviour that has a substantial adverse effect on B's ability to—

- acquire, use, or maintain money or
- other property, or
- obtain goods or services.

For the purposes of this Act A's behaviour may be behaviour "towards" B despite the fact that it consists of conduct directed at another person (for example, B's child)."

The legislation provides a definition of "personally connected", describes forms of domestic abuse, impact of domestic abuse on victims, agency responses, partnership working and commissioned responses. The focus from violence to abuse is clear and so is the importance of identifying children who are associated with abuse as victims and considering the care needed to support them.

What was domestic abuse?

During this initiative police and partners were guided by a working definition of domestic abuse, which was not a legal definition described as:

'Any incident or pattern of incidents of controlling, coercive or threatening, degrading and violent behaviour or abuse between those aged 16 or over who are or have been intimate partners or family members regardless of gender or sexuality. This could encompass but is not limited to the following types of abuse: psychological, physical, sexual, financial, emotional, harassment and stalking, online and digital abuse'.

This definition described controlling and coercive behaviour and defined family members which included a mother, father, son, daughter, brother, sister and grandparents whether directly related, in-laws or step-family.

There was no crime called 'domestic violence' or 'domestic abuse'. The offence charged depended upon the facts but are likely to include assaults at all levels, criminal damage, stalking and harassment, threatening or abusive behaviour and coercive and controlling behaviour. A specific offence of coercive and controlling behaviour was introduced in December 2015.¹⁴

What is a Specialist Domestic Violence Court (SDVC)?

From 1999, the Specialist Domestic Violence Courts model was developed over a five-year period and demonstrated that by adopting specific working practices significant improvements could be made on the outcome of domestic abuse cases.¹⁵

Other evaluations followed and each confirmed the SDVC model was still effective and contributed to keeping victims safe as well as achieving positive criminal justice outcomes.^{16 17}

The SDVC is a special form of the Magistrates Court. This means that it can be presided over either by a Bench of Lay Magistrates or by a legally qualified District Judge who usually sits alone. They deal with adult criminal cases only. Their sentencing powers are limited but they can commit a defendant to the Crown Court for a heavier sentence if they believe their powers to be insufficient.

If there is a not guilty plea to a domestic abuse offence which is more serious, the magistrates can send it, or the defendant can elect to be sent, to the Crown Court for hearing by a Judge and Jury.

14 www.cps.gov.uk/legal-guidance/controlling-or-coercive-behaviour-intimate-or-family-relationship

15 www.cps.gov.uk/sites/default/files/documents/publications/sdvc_review_2007-08_justice_and_safety.pdf

16 www.cps.gov.uk/sites/default/files/documents/publications/sdvc_resource_manual_2011_v2.pdf

17 https://b.3cdn.net/nefoundation/667bd380bdc5bac599_e4m6b0z7o.pdf

Context

Domestic abuse cases start with a First Hearing at which the defendant will be expected to indicate, or preferably to tender, a plea to the charge(s). If there is an indication of a guilty plea at that stage, there will be no need for the attendance of the complainant or other witnesses at any stage of the proceedings.

Sometimes defendants indicate that they would plead guilty to a lesser offence but contest the original charge, whereupon the CPS would consider whether the proposed alternative is sufficient and either accept a guilty plea or continue to trial on the original charge. Although all of this is intended to be managed in a single hearing, there are sometimes obstacles which mean that cases are returned to court several times.

If there is a not guilty plea, the SDVC will hold a preliminary hearing to fix a time and place for the trial and to agree some aspect of the trial and court proceedings, such as which witnesses must attend, and whether the defendant should be granted bail. Then the case will be adjourned out of the SDVC system to be heard as a contested hearing by an 'ordinary' Magistrates Court.

In every case in which there is a finding of guilty or a plea of guilty, there will have to be a sentencing hearing. Sentencing hearings may be heard

immediately after the plea or verdict but on some occasions are adjourned to receive reports from the probation service to provide the court with a fuller context for the sentencing exercise. Where there has been a finding of guilt in a case which has been adjourned out of the SDVC for trial, the court may similarly sentence immediately or adjourn for reports and in some cases the trial court will adjourn the entire sentencing exercise back to the SDVC in deference to its 'special' understanding of domestic abuse issues.

All of this means that most hearings in the SDVC itself are either to receive guilty or not guilty pleas and/or to prepare cases for trial and therefore, in very few cases, is the complainant's presence required. However, decisions are made at SDVC hearings which, particularly because of the closeness of the parties, are likely to have significant impact on the complainant's wellbeing. They include the decision to accept a guilty plea to a lesser charge; the granting or refusal of bail; which conditions should/should not be attached to any bail (often including arrangements for child contact) and when, where and with what special measures s/he is to appear in a contested hearing.



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Key components of the Special Domestic Violence Courts System

The current SDVC model is part of a multi-agency framework that incorporates Independent Domestic Violence Advisors (IDVA) and Multi Agency Risk Assessment Conferences (MARAC). Both were shown to improve outcomes by enhancing the effectiveness of the court and support services for victims, facilitating information-sharing and improving risk management, victim participation and satisfaction, leading to greater accountability for perpetrators and increasing public confidence in the criminal justice system.

In essence there are eleven key components of the SDVC model:

Independent Domestic Violence Advisors (IDVAs)

Every evaluation found that the provision of specialist domestic abuse support services for those at medium to high risk were critical to the effective working of SDVCs and all recommended that professional IDVAs should be attached to every SDVC. IDVAs, who are independent of any of the agencies which make up the criminal justice system, focus on the interest of victims, their rights under the Victims Code and their safety throughout the process.

They provide a point of contact for the court and aim to involve the complainant in every decision which may affect them or their children, such as whether to remand or grant bail and the terms of bail, changes to charges against an offender, dates and times of attendance at trial, requests for special measures and making a Victim Personal Statement.

They work with the court-based witness services on such things as familiarisation visits and will accompany the victim at court. They also liaise with other organisations such as Victim Support and Citizens Advice to share information and services for victims.

Multi-Agency Risk Assessment Conference (MARAC)

MARACs are part of a range of local public protection procedures which coordinate with each other. MARACs receive domestic abuse referrals which have been assessed as high risk, and agencies such as the police, probation, health, housing, child protection, and mental health services share information to facilitate further systematic assessment and the implementation of a plan for support and risk management.

For the MARAC, IDVAs are crucial to represent the victim, who does not attend the MARAC, give their expert opinion, and represent the views of the victim. IDVAs liaise with agencies to ensure the action plan is safe. MARAC representatives discuss options to increase the safety of the victim and develop a co-ordinated action plan. The IDVA keeps the victim informed of any decisions made by other agencies and monitors changes that are likely to influence the risk assessment.

Identification of cases

Early and correct identification of domestic abuse cases is essential to organise an appropriate operational response from partner agencies. Witness Care Units, the police and other criminal justice partners use electronic and manual markers to identify abuse cases and allocate to SDVCs.

Trained and dedicated criminal justice staff

This includes police at all levels, CPS, court staff, magistrates and probation staff and is essential for awareness of the dynamics of domestic abuse, the approach needed to support victims, understanding the role of other agencies, managing expectations of what agencies can achieve individually and the importance of effective evidence gathering.

Court listing practice

Depending on caseload and specialist staff availability, domestic abuse cases are either allocated to the same court for hearing or fast-tracked to a first hearing or pre-trial review of the cases.

Court facilities

These play a significant role in the victim's experience. In particular, separate entrances and exits and separate waiting facilities, inside or outside the courthouse, are important. Local arrangements should be in place to minimise the fear or threat of intimidation to victims attending court and appropriate facilities for child witnesses should be available in court. Victims should be made aware of the availability of special measures in the form of screens and video links.

Court familiarisation visits, when the complainant visits the court with a Witness Service volunteer ahead of the hearing, are seen as the most successful non-statutory special measure in supporting victims to give their best evidence and lessen the stress to attending court.

Key components of the Special Domestic Violence Courts System

Children's services

At least 750,000 children a year see or hear domestic abuse and are caused 'significant harm' which could include impairment of health or development such as suffering from seeing or hearing the ill-treatment of another.

Research suggests that children can be negatively affected in all aspects of their functioning and that supporting the non-abusing parent is the best way of reducing children's risk. At court there are specific rights to special measures for under 17s and charters and codes protecting their interests. This is all the more important now that children have formally been defined as victims in the Domestic Abuse Act 2021.

Community based perpetrator programmes

The domestic abuse courts have access to specially designed courses, perpetrator programmes, which are tailored to domestic abuse offenders, encouraging insight into their behaviour, and providing guidance on how to change. There is research that such programmes can help rehabilitate domestic abuse perpetrators.

These programmes were provided by the Community Rehabilitation Companies (CRC) that delivered a national course called Building Better Relationships (BBR). Courts may have ordered defendants to attend such a course as a part, or the whole, of their sentence. Usually this would follow a report from the National Probation Service as to the defendant's suitability for BBR. In 2021 the CRCs were subsumed into the Probation Service who are rebuilding their structure following the failed Transforming Rehabilitation programme.

Many Local Authorities and Police and Crime Commissioners fund perpetrator programmes which are voluntary for the perpetrator. Most programmes incorporate support and safeguarding for the victim but not all, even though it is required practice under the guidance from RESPECT, the charity most involved in dealing with perpetrators directly and importantly in accrediting programmes. Their guidance requires perpetrator programmes to have integrated support services for victims and children.¹⁸

Data collection and monitoring

Police, Crown Prosecution Service (CPS), Courts, Probation and where possible, specialist agencies that support domestic abuse victims collect and share data to evaluate the local criminal justice system in relation to domestic abuse offences.

Equality and diversity

To improve prosecution outcomes, victim safety and satisfaction, equality and diversity should be addressed according to the needs of the local population in terms of social, cultural and language issues. The Public Sector Duty requires all public bodies to have 'due regard' to the need to eliminate discrimination and to promote equality.

Improved knowledge of specific issues faced by black and minority ethnic communities, male victims, older victims, LGBT+ communities, disabled victims and older people should also be a priority.

Multi-Agency Partnerships

Multi-Agency Public Protection Arrangements (MAPPA) meetings will include, but are not specific to, domestic abuse offenders. This is a statutory process to address the risk management issues of convicted offenders who pose the highest risk of serious harm. Coordinated local public protection meetings include Local Safeguarding Children's Boards (LSCB) and Multi Agency Safeguarding Hubs, the single point of contact for identifying risk to vulnerable adults and children.

Additional services should also be in place to ensure that the wider needs of victims such as refuge services, housing services, Sexual Assault Referral Centres and other sexual violence support services, substance misuse services and health services etc. are met as part of a co-ordinated community response to domestic violence and abuse.

The three reports found at footnotes 15,16,17 clearly indicate that any omission or weakness in the key components of the SDVC would result in less successful outcomes and the overall components are pivotal in delivering the aims of the model.

¹⁸ www.respect.uk.net/pages/about-us

Specialist support and legislation

Victim and Witness Support

Domestic abuse victims are, in many cases, given support to cope and recover if possible, and often by a range of agencies, ideally co-ordinated by an IDVA. Although coordination is a key feature of the IDVA role their most important attribute is specialist knowledge of domestic abuse and coercive control which is used to provide appropriate and trauma informed support to victims. This essential support reduces the likelihood of attribution and improves victim satisfaction.

Special Measures

In their capacity as witnesses at court, victims of domestic abuse are in a category of people who may be assessed to be potentially 'vulnerable or intimidated' and can be considered for special measures to assist them to manage the stress, fear and apprehension to which they may be subject.

The purpose of special measures is to enable a witness to give the best evidence to the court that they can give.¹⁹ Whether, and which special measures, each complainant/witness should have for this purpose is the decision of the judge following a pre-trial application for special measures made by the prosecution after discussion with the victim. Although special measures are now a standard feature of courts procedures, the CPS advocate must apply for the facilities early in the legal process or else the facilities will not be available at a later trial hearing.

Commonly available special measures include giving evidence from behind a screen, from another room or building via a television link and to have the assistance of an intermediary if there is a communications difficulty.

These will be of limited effect though unless they are accompanied by such non-statutory arrangements as a familiarisation visit to the courts, ensuring the victim can enter and exit the building away from the defendant, can wait to go into court in a separate waiting room and to be accompanied, if they wish, by an IDVA or a supporter whilst testifying.

The Victims' Code and Victim Personal Statement (VPS)

The Code of Practice for Victims of Crime commonly known as the Victims' Code has had a number of editions, the most recent published in April 2021, after this initiative was completed.

At the time of this initiative, the Victims' Code focused on the responsibilities of criminal justice agencies and, although a range of support was available together with information to help victims cope and, as far as possible, recover from the effects of the crime, many were missing out on their entitlements due to the failure of the agencies to respect the Code.

The current Code of Practice for Victims of Crime (2021) does not significantly extend the Code rights but more concisely sets out the services and the minimum standard of service that must be provided to victims of crime by criminal justice agencies organisations in England and Wales.²⁰ The Code sets out twelve rights of victims, whether they choose to report the crime or not.

However, the core 'rights' are not rights since they are unenforceable, and they are not set out as rights either. For instance, a 'right' sets out that if there is to be a change of charge the CPS must consult the victim but if they cannot/do not then the victim has the right to be told why not.

Another 'right' includes that a victim shall come to court through a separate entrance from the defendant and have separate waiting facilities. The 'right' continues that if there is no separate entrance or waiting area, the Courts Service will do its best.

Clearly if these were statutory rights, they would have to be complied with and no criminal justice agency would be enabled to fail to consult a victim on a change of charge or allow a victim and defendant to be in the same waiting area.

Every victim has entitlements under the Victims' Code (April 2021), some of which apply to the court hearing. Every victim is entitled to make a Victim Personal Statement (VPS) setting out in their own words the impact that the offence has had on them and their family and expressing any concerns they have. The VPS is usually taken down by the police shortly after the offence, although occasionally it may be supplemented with new material as the impact of the offence on a victim or family member changes or develops.

¹⁹ www.cps.gov.uk/legal-guidance/special-measures

²⁰ www.gov.uk/government/news/new-victims-code-comes-into-force

Specialist support and legislation

There is a related entitlement for the victim to say whether they wish to read the VPS personally to the court, or to play it if it is recorded or to have it read aloud to the court by someone else such as a family member or the CPS.

Police are responsible for ensuring that the CPS have the statement and in turn CPS must pass it to the court who will then decide if the victim will be allowed to read it in open court and pass that information back in time for any necessary attendance. There is higher judicial guidance to the effect that the court should not adjourn any hearing for the sole purpose of allowing victims to attend to read their own VPS.

Crime Survey data 2015/2016 indicated only 15% of victims of all crime types said they were given the opportunity by the police to make a Victim Personal Statement (VPS), despite it being one of the Code's key entitlements.²¹ However, later data from the Office of the Victims Commissioner, 2019 shows an encouraging increase of take up across all crime types.

The Victims Commissioner's 2015 report found that magistrates and judges thought that VPS helped to illustrate and very often provide supplementary information to existing evidence within the court file. However, there is very little evidence that the content of the VPS had an influence on sentencing decisions. Victims felt they had a voice in the proceedings and could communicate their views to the court and offender.

The Victims Commissioner's report 2019 found victims were given the opportunity to make a VPS by Police in approximately every 1 in 7 incidents (14% of all incidents) and overall victims were no more or less likely to make a VPS than in previous years.²²

²¹ s3-eu-west-2.amazonaws.com/victcomm2-prod-storage-119w3o4kq2z48/uploads/2019/02/VC-Silenced-Victim-Personal-Statement-Review-2015.pdf
²² s3-eu-west-2.amazonaws.com/victcomm2-prod-storage-119w3o4kq2z48/uploads/2019/08/VC-Victim-Personal-Statements-Review-2018-19.pdf

Considerations of the Court

Sentencing Guidelines

The Sentencing Council is a national body made up of judiciary, lawyers, and academics. Its role is to consult the public and draw up guidelines within which the courts are expected to sentence those who appear before them.

The sentencing guidelines for domestic abuse were drawn up in 2006, at the request of the then Home Secretary and amended in 2018. These guidelines bring a distinct change in emphasis in relation to seriousness. Previously offences committed in a domestic context were seen as no less serious than those in a non-domestic context, whereas the new guidelines emphasise the fact an offence took place in a domestic setting make it more serious.

In summary, the provisions include:

- A principle that offences in a domestic context should be regarded as more serious than similar offences in a non-domestic context

There are aggravating factors which justify a higher sentence for an offence which include:

- Abuse of trust and power; both factors are almost by definition present in domestic abuse cases
- Victim is particularly vulnerable (all victims of domestic abuse are potentially vulnerable due to the nature of the abuse, but some victims of domestic abuse may be more vulnerable than others, and not all vulnerabilities are immediately apparent)
- Steps taken to prevent the victim reporting an incident
- Steps taken to prevent the victim obtaining assistance
- Victim forced to leave home or steps have to be taken to exclude the offender from the home to ensure the victim's safety
- Impact on children (children can be adversely impacted by both direct and indirect exposure to domestic abuse)
- Using contact arrangements with a child to instigate an offence
- A proven history of violence or threats by the offender in a domestic context
- A history of disobedience to court orders such as, but not limited to, Domestic Violence Protection Orders, non-molestation orders, restraining orders

The following are considerations which may mitigate the severity of an offence for purposes of sentence:

- Evidence of genuine recognition of the need for change, and evidence of obtaining help or treatment to effect that change
- Positive 'good character'

The Guidelines prescribe special considerations about the defendant's good character in domestic abuse cases. In most other kinds of case an offender's positive good character can offer mitigation. However, the Sentencing Council understands that domestic violence and abuse can continue unnoticed for lengthy periods because most perpetrators have two personae, one for their life in the outside world and the abusive persona, responsible for the acts of violence they commit. So an offender's good character in relation to matters outside the home is not mitigation for offences committed during a pattern of domestic abuse, though it is possible for it to have some relevance if the offence in question is an isolated act.

Assertions of provocation by bad behaviour from the victim are to be treated with great care and usually only actual or anticipated violence or bullying will be effective mitigation.

²³ www.sentencingcouncil.org.uk/

²⁴ www.sentencingcouncil.org.uk/publications/item/overarching-principles-domestic-abuse-definitive-guideline

Court Orders

Restraining Orders

Following the implementation of section 12 of the Domestic Violence, Crime and Victims Act (DVCVA 2004), restraining orders may be made on conviction or acquittal for any criminal offence. These orders are intended to be preventative and protective. The guiding principle is that there must be a need for the order to protect a person or persons from harassment or conduct putting them in fear of violence.

A restraining order is a civil order and is obtained if, on the balance of probabilities, the defendant has been shown to offer a risk to the complainant. It is preventative rather than punitive. These orders are often applied for and made at the end of a trial.

Restraining orders are civil behaviour orders and therefore the standard of proof is a civil one. In response to a breach of an order the police ought to take expeditious and robust action and bring the offender before the court in a timely manner, but this is not always the police response.

A breach of the order can lead to a term of imprisonment. On indictment, imprisonment for a term not exceeding five years, or a fine, or both and on summary conviction, the maximum penalty is imprisonment for a term not exceeding six months, or a fine not exceeding the statutory minimum.

There are options to vary, discharge or appeal the orders and on occasions the applicant is the victim. In those cases, the court and criminal justice partners treat the matter very sensitively and act in the best interest of the victim.

Non-Molestation Orders

A non-molestation order is a civil order obtained by a victim of domestic abuse from a Judge or Magistrates through the Family Court. The term molestation has a wide interpretation, (similar to the domestic abuse definition) and can include, but is not limited to, physical, emotional, financial and sexual abuse, and it can also cover coercive and controlling behaviour, intimidating behaviour and harassment. The abuse can be once or over a sustained period of time.

By obtaining a non-molestation order the court directs that the abuser cannot do or take certain actions. For example, not to approach the victim, not to act in a threatening manner or use violence or abuse towards a victim (in some cases the child(ren)) or attend any property occupied by the victim. Included are more general behaviours, which amount to harassment or cause distress to a victim. An example might be

unwanted and frequent contact with the victim by numerous means, through social media, and text messages and not just telephone calls. In short, the non-molestation order, if granted, prohibits the defendant from 'molesting' the victim.

Most non-molestation orders will have a Power of Arrest attached; and the police ought to instigate an arrest and appearance before a court but this does not frequently occur. The defendant is not allowed to contact the victim, but if they choose to instruct someone else to do so on their behalf then this will still be considered to be a breach of the Order. A breach is an arrestable offence and can lead to imprisonment for a period of up to five years.

Domestic Violence Protection Orders and Notices

Domestic Violence Protection Notices (DVPN) and Domestic Violence Protection Orders (DVPO) aim to provide victims with immediate protection following an incident of domestic violence and gives them time to consider what to do next.²⁵ As part of this process victims will be contacted by local specialist services providing advice and support.

A DVPN is served by the police on perpetrators of domestic abuse and provides emergency protection for victims. It must be presented to a Magistrates' Court for approval within 48 hours (excluding Sundays and Bank Holidays) of it being served. If the Magistrates' Court agrees, the restrictions stated within the DVPN can continue for between 14 and 28 days in the form of a Domestic Violence Protection Order (DVPO).

If the perpetrator breaches the DVPN or DVPO they will be arrested and kept in custody. The perpetrator will be seen before a Magistrates' Court within 24 hours (excluding Sundays and Bank Holidays) and could be fined up to £5,000 and/or sent to prison for up to two months.

Police can serve a DVPN on any individual aged over 18 who they believe has been violent or threatened violence against another person and the victim requires protection. The law allows the police to serve a DVPN on a perpetrator even if the victim does not agree to it.

A DVPN places conditions on a perpetrator which may include stopping him/her from entering and being within a certain distance of the victim's home, stopping him/her from making the other person leave or excluding them from their home requiring him/her to leave the victim's home.

25. www.gov.uk/government/publications/domestic-violence-protection-orders/domestic-violence-protection-notices-dvpns-and-domestic-violence-protection-orders-dvpos-guidance-sections-24-33-crime-and-security-act-2010

Court Orders

The DVPO and DVPN have not been as effective as expected. Reasons for this include lack of understanding throughout criminal justice agencies, introduction of time consuming and labour-intensive processes, concerns about the cost and whether the orders represent value for money, prevalence and lack of reporting breaches and inadequate punishment for DVPO breaches.

However, the Domestic Abuse Act 2021 introduced Domestic Abuse Protection Orders (DAPOs) and Domestic Abuse Protection Notices (DAPNs) which will replace the current Domestic Violence Protection Orders and Notices. Whilst non-molestation orders will remain in force for the time being, these new orders will become the first resort.

The DAPOs and DAPNs will impose similar restrictions to the current protective injunctions. However, they will bring about the addition of a positive requirement such as a mandatory attendance of a domestic abuse perpetrators programme.

For instance, a DAPN can direct the abuser not to contact or come within a specific distance of where the victim lives and can evict or exclude the abuser from entering their home. A DAPO can prohibit an individual from certain activities such as entering a geographical area.

The Home Office assessed that year ending March 2020, 4,468 DVPNs were issued (data from 25 forces) and 6,267 DVPOs were granted (data from 37 forces) and in the year ending December 2020, 36,952 Non-Molestation Orders were made (an increase of 89% over the past nine years).

They also assessed that around 55,000 DAPOs would be made per year based on the estimated use of DVPOs for all police forces, Non-Molestation Orders, Occupation Orders and Restraining Orders, that will become DAPOs, plus a 5-10% uplift. These Orders are due to be piloted over the course of the next two years.²⁶

It will become clear in the analysis that DVPOs were only referred to in two cases out of 193 cases. This was a very poor use of the legislation and indicative of inadequate understanding and application by the police, which will need improving if the DAPOs and DAPNs are to be successful.



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26. <https://www.gov.uk/government/publications/domestic-abuse-bill-2020-factsheets/domestic-abuse-protection-notices-orders-factsheet#contents>

Methodology

This initiative was based on a similar format to the 2018 initiative, Specialist Domestic Violence Courts “How Special Are They?” and examined the state of practice in the Midlands region in 2020.

The question “Specialist Domestic Violence Courts “How Special Were They in 2020?”” provided a framework to make a comparison between the two initiatives.

Volunteers from Soroptimist International, Midland Chase and Midland Arden regions attended three training sessions with the police. Given the potentially distressing nature of the hearings, they had access to welfare support if they wished. They were asked to complete an online semi-structured questionnaire after each court observation.

Between 6 January 2020 and 3 March 2020, a group of 58 observers, working in pairs, made 100 court visits. Volunteers spent about 800 hours at courts and more than 200 questionnaires were completed online. In total this report comments on 193 cases observed by the volunteers. A copy of the questionnaire is attached at Appendix A.

In November 2020, eleven volunteers took part in a structured debriefing process with Dame Vera Baird and representatives from West Midlands Police. The aim of the process was to record the qualitative

observations from the Soroptimists, identify areas of good practice and make recommendations to improve the Soroptimist SDVC review process. A review of the findings is incorporated into this report and the full document is attached at Appendix B.

The data from the 2018 study and the 2020 qualitative and quantitative data combined to provide a richness of information, strengthen the validity of the data, offer greater insight regarding the key issues and identify convergence, complementarity, and divergence of data.

The SDVCs referred to did not deal with the totality of domestic abuse crime in their regions. Typically, not guilty pleas were adjourned to be heard as a ‘contested hearing’ at either an ‘ordinary’ Magistrates Court or, in a serious case, by the Crown Court. If there were findings of guilt, there was no guarantee that the case would be adjourned back to the court to be sentenced with the benefit of its ‘specialist’ approach.

This means only guilty pleas and preparatory hearings were heard in SDVC. The data collected in this initiative does not examine further the progression of the not guilty cases.



Court Observers - SI Lichfield

SDVC proceedings and initial overview

The initiative incorporated a sample of Magistrates' Courts in Wolverhampton, Birmingham, Cannock, Newcastle Under Lyme, Hereford, Redditch and Telford, which are located within the criminal justice and police boundaries of West Midlands, Staffordshire and West Mercia.

The following table identifies the courts which allowed access to their hearings and their Local Criminal Justice Board (LCJB). The data is divided into total observations, identifying guilty and not guilty pleas in each court, the number of cases heard by a District Judge (DJ) or Magistrate(M) and total (T) results.

The Midlands court circuit heard 193 cases of which there were 117 guilty pleas (61%) and 76 (39%) not guilty pleas.

West Midlands heard 89 (46%) cases divided between Wolverhampton 67 (35%) and Birmingham Courts 22 (11%).

Staffordshire heard 40 cases divided between Cannock and Newcastle Under Lyme Courts 12 (6%) and 28 (14%) cases respectively.

West Mercia heard 64 cases divided between Hereford, Redditch and Telford Courts 17 (9%), 39 (20%) and 8 (5%) cases respectively.

Of these cases, benches of Lay Magistrates heard 150 (78%) cases and District Judges heard 43 (22%).

Without reproducing the continuing debate about the numbers of male victims of domestic abuse compared with the numbers of female victims, the two initiatives reveal in 172 (89%) of the 2020 cases and 93.5% of the 2018 cases the defendants were male and the victims female. This correlates with the current research that females are more likely to be subject of domestic abuse than men.²⁷

However, 8 (4%) of cases involved a female defendant and male victim and in 13 (7%) of cases gender was unclear or not known.

There is a significant difference between the numbers of female victims and male victims of domestic abuse; nevertheless there is a growing need for services for male victims which has been highlighted by the current Domestic Abuse Commissioner.²⁸

Charged offences

As there is no criminal offence of domestic abuse, the charged offences are likely to be an incident or pattern of behaviour amounting to a specific offence which has a legal definition. Domestic abuse is "rarely a one-off incident" and regularly forms a pattern of behaviour that can happen in ways that do not fall neatly into existing categories of crime.²⁹

What follows is an analysis of the cases by offence type, an indication of guilty or not guilty pleas and examples of typical offending behaviours. 12 (6%) of case information was blank or insufficient for analysis.

Courts	Wolverhampton			Birmingham			Cannock			Newcastle			Hereford			Redditch			Telford		
LCJB	West Midlands (89)						Staffordshire (40)						West Mercia (64)								
	DJ	M	T	DJ	M	T	DJ	M	T	DJ	M	T	DJ	M	T	DJ	M	T	DJ	M	T
Total Cases 193	23	44	67 (35%)	1	21	22 (11%)	4	8	12 (6%)	11	17	28 (14%)	/	17	17 (9%)	/	39	39 (20%)	4	4	8 5%
Guilty Plea 117 (61%)	16	19	28 (42%)	/	8	8 (36%)	2	1	3 (25%)	3	7	10 (36%)	/	9	9 (53%)	/	13	13 (33%)	3	2	5 62%
Not Guilty Plea 76 (39%)	9	19	28 (42%)	/	8	8 (36%)	2	1	3 (25%)	3	7	10 (36%)	/	9	9 (53%)	/	13	13 (33%)	3	2	5 62%

27 <https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/articles/domesticabusevictimcharacteristicsenglandandwales/yearendingmarch2020>

28 <https://domesticabusecommissioner.uk/blogs/our-support-for-male-victims>

29 www.cps.gov.uk/crime-info/domestic-abuse

Offence	Cases	Guilty	Not Guilty	Examples
Assault offences such as Actual Bodily Harm (ABH) or Grievous Bodily Harm (GBH)	107 (55%)	54	53	Victims were slapped, punched, head butted, kicked, imprisoned, throttled, pushed down a flight of stairs, subjected to persistent abuse, clothes set on fire, threatened with knife, hit with piece of wood, victim lost baby at 8 weeks
Harassment	27 (14%)	20	7	Victims received 72 phone calls, 218 text messages, were subject to verbal abuse at place of work, sent pornographic videos, followed by offender, persistent banging on front door. Social media was the primary communication tool including, messaging, texting, Instagram.
Criminal Damage	13 (8%)	12	1	Caused damaged to front door, interior of home, windows, reversed car into garage, and damaged car
Stalking	6 (3%)	4	2	Offenders made calls to homes and waited outside places of employment. During a 4-month period a victim made 12 statements to police outlining threats at home and place of employment. A child no longer lived with mum through fear of father. The offender hid in the house and outside in garden. Offender threatened suicide and claimed he was terminally ill and told his children.
Controlling and Coercive behaviour 23 references as incorporated with other offences				Offenders sent excessive texts, demonstrated significant controlling behaviours, demanded passwords, directed how victims dressed and socialised and had control of the household. Offenders had previous conviction for same offences. Victims were fearful of response from offender.
Reference to Court Orders	28 (14%)	22	4	
Of which				
Breach of restraining order	14	11	3	Victims subjected to threatening social media communications, sent voice and text messages. Offender visited home of ex-wife. Offenders used abusive, threatening or intimidating behaviour
Breach Non- Molestation Order	10	9	1	Breach order by visiting parents. Parked car within 100 metres of victim's house. Victims were subject of abusive or threatening text messages Whilst offender awaiting sentence for similar offence, approached victim. Appeared at children's school. Demonstrated aggressive behaviour
Breach of Domestic Violence Protection Order (DVPO)	2	2		Offender made repeated telephone calls and messaging to victims. Offender assaulted victim.
Apply to remove/vary order	2			Victim no longer felt threatened by offender and the order was revoked. Police and Probation did not support application to revoke the order. Determined to be a High-Risk victim and referred to Multi Agency Risk Assessment Conference (MARAC). The order remained in force.

SDVC proceedings and initial overview

Assault

107 cases (55%) of the offences charged were assaults; personal attacks on individuals, which ranged from a single slap to brutal and sustained violence with or without a weapon. The most significant injury to one female was a broken jaw and the loss of a baby.

Of the 54 guilty pleas, 29 (54%) had convictions for violence against the same partner or an ex-partner. They had previously breached either bail conditions, restraining orders, suspended sentences or community orders. Despite a history of failing to adhere to the requirements of supervision, 20 (70%) of these offenders were sentenced to the same regime of restraining orders, community orders and supervision by the probation service.

The remaining offenders were sentenced to a variety of community and rehabilitation orders.

Harassment

Harassment occurred in 27 (14%) cases, which were primarily digital communication activities such as excessive messaging via the telephone or social media; examples of 72 phone calls and 218 text messages in one day were described. Although offenders may not have been physically near the victim, the resulting fear and distress was still impactful and debilitating on the victim. The ease at which offenders could negatively intrude on an individual's life was significant.

11 (41%) offenders had previous convictions and 7 (64%) had convictions for similar offending behaviours including domestic abuse and breaching orders.

Restraining orders and community orders were the primary sentencing options.

Criminal Damage

13 (8%) of cases were criminal damage to furniture and belongings inside a victim's home, to the front door and windows creating a security risk or damage to their car, which in many instances was their only mode of transport for work, schooling and family activities. A variety of orders were imposed including imprisonment and restraining orders. 8 (62%) offenders had previous convictions for a variety of offences including domestic abuse.

Stalking

Stalking was present in 6 (3%) of cases and the behaviours demonstrated were devastating for those involved. They ranged from causing anguish by an

offender lying to his children and telling them he was dying, threatening suicide, or threatening to set fire to a parent's house. Offenders also engaged in extreme behaviour by hiding in a victim's house or garden. One victim found the offender whilst she was in the process of running a bath in her home. Another discovered him hiding when she put the rubbish out in the household bins. Victims' places of employment also became the focus of offenders who regularly parked nearby so they could be seen by the victim or verbally abused the victim at work.

Interestingly although circumstances were described as stalking some of the activities do not reflect stalking behaviours. This could be an indicator that police officers and the judiciary require additional training on stalking and harassment offences.

3 (50%) had previous convictions. One offender's previous history was not relevant; however, the remaining two had demonstrated similar behaviours with other women.

Coercive and controlling behaviour

There were 23 references to coercive and controlling behaviour although no charges for that specific offence. They were associated with assaults, breaches of order and harassment offences.

The definition encompasses a range of acts designed to make a person subordinate and/or dependent by isolating them from sources of support, exploiting their resources and capacities for personal gain, depriving them of the means needed for independence, resistance and escape and regulating their everyday behaviour.³⁰

Offenders are often charming and loving in the early stages of a relationship and coercive and controlling behaviours are introduced gradually. Gaslighting, isolation, economic control and financial abuse and rules and regulations are introduced over time once the victim is emotionally invested in the relationship. The rules are created by the perpetrator and the victim fears the consequence if rules are broken.³¹

Over time, coercive, controlling behaviour erodes the victim's sense of self, their confidence, self-esteem, and autonomy. An unreal world of contradiction, confusion and fear is created.

³⁰ www.cps.gov.uk/legal-guidance/controlling-or-coercive-behaviour-intimate-or-family-relationship

³¹ www.psychologytoday.com/gb/basics/gaslighting

SDVC proceedings and initial overview

Specific examples include the following:

Case Number	Description of behaviour
37	"I asked friends to call the police or else he would kick off at me"
38	"He had too many vegetables, so he threw his Christmas dinner at me, upsetting the children"
62	"Why does his statement say I am a bad person and in the wrong?"
10	Over a 7-year relationship, the offender hit her regularly even whilst pregnant with their daughter. The offender has 2 previous convictions for domestic abuse in 2 other relationships.
124	The offender did not like her spending time with her friends and family
129,151,152	3 cases where excess text, messages and Instagram were used to cause alarm and distress to victims
146	The offender told the victim to dress in a certain way, took her phone and wanted to know her passwords
176	Victim was not allowed to use a phone and money was taken from her

The circumstances of these behaviours were revealed in court proceedings but there was no indication of the weight given to the evidence by the judiciary.

Children who witness severe and ongoing parental conflict can have significant negative outcomes. They can display externalising problems such as behavioural difficulties, antisocial behaviour, conduct disorder; internalising problems such as low self-esteem, depression, and anxiety; academic problems; physical health problems; and social and interpersonal relationship problems.³²

Despite there being an increase in recorded crimes of coercive control, from approximately 4,000 in 2016-17 to over 9,000 in 2018-19, prosecutions and convictions for the offence remain consistently low. The police

response missed evidential opportunities through not fully investigating coercive control disclosed in witness statements, failing to seek third party witness statements, or not making use of the body camera footage they may have recorded.

Many police officers treat each incident as an isolated event and do not recognise a pattern of offending behaviour. For example, the circumstances of the assault offences were also coercive and controlling behaviours. The behaviours described as breach of restraining orders were also stalking conduct. Focusing on each incident created missed opportunities to understand the entirety of the offending behaviour. Crime recording policies may hinder the identification of patterns of behaviour as officers follow specific procedures and definitions of crime.

A recent ruling in the family courts indicates a changing attitude towards incidents of coercive behaviour. In the future, family courts should prioritise the issue of coercive and controlling behaviour when considering disputes between parents in domestic abuse cases. The court should prioritise consideration of whether a pattern of coercive and/or controlling behaviour is established over and above the determination of any specific factual allegations.³³

Modern criminal and family courts and their agents should have a proper understanding of the nature of domestic abuse, controlling and coercive behaviours, stalking and harassment offences and their impact on both the victims and children.

Joint training for all police staff and members of the criminal justice system to recognise the features of coercive and controlling behaviours, stalking and harassment offences can only enhance their ability to protect victims and bring offenders to justice. Facilitating familiarisation and secondment opportunities can enhance knowledge and forge relationships through informal arrangement.

³² <https://www.iriss.org.uk/resources/esss-outlines/coercive-control>

³³ <https://www.iriss.org.uk/resources/esss-outlines/coercive-control>

SDVC proceedings and initial overview

Court Orders

Court orders and bail conditions are protective measures used to affect the safety and security of victims, witnesses and others who might be the focus of further abuse or interference from a suspect.

14% of cases were related to court orders: 14 breaches of restraining orders; 10 breaches of civil non-molestation orders that resulted in an arrest by the police; 2 breaches of a Domestic Violence Protection Order (DVPO) and 2 applications to remove an order. All 28 cases were breaches of active orders which indicated that the offender had previously exhibited worrying or violent behaviour to such a degree that a court had tried to modify the individual's conduct.

In one DVPO case it was indicated that the victim had been complicit in the four breaches and despite a guilty plea the defence indicated they would seek to evince the order. In the other case the complainant withdrew the allegation despite repeated calls to the police about violence between the two parties. The police continued the proceedings and were granted a 28-day order.

Only two victims were consulted about the subsequent court decisions for all the breaches.

Offenders claimed many of the breaches were related to issues regarding access to their children. Either the circumstances meant they could not speak to their children, or the access arrangements were unsuitable. They claimed this was the catalyst for them going to a school or home address.

In most cases outcomes involved strong warnings about the offender's future conduct, advice about resolving child access through the Family Courts in addition to community orders and fines. There was no obvious consideration of the potential threat or risk to the children.

The behaviour of three offenders was considered so dangerous that they were held in police custody overnight for the initial court hearing and were then remanded to prison by the court.

Two cases were listed to remove or vary an order. In one case all parties, along with the victim, agreed the order was no longer required. In the second case there was significant concern that the victim was under duress so there was no support from the police or probation to remove the order. The case was referred to the Multi Agency Risk Assessment Conference

(MARAC) to reassess the victim's needs and level of risk she faced.

The courts primary sentencing outcome for the guilty pleas were restraining orders followed by the application of community orders, rehabilitation activities, unpaid work, conditional discharge, and suspended sentences. All these sentences were ratified just before the pandemic restrictions and as such it is likely many offenders did not have the opportunity to complete their sentencing obligations. Understanding the effect of Covid 19 restrictions on these sentencing outcomes would provide an insight into the value of those sentencing options and impact on offenders and victims.

In the 2021 report by Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services (HMICFRS), the College of Policing and the Independent Office for Police Conduct (IOPC) it was highlighted that the police and courts were not adequately utilising restraining orders, non-molestation orders, Domestic Violence Protection Notices (DVPNs) or Domestic Violence Protection Orders (DVPOs).³⁴ There was minimal reference to these orders in the data which correlates with the negative commentary by the 2021 report.

The analysis indicates the development of a 'revolving door process' regarding restraining orders and other court orders. There are references to previous convictions for breaching orders, for which the sentence was an additional restraining order. The courts and police should have a clearer understanding and expectation of how the orders are utilised to protect victims and families.

In 71 guilty plea cases, restraining orders were granted with varying conditions which included no direct or indirect contact with the victim or family members; prohibited from access to property or premises; staying a certain distance away from a named person or places.

Understanding the use of these orders across the Midlands region is not only timely but essential to proactively encourage the use of protective measures to prevent violence and protect women and girls.

Children were generally excluded from the orders but with direction to seek Family Court support to formalise child access arrangements. The introduction of the new integrated domestic abuse courts (IDAC) to address criminal and family matters in parallel will make a significant difference to how children are considered in domestic abuse cases.³⁵

³⁴ ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/datasets/domesticabuseprevalenceandvictimcharacteristicsappendixtables

³⁵ <https://domesticabusecommissioner.uk/wp-content/uploads/2021/11/Improving-the-Family-Court-Response-to-Domestic-Abuse-final.pdf>

Aggravating, mitigating, disputed factors, other characteristics and prior convictions

The Sentencing Council Guidelines (2018) highlight a range of aggravating and mitigating factors that can affect sentencing in domestic abuse cases, and which should be highlighted by the prosecution and defence advocates. See pages 19 and 20.

Aggravating circumstances refer to factors that increase the severity or culpability of a criminal act. A mitigating factor is the opposite of an aggravating circumstance, as a mitigating factor provides reasons as to why punishment for a criminal act ought to be lessened.

In addition to taking account of previous relevant convictions, the Sentencing Guidelines also highlighted a range of aggravating and mitigating factors that can affect sentencing and can be highlighted by the prosecution or defence.

The following data is an account of issues highlighted in cases where the offender tendered a guilty plea. A comparison was made with data from the 2018 and 2020 initiatives.

Although they form an incomplete data set there is sufficient information to indicate a trend towards 'gaming' the system by not conforming to the definitions provided by the Sentencing Council Guidelines (2018). This same observation was made from the data collected in the 2018 initiative.

	2018	2020	Factors 2020
Guilty Pleas	62	117	
CPS advocates set out aggravating factors associated to the defendants prior to sentencing	28 (45%) The most common aggravating factor was alcohol or drugs misuse	35 (30%)	Alcohol Abuse 14 Breach of orders 4 Apparent jealousy of new partner 3 Claimed difficulty in child access 3 Engaged in controlling behaviour 2 Dog (taken or harmed) 4 Mental health 1 Debt 1 Ill health 1 Property dispute 1 Poor temper 1
Mitigating factors highlighted by defence advocates about the defendants prior to sentencing	50 (81%) Alcohol abuse (24%) Mental health (12%) Challenge victim's behaviour (15%)	76 (65%)	Alcohol abuse 15 Mental health 12 and 2 claims of PTSD Claimed difficulty in child access 8 Allegations of partner cheating 5 Challenged victim version of events 5 Previous good character 5 Embarrassed 4 Stayed out of trouble 4 Caught in a continuing cycle of violence 3 Did not have drink, drugs, or mental health issue 3 Did have drink, drugs, or mental health issues 3 Turn life around 2 Victim complicit in offence 2 Confused re court orders 2 Early guilty plea 2 Medicated 2 Drug abuse 2 Cooperated 1 Volunteering 1 Not homeless 1 In rehabilitation 1 Immature 1 Lonely 1 No memory of incident 1 Now a responsible father 1
Defence disputed an aspect of prosecution case		21 (18%) including 3 Newton Hearings (described page 34)	Disputed - - how injuries occurred, -denied carrying a knife, -the victim did not want the prosecution, -accidentally in same area as daughter, -police did not listen to his version of events, -drugs not working and contributed to his behaviour -thought the Order had concluded -conduct of ex-husband contributed to situation -victim consented and would support rescinding the order -denies attack but agrees a pushing motion -stopped taking medication which contributed to behaviour -claimed victim threw bottle and cheated with another man
Children mentioned	13 (21%)	13 (21%)	Witnessed violence Offenders visited school / home address causing distress. Children witnessed the domestic incident The issue related to child access issues

Aggravating, mitigating, disputed factors, other characteristics and prior convictions

CPS and Aggravating factors

The prosecution advocate represents the public interest and should be ready to assist the court to reach its decision as to the appropriate sentencing outcome for an offender. This would include drawing the court's attention to any Victim Personal Statement or other information available to the prosecution advocate as to the impact of the offence on the victim; where appropriate, to any evidence of the impact of the offending on a community; any statutory provisions relevant to the offender and the offences under consideration; any relevant sentencing guidelines and guideline cases; the aggravating and mitigating factors of the offence under consideration

Aggravating factors were highlighted in 30% of cases. The most common factors were alcohol abuse, followed by a breach of orders, alleged jealousy of the new partner and claims regarding difficulties with child access. The data from the 2018 initiative also identified alcohol and drug misuse as the most significant factors.

Defence and mitigating factors

The court will consider what sentence should be imposed and are obliged to take account of any matter that 'in the opinion of the court, are relevant in the mitigation of the sentence.'

Mitigating factors were highlighted in 65% of guilty plea cases by the defence. Alcohol abuse and mental health issues were the most common factors referred to followed by claims about difficult child access arrangements or no access, allegations of partner cheating, challenges to the victim's account and highlighting the previous good character of the defendant.

What is not clear is how these factors, presented by either the prosecution or the defence, influenced the sentencing decision of the court. What is clear is that factors presented by the defence do not reflect the criteria identified by the Sentencing Council (pages 19-20).

Provocation

Provocation was introduced by alleging the victim was engaged in an affair, was denying access to children or by other actions which had incited the offender's behaviour. The 2006 Sentencing Guidelines describe that provocation as mitigation is 'to be treated with great care' and that only actual violence or bullying by the complainant should be considered. The 2018 Guidelines clearly state that 'Provocation is no mitigation to an offence within a domestic context, except in rare circumstances.'

Prosecution advocates should challenge any assertion made by the defence in mitigation that is inaccurate, misleading, derogatory or do not conform to the Sentencing Guideline. It is essential that victims can rely on the judiciary to recognise and dismiss mitigation factors that are not within the sentencing guidelines, or in some way obscure the truth of an offender's actions. Any reference to 'provocation' without challenge can lead to blaming the victim and relieve the offender of responsibility for their actions, for example claiming that the partner was having an affair.

Given that a victim is not required to give evidence in a guilty plea case it is rare for the victim to be in court to challenge any inaccuracies or embellishments from the defence advocate. In the absence of a victim, the Victim Personal Statement (VPS) gives them a voice in the proceedings and the court an additional insight into the impact of offending behaviour. In only 47% of cases was a VPS available so there was a significant missed opportunity to provide valuable information to the court for consideration in sentencing decision making.

Alcohol Misuse and Mental Health

The 2020 data reveals that alcohol was a factor in 29 cases (25%) and mental health issues present in 13 cases (11%). Drug abuse was not significant. In the 2018 data there was a similar correlation as alcohol abuse occurred in 15 cases (24%) and mental health 12 cases (12%).

Academic research has demonstrated that between 25% and 50% of offenders were drinking at the time of offending although in some studies the figure is as high as 73%.^{36 37} Where alcohol is involved in domestic abuse, much of the evidence suggests that it is not the root cause, but rather a compounding factor, sometimes to a significant extent.³⁸

In several cases the defendant was portrayed as having limited responsibility for their behaviour due to their apparent mental illness or cognitive disability. Factors described included Attention Deficiency Hyperactivity Disorder (ADHD), Post Traumatic Stress Disorder (PTSD), brain injury, paranoia, believing partner's family had hired a hit man. It is not clear if these conditions were evidenced with medical documentation or just claimed by the defence.

Interestingly, the defence claimed that not having drink, drugs, or mental health issues was a mitigating factor whilst in other cases having drink, drugs, or mental health issues were also offered as a mitigating factor.

36 Bennett, L & Bland, P. 'Substance Abuse and Intimate Partner Violence', National online recourse centre on violence against women, 2008

37 Gilchrist, E., Johnson, R., Talriti, R., Weston, S., Beech, A, and Kebbell M. (2003), 'Domestic Violence offenders: characteristics and offending related needs', Findings, 217, London, Home Office

38. Abby. A., Zawacki. T., O Buck., Clinton. M., McAuslan. P., (2001) 'Alcohol and Sexual Assault', Alcohol Research and Health, Volume 25: Issue 1, pp. 43-51

Aggravating, mitigating, disputed factors, other characteristics and prior convictions

Good Character

As a general principle of sentencing, a court takes account of an offender's positive good character. However, it is recognised that one of the factors that can allow domestic abuse to continue unnoticed for lengthy periods is the ability of the perpetrator to have a public and a private face.

In respect of offences committed within a domestic context, an offender's good character in relation to conduct outside these offences should generally be of no relevance where there is a proven pattern of behaviour. Observations about good character outside the home were expressly excluded by both the 2006 and 2018 Guidelines. Examples given included volunteering and being cooperative.

However, evidence of genuine recognition of the need for change and evidence of obtaining help or treatment to effect that change is acceptable. Examples presented in court included commentary about previous good character, that the offender had 'stayed out of trouble' and had 'turned their life around'.

Disputed an aspect of prosecution case and gaming

Within the final portion of the table there are 21 examples of how the defence disputed an aspect of prosecution cases. In each instance there was no challenge about the circumstances of the narrative from the CPS advocate or the judiciary. A victim was not present and VPS not available to challenge the narrative. It was not clear how the mitigation influenced the sentencing decision-making process, if at all.

In one case a plea was accepted by the court for a lesser offence, then the defence advocate successfully argued that a restraining order should not be granted based on the plea even though the original offence was more significant. This was a very unsatisfactory outcome for the victim.

The principle of fairness is central to the administration of justice. Accuracy and reasonableness of plea plays an important part in ensuring fairness both to the accused and to the victim.³⁹

An essential component to displaying fairness and impartiality is to demonstrate that sentencing outcomes are based on the sentencing guidelines and not distorted by misleading or disingenuous submissions as demonstrated by the examples provided. Each case is unique as are the people involved so there should always be an opportunity to acknowledge mitigation regarding the offender but not to the detriment of the victim.

The CPS advocate and judiciary should be aware of these issues and act accordingly to challenge where appropriate.

This limitation of the adversarial system can be modified by creating an appropriate cultural environment for the hearings so that all parties are heard in an equitable and fair manner.

An option to create a more equitable hearing is to allow victim participation even if they are not providing primary evidence in a guilty plea. This could be achieved by taking advantage of the HM Courts and Tribunal Service (HMCTS) reform programme to introduce user-friendly digital services by further developing the programme to allow victims to see and hear the guilty plea court cases.⁴⁰ Through the prosecution advocate, they could indicate their support or otherwise about the mitigation factors offered, bringing another level of scrutiny and trust to victims of domestic abuse.

Extending the facility of digital services to locations managed by third parties, primarily the voluntary sector, could improve evidence giving and create additional safe and secure locations which are not traditional court facilities.

Newton Hearing

A Newton Hearing is a special legal procedure which is used where the prosecution and defence present conflicting evidence. It is generally used when a defendant pleads guilty to an offence, but factual issues need to be resolved before sentencing.

A judge rules on the disputed points after hearing testimony and submissions. The burden of proof is on the prosecution who must prove their case beyond reasonable doubt. A Newton Hearing was agreed in the following 3 cases. The disputed facts minimised either the actions of the offender or described a scenario that lessened their culpability.

39 www.gov.uk/guidance/the-acceptance-of-pleas-and-the-prosecutors-role-in-the-sentencing-exercise

40 www.gov.uk/guidance/the-hmcts-reform-programme#a-justice-system-for-those-who-need-it-most

Aggravating, mitigating, disputed factors, other characteristics and prior convictions

Case 34

The defendant disputed how the victim fell downstairs and claimed it was a 'small' set of stairs

Case 37

The defendant denied carrying a knife and claimed the injury to victim's cheek was not a head butt, just a clash of heads

Case 67

The defendant claimed he slapped victim but did not punch her and it was not a forceful slap.

It was necessary for the victims to give evidence about the disputed facts; however, they were given access to screens and other special measures to assist in the court process.

Children

Children witnessed 16 incidents of domestic abuse which resulted in violence against their mother and/or verbal abuse. Children were referred to on 29 (25%) occasions and primarily offenders claimed they were breaching orders or reacting to situations in frustration at not being able to access their children. The situation regarding access to children was used to justify an offender's behaviour but took no account of the trauma caused to the children. Some of the following examples could also be identified as coercive behaviours.

The following are examples of the circumstances that involved children.

Case Number	Description of incident involving a child
15	4-year-old child watched mother being slapped, punched, and kicked
28	Child present during violence incident
29	8-year-old child saw her mother grabbed by the throat and water thrown over her
68	Children witnessed parents arguing, police attended home twice and father arrested after breaking window
92	Defendant sent email threatening to set house on fire with mother and child inside
94	Defendant told his children he was dying and, on another occasion, stole car with a child inside
99	Attacked sister whilst she was holding the child of the defendant
127	Access to the children was in dispute so defendant went to their school and home on a number of occasions
135	Woman pregnant with ex-husband's child took their children to see ex-husband. Children did not want the visit as new partner was present. An argument ensued and woman hit husband. Incident witnessed by children
166	Offender abused ex-partner outside children's school, witnessed by children and other parties
184	Offender went to ex-partner's home, was verbally abusive and damaged window. Witnessed by children

In some of these examples the behaviour of the offender was clearly about his personal needs rather than considering the impact on his children. For example, lying to the children about a terminal illness and abusing a partner outside a child's school witnessed by other adults and children.

Research indicates that one in seven (14.2%) children and young people under the age of 18 years will have lived with domestic violence at some point in their childhood. Domestic abuse is recognised as one of the

most toxic forms of violence that children can experience, as a result of which home is often a dangerous place for many children⁴¹. The impact of witnessing domestic abuse is now recognised as causing 'significant harm' and can impair the development of children and their ability to thrive in adulthood.

⁴¹ Radford, L., Corral, S., Bradley, C., Fisher, H., Bassett, C., Howat, N. and Collishaw, S. (2011), 'Child abuse and neglect in the UK today'. London: National Society for the Prevention of Cruelty to Children

Aggravating, mitigating, disputed factors, other characteristics and prior convictions

The Domestic Abuse Act 2021 includes a number of provisions, some yet to be enacted, related to how the family courts address issues of domestic abuse in private law proceedings relating to children. The Act:

- Explicitly recognises children as victims of domestic abuse if they see, hear, or experience the effects of the abuse.
- Provides for the introduction of a new automatic ban on perpetrators of abuse cross-examining their victims in the family courts (and vice versa), in certain circumstances.
- Makes provision to extend the availability of “special measures” to victims of domestic abuse in the family courts.

The implementation plan also includes the introduction of pilot integrated domestic abuse courts (IDAC) that address criminal and family matters in parallel. These courts are a real step forward in achieving a comprehensive understanding of domestic abuse and impact on family members.

Link between animal abuse and domestic abuse

There were four cases that involved using a dog as a weapon, removal of the dog from the family home as a feature of controlling behaviour, or the animal was subject of injury or death. Many studies have confirmed that in households where domestic violence is prevalent, animal abuse can also feature.⁴²

In one case a dog died because of the offender’s behaviour. The observer noted that much of the hearing concentrated on the circumstances associated with the dog rather than the people involved.

The additional trauma caused through the abuse of an animal can impact significantly on family members particularly children. For some victims a reluctance to leave an animal behind coupled with logistical difficulties in taking the animal with them as an exit plan can result in delays for families trying to leave an abuser. A study indicates that 35% of women delay seeking refuge for this reason.⁴³

Highlighting the importance of the relationship between domestic abuse and animal welfare should be a key feature of court professionals’ training courses. Additionally, promoting the pet fostering service for families fleeing domestic abuse could be included as an essential support service.⁴⁴

Places of employment

4% of offences were associated with places of employment with visits to the workplace or repeated communications. This type of behaviour can impact on the victim and colleagues who may take messages from the offenders, shielding the victim from unwanted calls or other interruptions, taking on the victim’s duties or covering for their absence.

Victims may experience depression, sleep deprivation, inability to concentrate, loss of appetite or physical pain. These factors could result in performance issues, absenteeism or presenteeism, and consequently reduced productivity and lost output. Research by KPMG for Vodafone indicates that £316m in economic output is lost by UK businesses each year as a result of absences related to domestic abuse.⁴⁵ In addition, the potential loss of earnings per female victim is £5,800 per year.

Spotting the signs of domestic abuse at an early stage can facilitate early help and the right interventions, which may help victims and save employers’ time and costs associated with performance management or capability procedures.

About one third of a working adult’s life is spent in the workplace so it is not surprising that personal matters are sometimes present at work. Employers are in a unique position to provide support and understanding to domestic abuse victims. Many employers have developed workplace policies and provided training for staff to understand and recognise the signs of domestic abuse.

Workplaces became locations of offending in four cases, primarily as part of repeated stalking and harassment behaviours. Direct contact was not necessary to cause alarm and distress. Parking nearby and being obviously visible in a location was sufficient. It was not uncommon for harassing texts, telephone calls and emails to be received whilst in the workplace.

Employers have a duty to take reasonable care of the health and safety of employees, arising from common law, the Health and Safety at Work Act 1974 and other health and safety regulations. As such an employer that fosters a culture of openness, commits to protecting workers from all forms of abuse and seeks to support victims is also likely to be well placed to recruit and retain high-performing employees.

42 www.ncbi.nlm.nih.gov/pmc/articles/PMC7246522/

43 citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.195.8537&rep=rep1&type=pdf#page=16

44 www.womensaid.org.uk/wp-content/uploads/2015/11/Links_Leaflet_Oct_2011.pdf

45 newscentre.vodafone.co.uk/press-release/new-research-shows-how-domestic-violence-and-abuse-affects-uk-workplace

Aggravating, mitigating, disputed factors, other characteristics and prior convictions

Following a consultation on workplace support for victims of domestic abuse in 2020, the Government published a report and open letter to employers in January 2021, urging employers to "look at what more their organisation could do to help survivors of domestic abuse".⁴⁶

Although there is currently no specific domestic abuse legislation giving rise to obligations on employers, all employers should develop a domestic abuse strategy, informed by specialist agencies. This is important for criminal justice agencies to show their commitment to tackling domestic abuse in their places of work.

Prior Convictions

The prior conviction rate is very significant in 117 guilty pleas. 68 (61%) defendants had previous relevant convictions for violence, breach of orders or previous domestic abuse. In total 80 (71%) offenders had previous convictions for a criminal offence.

Offence	Cases with previous convictions
Violence	18
Breach of Court Orders	17
Other Offences	18
Previous domestic abuse	15
Previous domestic abuse	12

The Domestic Violence Disclosure Scheme, Clare's Law⁴⁷ sets out the procedures for the police to use in relation to the disclosure of information to protect an individual whose current partner has a history of domestic violence and abuse. There are two routes; the right to ask which facilitates asking the police about a partner's history of domestic violence or violent acts and also the right to know where the police can proactively disclose information in prescribed circumstances.

The Domestic Abuse Act 2021 places the guidance supporting the Domestic Violence Disclosure Scheme on a statutory footing. The change from guidance to legislation should raise awareness of the scheme and help to ensure it is embedded into good practice across police forces as well as addressing the issue of regional disparities in levels of disclosure and in responses to requests for partner background checks.

To address these deficiencies, police staff should receive training to better understand the scheme's purpose and the application process. Effective referral pathways should be developed to specialist domestic and sexual abuse advocacy and support services.

It is important for those women who request background checks on current partners and choose to stay in their relationships, not to face a 'blame culture' in any potential future investigations or court proceedings related to domestic violence or abuse.

Given the significant prior convictions rate, the value of Clare's Law should be promoted extensively to members of the public and within all agencies that are part of the criminal justice system.

Sentencing

The outcomes are illustrated in the data by the sentencing options and usage in 2018 and 2020. More than one option was applied for each case. There was less information available about disposal options in the 2018 initiative hence the blank cells.

Sentencing	Result 2020	Result 2018
Restraining Orders	71	
Community Orders	42	32
Rehabilitation activities	29	35
Unpaid work	21 2,110hrs	11
Conditional discharge	21	
Suspended Sentence	14	10
Alcohol Orders	10	
Conditional Bail	6	
DV programme	3	
Community Activities	3	
Better Relationship	1	
Imprisonment	4	
Newton Hearing	3	
Adjourned Pre-Sentence report	23	
Adjourned Crown Court	10	
Fines	35 £12,646	24
Costs	41 £7,911	36
Compensation	13 £3,250	33
Victim surcharge	25 £857	37

In 71 cases restraining orders were granted with varying conditions which included no direct or indirect contact with the victim or family members; prohibited from access to property or premises; staying a certain distance away from a named person or places. Children were generally excluded from the orders, but offenders were directed to seek Family Court support to formalise child access arrangements.

⁴⁶ assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/952445/workplace-support-for-victims-of-domestic-abuse-report.pdf

⁴⁷ <https://www.gov.uk/government/publications/domestic-abuse-bill-2020-factsheets/domestic-violence-disclosure-scheme-factsheet>

Aggravating, mitigating, disputed factors, other characteristics and prior convictions

Many victims appeared to have been contacted and consulted about the conditions for a restraining order. Several were satisfied with the order as a desired outcome to stop unwarranted contact from the defendant. In seven cases, victims were not satisfied as they had not been consulted and the issues were not discussed in court.

In another case, the restraining order was renewed for two years indicating there was a pattern of repeat offending against an individual or family. The offender claimed he was not aware of the first order; nevertheless, he went to the victim's home and engaged in abusive conduct.

The comparison with the 2018 data indicates a similar disposal pattern with community work and unpaid work being the primary sentencing options. If the unpaid work for the 2020 data is assessed to be a 7-hour day, it equates to 301 days.

This initiative concluded in March 2020. Later in that month, the country went into the first lockdown period because of the pandemic. It would be useful to understand how the sentence outcomes were progressed, particularly unpaid work, community orders and rehabilitation activities and its value to the victim and offenders' rehabilitation.

One feature of the model of problem-solving courts which was not taken up in SDVCs is an enhanced role for the judiciary in following up and reviewing how defendants progress during their sentence. This enhanced role does feature in other specialist courts in England and Wales and may be particularly appropriate in future domestic abuse cases. The role can provide additional oversight, coordination of cases and feedback regarding the effectiveness of sentencing options.

Victim Personal Statement, Independent Domestic Violence Advisors, Special Measures

Victim Personal Statements (VPS)

Crime affects people in different ways, whether emotionally, physically, financially, and psychologically or in any other way. Often victims can feel removed from the criminal justice process but making a VPS enables them to explain the impact of the crime in their own words. It helps criminal justice agencies to gain an understanding of this impact and, just as importantly, may allow the offender to hear about the implications of their actions.

It is therefore important that victims are provided with accurate and timely information about the VPS scheme to allow them to make an informed decision whether they wish to take part in the process. In the context of the Sentencing Council's guidelines, the contents of the VPS may affect the selection of the seriousness category to which the case is assigned.⁴⁸

Courts	Wolverhampton			Birmingham			Cannock			Newcastle			Hereford			Redditch			Telford		
LCJB	West Midlands (89)						Staffordshire (40)						West Mercia (64)								
	DJ	M	T	DJ	M	T	DJ	M	T	DJ	M	T	DJ	M	T	DJ	M	T	DJ	M	T
Total 50 Yes VPS	7	7	14	/	5	5	/	7	7	2	4	6	/	3	3	/	14	14	/	1	1
62 No VPS	8	5	23	1	8	9	2	/	2	5	6	11	/	5	5	/	10	10	1	1	2

When determining the appropriate sentence for an offender, judges or magistrates will apply the guidelines to place the offender in a sentencing bracket which will reflect the seriousness of the offence and the culpability of the offender. For example, when sentencing a case of street robbery, a court must first determine the level of harm and the level of culpability.

In deciding the appropriate level of harm, a court will consider questions such as whether the harm inflicted was minimal or serious, and in doing so, the VPS is one source of information.

The Victims' Code gives victims the right to make a Victim Personal Statement. The information is taken into consideration by the court when passing sentence, so the VPS is an important component of the victim's narrative.

A Victim Personal Statement describing the impact of an offence(s) should be referred to prior to an offender being sentenced. CPS can apply to the Court for the victim to read out their statement if they wish.

In practice the statement is often read out by the CPS, especially since victims are not usually present at a guilty plea.

It is the role of the police to take a VPS and in this initiative a VPS was taken in only 47% of cases. The reasons for the lack of a VPS can vary and include victims not wishing to make a VPS or police not complying with the requirements of the victims' code. Court hearings for guilty pleas can be listed very quickly so there is potential for a problem with the availability of the police and a victim to prepare a VPS and the timing of a court hearing.

Generally, victims did not want to be in court or were not available. However, in one case the Judge asked CPS to read the statement, in another the victim was in court but no one knew she was in the public gallery and in a third the victim came to support reconciliation efforts.

⁴⁸ www.sentencingcouncil.org.uk/

Victim Personal Statement, Independent Domestic Violence Advisors, Special Measures

Research by the Victims' Commissioner in 2015 identified the systemic failure of criminal justice agencies to offer victims a VPS at all.⁴⁹ There were varying levels of awareness and inconsistent delivery of the VPS process by the criminal justice system. Overall, the review found that the majority of cases at court and at parole were considered without a VPS.

Many victims of crime were not offered the opportunity to make a VPS, and where they had taken up the opportunity, the majority were not clear about whether it made any difference to the outcome of their case.

Further research by the Victims' Commissioner in 2019 revealed little improvement in the situation and recommended that all criminal justice agencies should do more to ensure every victim is given this opportunity to have their voice heard.⁵⁰

Only 47% of victims in this initiative had an opportunity to have their voices heard even though some of them had suffered significant violence. This was a missed opportunity to provide information to the court which can be used to determine sentences for offenders and really understand the impact of crime on victims.

Court proceedings should be shaped to reflect the voice of the victim and court and police practices amended to ensure the opportunity is not continually missed as it has been for the past 6 years. Instigating a review of the VPS process from first contact with the police to finalising a case at court will reveal the strengths and deficiencies in the system.

Independent Domestic Violence Advisors (IDVA)

Independent Domestic Violence Advisors (IDVA) provide specialist tailored support to victims and the support can vary from case to case. Independent reviews have highlighted and reinforced the importance of the IDVA role not just for their ability to support victims but in acting as a single point of contact for other organisations including the police, CPS, Witness Services and Social Care, etc. It is very disappointing that the data reveals an underrepresentation of IDVAs available at courts and even more disappointing that, where they were available, they were not utilised.

The limited availability of and use of IDVAs is still a significant failing of the criminal justice system despite considerable evidence that where a domestic abuse victim has the support of an IDVA or other specialist support worker, s/he is more likely to attend court and is likely to be more confident and give better evidence. This reflects common sense experience that a vulnerable person is more likely to be resilient if they are being supported through the practical and personal consequences of the offending and its emotional impact.

The following tables illustrate the significant regional variation with no IDVAs available at Cannock, Hereford and Telford Courts. Wolverhampton, Birmingham, Newcastle and Redditch all had access to IDVAs however many were seated in the public gallery.

In 79 cases an IDVA was available to the courts. From the 44 guilty cases, the IDVAs had no influence or contact with 86% of cases despite being present in court.

Courts	Wolverhampton			Birmingham			Cannock (IDVA Not Available)			Newcastle			Hereford (IDVA Not Available)			Redditch			Telford (IDVA Not Available)		
LCJB	West Midlands						Staffordshire						West Mercia								
	DJ	M	T	DJ	M	T	DJ	M	T	DJ	M	T	DJ	M	T	DJ	M	T	DJ	M	T
Guilty cases 44																					
IDVA Yes 6		1	1		3	3											2	2			
No 38	1 1	2 1		6	6					6	6						5	5			
Not guilty cases 35																					
Yes 6	3	3		3	3																
No 29	6	1 0	1 6		4	4				2	3	5					4	4			

49 <https://s3-eu-west-2.amazonaws.com/victcomm2-prod-storage-119w3o4kq2z48/uploads/2019/02/VC-Silenced-Victim-Personal-Statement-Review-2015.pdf>

50 <https://s3-eu-west-2.amazonaws.com/victcomm2-prod-storage-119w3o4kq2z48/uploads/2019/08/VC-Victim-Personal-Statements-Review-2018-19.pdf>

Victim Personal Statement, Independent Domestic Violence Advisors, Special Measures

In 111 cases an IDVA was not available or not involved with the cases. 36 victims had no opportunity for IDVA support as the service were not available in the 3 courts highlighted

Court	Cases
Wolverhampton	24
Birmingham	7
Cannock	12
Newcastle	15
Hereford	17
Redditch	29
Telford	7

When an IDVA was available in court they sat in the public gallery and did not contribute to the court proceedings. Their value was not just the ability to directly contact victims but provide support, coordinate other agencies, and offer a professional commentary about the cases and the people involved.

Case 8

The circumstances were that the offender punched his pregnant partner five times in the stomach, hit her on the back of the head, broke her jaw and loosened her teeth. He also hit her young daughter. It was indicated that the victim wanted to withdraw her complaint, but the court were concerned about the seriousness of the incident and the offender was remanded in custody.

It is hoped an IDVA was allocated to this case but the enquiries in court could not establish if a referral had been made.

Case 155

Before adjourning for a probation report the Clerk of the Court asked if there was an IDVA present in court. He said, "That's a shame, it would have been most helpful."

It was also observed that an IDVA had an impact in six not guilty cases by having direct contact with victims but no influence on the 83% of other cases even through IDVAs were present in court. No IDVAs were available in Cannock, Hereford or Telford Courts and court officials indicated that had been the situation for some time.

IDVAs are identified as a critical feature of SDVCs, yet in the 2018 initiative, it was assessed that the absence of IDVAs was a significant failure which undermined the ability of the court to make decisions as information was seriously limited and/or provided a prejudiced view of the material presented to the court.

In the 2020 initiative three courts had no IDVA support at all, and in many cases even when IDVAs were available in court they were not recognised or utilised for their professional knowledge and insight into a victim's circumstances.

The debriefing data indicated that the judiciary appreciated IDVAs, and one Judge delayed proceedings for an IDVA to arrive in court. However, it was clear that there was a disconnect regarding the sharing of data in relation to court listings with IDVAs. Bearing in mind that IDVAs have developed as a professional service since 2004, it seems perverse that the very service identified to support victims was restricted from accessing the information required to find the court where the case was to be heard.⁵¹

There is substantial research, statistics, and information available about the role of IDVAs and their value to victims, their families and the criminal justice system. However, the challenges facing the current IDVA services are significant. They include very high caseloads involving complex client needs, increasing demands for service because of the backlog of court cases in the criminal justice system and 'burn out' issues for IDVAs who suffer vicarious trauma.

There is a high staff turnover of IDVAs due to the stress and high workloads. The funding is insufficient to support an efficient recruitment process and does not include supervision and other mental health support.

The pandemic led to increased homeworking causing IDVAs to engage with survivors remotely which was not ideal, often using inadequate technology to facilitate the engagement process. Safety planning became more of a priority as options for victims to leave reduced as did safe options to remain at home.

IDVA services are continually weakened by underfunding which can be addressed by greater Government spending. Better partnership working and an improved understanding of the role of IDVAs is essential to create synergy with criminal justice partners. Addressing the fundamental vulnerability of poor information sharing should be addressed as a priority as well as the inconsistent allocation of IDVAs to courts.

51 https://safelives.org.uk/sites/default/files/resources/Safety_in_Numbers_full_report.pdf

Victim Personal Statement, Independent Domestic Violence Advisors, Special Measures

Special Measures

Special Measures are a series of provisions that help vulnerable and intimidated witnesses give their best evidence in court and help to relieve some of the stress and trauma associated with evidence giving. The measures embody the ideal of equality, treating different people differently in order to achieve equality. The provision of special measures provides witnesses of different ages and abilities an equal opportunity to give their best evidence in court. These measures are at the discretion of the court and are applied for by the CPS.⁵²

Special measures are not restricted to SDVCs but are available to all vulnerable or intimidated witnesses. However, the likelihood of victims and witnesses of domestic abuse requiring these measures is very high and they should be consistently made available. The most problematic measure was access to a video link and the administration of the process. In 50% of the cases where it was requested the link was unavailable or did not function properly.

The data revealed 30 not guilty cases were subject of special measures, 41 cases indicated no special measures and 122 data entries were blank.

Cases	Examples
30	4 Video links 8 applications to prevent cross-examination in person by the abuser Use of screen x 16 and in one case defendant was behind screen not victim or witnesses 2 x direction to the media for restricted reporting

They included four video links, which were live links that enabled the victim/witnesses to give evidence from outside the courtroom through a visual link into the courtroom. The location may have been inside the court building or some other specially adapted location.

There were eight applications under Section 34/35/36 Youth Justice and Criminal Evidence Act 1999 permitting the court to make an order prohibiting the offender from personally cross examining a victim or witnesses.⁵³

There were 17 occasions when screens were applied for to prevent the victim from having to see the defendant

and the defendant seeing the victim. Other court representatives can still see the victim. The screens are generally placed around the witness box but on one occasion the defendant was behind the screens.

There were two occasions when Section 46 Youth Justice and Criminal Evidence Act 1999 was utilised to enable the court to restrict media reporting aspects of the case that might identify a witness.

Applications for special measures were granted in the four cases where coercive or controlling behaviour was indicated. Where special measures were applied for, they were granted.

Digital court reforms were advancing prior to Covid 19 to drive efficiencies and cost reduction. However, the application of digital reforms is now a necessity which has been rapid and highly effective, particularly in civil hearings.⁵⁴ There are pros and cons to these new technologies but for victims of crime there is an additional opportunity to be safe and secure and yet still give their best evidence.

Considering victims needs throughout the proceedings

The data is divided into two parts

- cases where observers were satisfied that the needs of the victim and any children were considered
- cases where observers were not satisfied that the needs of the victim were considered

Where observers provided an explanation for a satisfactory evaluation, the most common factors indicated that the defendant was remanded in custody (5); conditional bail was agreed (19); special measures were agreed or discussed (15); reference was also made to use of restraining orders, support from IDVAs and support of an interpreter.

Where observers provided an explanation for an unsatisfactory evaluation, the most common issues were no communication with the victim or needs not discussed (12 cases); no IDVA present (3 cases); administration issues that delayed proceedings; no discussion about protecting children; a second medical assessment which was delaying proceedings; video link not working.

52 <https://www.cps.gov.uk/legal-guidance/special-measures>

53 www.cps.gov.uk/legal-guidance/special-measures

54 www.semanticscholar.org/paper/The-Rise-of-Digital-Justice:-Courtroom-Technology,Donoghue/7f56f489a01df710308e24b143dccc484d4b0bf6

Victim Personal Statement, Independent Domestic Violence Advisors, Special Measures

Observers considered victims were most satisfied when court action was taken against the offender such as remanded in custody or bail conditions agreed.

Observers considered victims were most dissatisfied when they were not informed about decision making or did not understand the court process. The level of confidence that victims have in the justice system is strongly linked to attrition rates in domestic violence. Lack of engagement from professionals, feeling powerless in the criminal justice process and loss of control often motivate victims to withdraw from the prosecution process.

Crown Prosecution Service data indicated that 'complainant issues' including retractions, non-attendance at trial or where the 'evidence of the complainant does not support the case' made up 53.1% of domestic abuse cases which resulted in a non-conviction in 2018-2019.⁵⁵

In the observations satisfaction rates were assessed to be about 66%, more work is required to keep victims engaged and this should be a high priority for all criminal justice professionals. Dedicated support does have a beneficial impact on victim attrition.

An important element of the criminal justice process is Witness Care Units who manage the care of victims

and witnesses due to attend court. The staff act as a single point of contact between victims and witnesses and relevant agencies, including the Crown Prosecution Service.

The Witness Care Officer provides victims and witnesses with updates on their case as it progresses through the courts. If a victim or witness is required to attend the court to give evidence, a Witness Care Officer will provide them with practical support to assist with attendance. The Witness Care Unit works closely with other agencies such as the Witness Service and multiple domestic abuse agencies.

Each case that goes to court has an allocated Witness Care officer and they will provide information to victims and witnesses about going to court. The CPS updates the Witness Care Officer as to whether the witnesses are required to attend to give evidence. If they are required to give evidence, the Witness Care Officer will discuss the procedures in detail and make sure that witnesses have access to any support requested.

Their links with IDVAs are critical to ensure victims and witnesses are adequately supported and involved in explaining special measures and ensuring coordination with court staff.

Courts	Wolverhampton			Birmingham			Cannock			Newcastle			Hereford			Redditch			Telford		
LCJB	West Midlands						Staffordshire						West Mercia								
	DJ	M	T	DJ	M	T	DJ	M	T	DJ	M	T	DJ	M	T	DJ	M	T	DJ	M	T
Not Guilty Plea 76 (39%)	9	19	28 (42%)	/	8	8 (36%)	2	1	3 (25%)	3	7	10 (36)	/	9	9 (53%)	/	13	13 (33%)	3	2	5 62%
Satisfy 50 (66%)	7	14	21	/	6	6	1	1	2	3	2	5	/	7	7	/	5	5	2	2	4
Not satisfy 26 (34%)	2	5	7	/	2	2	1	/	1	/	5	5	/	2	2	/	8	8	1	/	1

55 www.cps.gov.uk/sites/default/files/documents/publications/cps-vawg-report-2019.pdf

Structured Debriefing Process

The structured debriefing process was organised to record the qualitative observations from the Soroptimists in addition to their questionnaire submissions.

Following the structured debrief a report was produced which identifies:

- Areas of good practice and lessons identified
- Recommendations to improve the Soroptimist SDVC Observations review process

The report in full is presented at Appendix B

Methodology

A structured debrief process would normally take place in person but the pandemic restrictions meant the process was facilitated through Microsoft Teams.

11 lay observers were asked in turn to describe their experiences within an agreed framework which included

Court protocols

Understanding Soroptimist purpose
Access for Soroptimist

Case management

Court time allocated to cases
Attendance/non-attendance of alleged victim
Evidence Handling

Treatment of defendants and victims

Access to evidence
Clear explanations of the process
Differences between Magistrates or District Judges
Involvement of Independent Domestic Abuse Advisors (IDVAs)
Specialist Domestic Violence Court (SDVC)

Feedback also included: areas for improvement; areas of good practice and recommendations.

The feedback is representative of the individual courts and is reproduced in full report at Appendix B

- Wolverhampton
- Birmingham
- Cannock
- Newcastle Under Lyme
- Hereford
- Redditch
- Telford

The following is a themed version of the data. The original report comments on the issues in each geographical area across the region.

Communications regarding the initiative

Despite a broad promotion of the initiative and support from the police, CPS and other criminal justice partners, the reception for the lay observers was very varied. It ranged from court staff having no knowledge of the initiative and being very suspicious of the intentions of the observers to other occasions when staff expected their arrival and understood the purpose of their visits to court.

Once the observers had established their credentials, and in one instance they had to show their terms of reference and indicate the agreement of partners, they found staff to be very helpful, courteous, and willing to share their knowledge. Often the ushers would be their point of contact and advise on court changes and amendments to listing of cases.

In one instance magistrates gave the observers a briefing about their responsibilities as a member of the Bench and the workings of the courts. On another occasion ushers gave a demonstration of the video equipment provided for victims to give evidence from another part of the court building.

It was suggested that the initiative be shared with Magistrates and Judges during their training programme.

Magistrates and District Judges

Magistrates and District Judges were observed to have different approaches to case management. Judges were generally observed to be authoritative and confident and Magistrates inclusive and explanatory. However, the Soroptimists unanimously agreed that these different approaches did not alter the positive outcomes in the observed cases.

Victim welfare was a clear priority with consideration of personal circumstances, vulnerability, coercion and child safety issues always considered thoroughly by any hearing. This concern was also extended to defendants, particularly regarding access to children when they were the primary carer.

Magistrates and Judges regularly checked that victims and offenders understood what was happening and were very clear with defendants about their options.

Structured Debriefing Process

Listing Practices

Listing is a judicial responsibility and function. The overall purpose is to ensure that all cases are brought to a hearing or trial in accordance with the interests of justice, that resources available for criminal justice are deployed as effectively as possible and that, consistent with the needs of victims, witnesses of the prosecution and the defence and defendants, are heard by an appropriate judge or bench with the minimum of delay.

The art of listing cases for hearing at a court was described as 'cloak and dagger', even the police officers were not aware of when cases were to be listed. The listing process in other court facilities caused similar frustrations with late cancellations which caused inconvenience and delays for victims/witnesses.

Domestic abuse cases were moved out of SDVCs and into non-specialist courts and SDVCs were hearing cases that were not suited to their terms of reference. Some domestic abuse cases appeared to be clustered together for convenience of court procedures. The observers heard driving offences, public order offences and a sexual assault offence which did not relate to a domestic offence.

Case management

There were many positive comments about case management processes and the efficiencies of court procedures. The court clerk was the key to a well-run court, making sure papers and people were in the right places and cases were progressed as quickly as they could be. Outcomes were primarily delayed for probation reports to be completed. Observers reported that there was sufficient time to hear cases and no pressure to rush victim or evidence giving.

Special Measures

Access to special measures in terms of the availability of screens and remote evidence giving by video was frequent. Where cases were adjourned and screens required in the future, there was judicial direction to ensure the screens were available for the full hearing.

Court Environment

A key feature of an SDVC is to cater for the safety and security of victims and witnesses. None of the courts had facilities to ensure that victims/witnesses and offenders/their supporters were separated at any point in the proceedings except inside the court room where the hearing was taking place. There were no separate entrances, and some courts did not have facilities for victims to have a private area to compose themselves before giving evidence. On one occasion a victim and offender were directed to wait in the same room whilst waiting to give evidence.

Many negative comments were made about the acoustics in the courtrooms making it very difficult to hear what was being said. However, the Magistrates or Judge checked with all parties that they understood what was happening and repeated information when necessary

In one instance there was an evacuation because of a bomb alert. Once outside the building, there were no arrangements to maintain the security of the victim or witnesses and no concern about how these circumstances could contaminate evidence giving. Such situations provide an opportunity to interfere with justice and negatively influence court witnesses.

Many of the older, more traditional courts were assessed to be intimidating and unsuitable for vulnerable witnesses including children. It was suggested that family court premises might be a more suitable location for hearings that involve child witnesses.

On occasions, the observers identified the victim before court staff and gave support until an appropriate member of staff could be found.

Independent Domestic Violence Advisor (IDVA)

Access to IDVA support was very fragmented. Where an IDVA was available they were not utilised and situated in the public gallery, playing no part in the proceedings. In some courts they had not been available for over a year, but in another the Judge was so positive about IDVAs he delayed the proceedings until an IDVA was available to assist the court.

In one of the courts, the information about the listing of domestic abuse was not shared with IDVAs. Staff claimed there was a data protection issue, which was not applicable to the information requested. It was further suggested that IDVAs should be security vetted which was unnecessary for the role. There was a lack of knowledge between court professionals about the role of the IDVA which undermined their ability to support victims and aid communication with court.

Conclusion

The qualitative and quantitative data provide a clear indication that the components required to deliver a Specialist Domestic Violence Court are inadequate.

The 2018 and 2020 initiatives describe the same problematic features such as limited availability of Independent Domestic Violence Advisors, poor use of Victim Personal Statements, frustrating listing practices, inappropriate use of sentencing guidelines and ineffective or absent court facilities. There was still a requirement for dedicated and trained court professionals as well as improved understanding and application of court orders such as Domestic Violence Protection Notices (DVPNs) and Domestic Violence Protection Orders (DVPOs) or restraining orders.

Despite the introduction of IDVAs in 2004 they are still treated as 'outsiders' in the court scenario and excluded from accessing data that is vital in their support of victims and families. This is a significant failure of the criminal justice system and one that should not perpetuate.

Court professionals dedicated and trained in the operation of SDVCs and all aspects of domestic abuse and coercive control are essential if SDVCs are to achieve their aims to increase the effectiveness of the judicial system in providing protection and support to victims and witnesses, to deliver appropriate sanctions to offenders, to reduce delays, to increase cooperation and to create a link between civil and criminal courts. There is no doubt about the goodwill and professionalism of court staff, but they need additional support and training to achieve these objectives.

Listing practices are described as a 'cloak and dagger' activity, drawing negative comments about the processes and communication to the parties involved. The listing process has for many years continued at its own pace and only recently has a modernisation process been considered. It is a significant challenge to calculate court requirements and make best use of court time however the needs of victims should become more prominent in this decision-making process.

Court facilities were the subject of very negative commentary with many historical arrangements such as separate entrance for victims and offenders no longer existing. Even the court evacuation procedure added to the trauma and potential harm to victims and witnesses with no separation from offenders or their supporters. Funding cuts have impacted on staffing and facilities so it is essential that changes are made to ensure robust and safe criminal justice buildings.

Gaming was still a reality. Defence advocates, on instruction from their client, created a different version of reality. The data collected about aggravated factors, mitigation and dispute cases demonstrated the strategies used to achieve an advantage from the court. Presenting a lesser plea then successfully arguing against the sentencing outcome for a restraining order did not deliver the appropriate judicial outcome and probably left the victim more vulnerable. Court representatives should apply sentencing guidelines robustly including challenges from CPS advocates and the judiciary.

The police have created a significant gap in representing the voice of the victim by failing to fully utilise the taking of Victim Personal Statements (VPS). Not only do these statements provide an insight into the trauma suffered they can also influence sentencing consideration. VPSs were introduced in 2013, and, by now, the process should be embedded within the criminal justice system as a means for victims' voices to be heard. Many are unheard because of the poor application of the process.

The use of orders such as Domestic Violence Protection Notices (DVPNs) and Domestic Violence Protection Orders (DVPOs) was extremely poor and requires significant work from the police to improve this situation. Restraining orders were part of a 'revolving door' situation. The court applied the orders, the police failed to use them or failed to respond to a breach and, even if an offender was placed before a court for a breach, the likely outcome was another restraining order. This process left victims vulnerable and probably created tensions between the criminal justice agencies responsible for management and operational delivery of these orders.

Digital advancements have helped to redefine court hearings, processes and administration of judicial proceedings. Engaging third sector partners to collaborate with the development of remote evidence-giving facilities can only serve to provide different option for victims. Consideration of digital links for victims so they have a virtual presence in guilty plea hearings could limit some of the gaming activity evidenced in the data.

A feature of SDVC that was not embraced in this country was an enhanced role for the judiciary to review sentencing outcomes in domestic violence courts. Revisiting this proposal is timely given the impact of covid restrictions on sentencing outcomes.

Conclusion

Creating safe places of employment cannot be underestimated for the personal wellbeing and economic security of individuals. Ensuring places of employment understand their responsibilities and have appropriate policies publicly available is essential in keeping people safe.

And lastly informing the public of how they can access information about individuals and access specialist support such as an animal welfare service is another opportunity to keep them safe from harm.

This initiative has explored and identified several recommendations which, if implemented will remove some of the significant challenges that domestic violence and abuse victims face in achieving justice whilst maintaining their safety and wellbeing.

Appendix A

Questionnaire

Please could you spare a few minutes to complete this survey based on your observations of the processes you have witnessed within the court. Your responses will help agencies engaged in tackling domestic abuse, refine and improve their services for victims and witnesses

Background Information

Your Name

Court Name

Observation Date

Is the case heard by Magistrates or District Judge?

Basic Case Information

Defendant's Name

Case Type (Intimate partner violence, family violence etc)

Date of alleged offence

The charge

Is the defendant pleading guilty or not guilty?

If the defendant is pleading not guilty

What was the basic description of the case, as presented by the Crown Prosecution Service (CPS)?

Is the prosecution seeking to rely on evidence of the defendant's bad character in the trial?

Yes / No Please provide further detail

Were special measures requested to assist the alleged victim?

Yes / No What are these?

Was there an application to vary bail conditions?

Yes / No What reasons were given?

Was there any reference made in open court to consultation with the alleged victim on these variations?

Yes / No Please give details

Was there any reference in open court to the alleged victim being consulted on trial arrangements?

Yes / No

Were you satisfied that the needs of the alleged victim (and any children) were fully considered during the course of these proceedings?

Yes / No Please give reasons for your answer

.....

Appendix A

If the Defendant is Pleading (or has been found) Guilty

What was the basic description of the case, as presented by the CPS

Was a Victim Personal Statement (VPS) referred to by the CPS prior to sentencing?

Yes / No Please summarise the issues raised

Was any reference made to the victim wanting to attend court to read their VPS in person?

Yes / No What arrangements were made for this to happen?

Did the CPS seek to highlight any previous convictions to the offender that might be relevant prior to sentencing?

Yes / No Please give details

Were any other aggravating factors highlighted by the CPS?

Yes / No Please give details

Did the defence make reference to any mitigating factors prior to sentencing?

Yes / No Please give detail

Did the defence dispute any aspect of the prosecution case?

Yes / No

Did the court consider a Newton Hearing?

Yes / No

Did the defence refer to the defendant's previous good character and its relevance to sentencing?

Yes / No

How did the court respond?

Did the defence seek to excuse the defendant's conduct by reference to the victim's behaviour before, during or after the incident?

Yes / No

Were these comments addressed?

By whom?

What was the sentence imposed?

Was a restraining order sought/imposed?

Yes / No Please give details

Were you satisfied that the needs of the victim (and any children) were fully considered during the course of these proceedings?

Yes / No Give reason for your answer

Appendix A

Other Questions

Was an Independent Domestic Violence Advisor (IDVA) present in court during this case?

Yes / No

Did their presence/absence appear to have any impact on proceedings?

Yes / No Please give reasons for your answer

Was there any suggestion in open court that problems relating to the acquisition of evidence/documentation from the police had impacted on case progress in any way?

Yes /No Please give details

Was any information shared that indicated coercive or controlling behaviour was a feature of the relationship between offender and victim?

Yes / No Please describe what was shared, by whom and for what purpose

Any other comments

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Appendix B

Domestic Violence Courts Soroptimists Structured Debrief

Executive Summary

West Midlands Police and the Office of the Police and Crime Commissioner (OPCC) have worked with a group of volunteer Soroptimists to conduct a large independent review of how effective the specialist domestic abuse (DA) courts are and what changes could be made to improve outcomes.

By comparing the court protocols, case management and the treatment of victims and defendants, the West Midlands Soroptimists have been able to identify common good practice and lessons that can be applied to other DA environments. They have also provided recommendations that are aimed at improving and refining the DA review process to enable a better national standard. These recommendations include:

- Improvements to the Soroptimist questionnaire
- How the Soroptimists should approach and build a relationship with the court they are viewing
- How to maximise the benefit of experienced and inexperienced Soroptimists by pairing them together
- Considerations for improving the DA process through access to appropriate courts
- Understand why there was inconsistent access to Independent Domestic Abuse Advisors (IDVAs) within courts

Once they understood the purpose of the Soroptimists, the court staff, ushers, clerks and legal advisors were universally praised as integral to managing the business of the court. They were accommodating and communicated any last-minute case changes to the relevant people, which reduced wasted time and ensured that participants did not miss their allotted times.

Magistrates and District Judges were observed to have different approaches to case management. District Judges were generally observed to make swifter judgements and Magistrates were more deliberative and explanatory. However, the Soroptimists unanimously agreed that these different approaches did not alter the positive outcomes in the observed cases. Victim welfare was also a clear priority for District Judges and Magistrates, with personal circumstances, vulnerability to coercion and child safety always considered thoroughly by any court. This concern was also extended to defendants, particularly around access to Children when they were the primary carer.

Access to Independent Domestic Abuse Advisors (IDVAs) was inconsistent throughout the process. Some courts had them readily available, and others had not had access to them for several years. This was

concerning to the Soroptimists as they observed the IDVAs added excellent value to the DA process and helped deliver better outcomes for victims.

To summarise, it was clear that the courts recognised the importance of a fair, bespoke DA process. This was reflected in their application of appropriate sentencing in line with relevant guidance, concern for the welfare of those involved and the reasonable adjustments taken to ensure all participants understood the reasoning behind the court decision. However, there are some unalterable physical characteristics that make certain courts more challenging to run, such as:

- Access to private breakout rooms for legal council
- The acoustics in the courtroom making it difficult for everyone to hear
- The suitability of the court environment for children
- Older courts are intimidating environments to victims with no court experience

With these points in mind, it was described as somewhat of a 'postcode lottery' as to the level of access and facilities a victim may have access to during their case. This is not a reflection on the court staff or judges who manage these cases as they were observed to mitigate these limitations where possible and provided appropriate support to those involved in the DA process. However, these points and additional recommendations should be considered by policymakers when determining improvements to the DA process in the future.

Background

West Midlands Police and the Office of the Police and Crime Commissioner (OPCC) have worked with a group of volunteer Soroptimists to conduct a large independent review of how effective the specialist domestic abuse (DA) courts are and what changes could be made to improve outcomes.

A total of 193 court visits were undertaken by Soroptimists and their observations recorded in a questionnaire for later analysis. The questionnaire recorded 32 different case characteristics, which included:

- Case type
- District Judge or Magistrates presiding
- The charges
- Use of special measures to assist victims
- Access to IDVAs

To support the initial activity, a structured debrief was arranged to record the qualitative observations the Soroptimists made in addition to their questionnaire submissions. Following the structured debrief this report was produced, which identifies:

- Areas of good practice and lessons identified
- Recommendations to improve the Soroptimist SDVC review process.

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Methodology

This structured debrief was facilitated through MS Teams. After the welcome, introductions and review of the process so far, the full debrief began. All participants were asked in turn if they had any feedback in relation to the topics identified in the running order. Comments were sought that identified areas for improvement, areas of good practice and any recommendations the participants may have. Equal time was allocated for each debrief topic.

This debrief covers observations taken at several courts in the West Midlands region. These are:

- Wolverhampton
- Telford
- Redditch
- Newcastle-under-Lyme
- Hereford
- Cannock
- Birmingham

This report divides the qualitative observations from Soroptimists as they pertain to individual courts. It also identifies areas of best practice that can be considered for future Soroptimist activity in this type of work. Lessons identified and recommendations are made after the section in individual courts to be considered by policymakers.

Debrief Running order

The debrief ran as detailed in Table 1. Specific questions were asked under the common themes of:

- Court protocols
- Case management
- Treatment of victims and defendants.

Participants were asked in turn for their views under each category and allowed to record any other observations.

Agenda Item	Topic
Setup	
1	Thanks, and Welcome from ACC
2	Overview of the DA Courts project from Dame Vera Baird
3	Review of process
4	Structured debrief terms of reference
Debrief	
5	Court protocols <ul style="list-style-type: none"> • Understanding Soroptimists purpose • Access for Soroptimists
6	Case management <ul style="list-style-type: none"> • Court time allocated to cases • Attendance/non-attendance of alleged victim • Evidence Handling
7	Treatment of defendants and victims <ul style="list-style-type: none"> • Access to evidence • Clear explanations of the process • Differences between Magistrates and District Judges • Involvement of Independent Domestic Abuse Advisors (IDVAs) • Specialist Domestic Violence Court (SDVC)
8	Any other observations
9	Review, next steps and close

Table 1 – Debrief Running Order

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Participants

The contributing participants to this debrief are as follows:

Dame Vera Baird, 11 Soroptimist volunteers, members of West Midlands Police, Staffordshire Police and West Mercia Police, representative from Office of West Midlands Police and Crime Commissioner.

Debrief

The commentary below records the Soroptimist observations for each court they visited. This is to highlight the different and common practices they employed. A summary listing the lessons identified and recommendations is provided at the end of this section.

Wolverhampton

Court protocols

Wolverhampton was not expecting the Soroptimists initially and they were prevented from taking notes on their first morning session. After this, they built a relationship with the ushers and were able to observe the process in a more meaningful way. When asked if this issue could have been reduced by more communication with the courts beforehand, the Soroptimists did not think so, as there had already been ample communication leading up to their attendance.

When feeding back on their involvement, the less experienced Soroptimists benefited from being paired with others who had experience in the court system already. This enabled them to draw on the knowledge of their partner while also maintaining a fresh perspective on the court process. The availability of information boards showing case scheduling was also useful for those unfamiliar with the court.

It was consistently noted that ushers and staff were very accommodating and interested in the Soroptimist process. They informed the members of any late room changes so they could get to the correct cases in time. The ushers also showed the Soroptimists to other non-DA cases to view the use of video feeds in the courts process, which they found useful.

On the video feed, the Soroptimists felt that the interactions were not as smooth as they would be in person. However, they recognised that it was far preferable to run a case over video rather than have it delayed further.

The building layout at Wolverhampton was noted as a challenging environment to navigate due to the age and size of the court. The layout of the court meant that the victims and perpetrators may be located together in waiting rooms with limited options for private discussions.

Case Management

Members in Wolverhampton attended both District Judge and Magistrate courts. Magistrates seemed to spend more time deliberating than Districts, although the Soroptimists specifically noted that it did not affect the quality of the judgements in either case. When asked, the Soroptimists identified the differences between the two as:

- District Judges – Authoritative and confident
- Magistrates – Inclusive and explanatory

The Soroptimists noted that access to evidence was good for all parties and the time allocated to each case was appropriate. In all cases the evidence handling was verbal and delivered through Victim Impact Statements, read out by solicitors if the victim was not in attendance. The Soroptimists were impressed at the sympathy shown to victims when they were making their statements to the court. They were not rushed and provision was made to accommodate their needs; it was clear that the District Judges had researched each case they saw. When remanding cases, if screens were required, Judges ensured they were available for future dates to ensure the welfare of the victims.

Members noted that the acoustics were not excellent in the court. The CPS were often observed to speak quickly and quietly which meant that some parties in the court were unable to hear their statements. However, the Magistrates did check with the defendants and victims to confirm that they understood what had been discussed, mitigating the issue somewhat.

Due to scheduling conflicts, often the Soroptimists were unable to view a case from beginning to end. They were able to see snapshots of individual cases but reflected that having a more complete picture might enable them to assess the process more effectively.

Many cases that were seen were deferred to other courts where the Soroptimist group weren't sitting. Some good practice was identified at this point, which recommended that Soroptimists should be able to follow these individual cases to see if a change of court had any impact on outcomes. To achieve this, Soroptimists could be assigned to specific cases instead of specific days to attend.

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Treatment of Defendants and Victims

Special arrangements were available if the victim chose to give a statement behind a barrier, which allowed more options depending on individual preference. The phrase 'do you understand' was asked of participants very often to confirm that they understood what was happening. This was used extensively by the District Judge and Magistrates. Guidance was given to defendants on the different options that they had and how their plea could alter the level of fine that they were ordered to pay.

In one case, parents came to ask for a reduction of a court order on behalf of their son who had been convicted with a long history of non-compliance with court orders. Based on these facts, the judge rejected the request saying that the son had to show compliance before this would be considered. The Soroptimists observed the parents were very distressed during court which may have indicated some coercive behaviour from the son, although this was not picked up by the court and there didn't seem to be a process to do so.

An Independent Domestic Violence Advisor (IDVA) was available at Wolverhampton. Although they were not required on the cases the Soroptimists observed, they were available if a relevant case came up.

Restraining orders were used and asked for as a possible option by Districts and Magistrates, which was seen as good practice. When encountered, the language barrier was addressed well through the use of interpreters that were available for defendants and victims.

Specialist Domestic Violence Courts (SDVCs) are available at Wolverhampton, although it was not clear how often these were used. One case was refused to adjourn to Specialist Domestic Violence Courts due to the District Judge wanting to hold the trial one week earlier, which was disappointing to the Soroptimists.

Members noted the differences between the older, more traditional court at Wolverhampton and the newer Telford court. Soroptimists noted that the children's court was set up in a way that could be of benefit to victims if it was free as it was a less intimidating environment.

Telford Court Protocols

The Telford court staff had no knowledge of the Soroptimists and no DA cases had been scheduled on their first assigned day. Members were unable to get information over the phone on when cases were being seen and were initially met with suspicion by the court

as the staff were unfamiliar with their process. On subsequent visits, the Soroptimists were able to observe multiple DA and non-DA cases.

Members noted a slightly confused atmosphere, particularly when trying to gain entry to cases that had their rooms moved around at short notice. Because of this, there was an initial reliance on busy courtroom staff unfamiliar with the process. Navigating the court system felt 'cloak and dagger' at times, as Soroptimists had to make their own schedule. To try and rectify this, the Members spoke with a Detective Sergeant to obtain information on the cases he was aware of. However, the police also received very little notice on when they would attend, which the Soroptimists thought was peculiar, considering their role in the DA process.

Case Management

Many of the initial cases the Soroptimists observed were guilty/not guilty pleas. This allowed them to identify when the cases would be heard again and attend in the future.

Victim Impact Statements were the only evidence used at the observed cases in Telford. Some victims had their impact statements read out in their absence and screens were available for those who required them. Soroptimists observed that there were several instances where probation reports were not provided or available which meant that sentencing could not be completed.

There were some observed differences between District Judges and Magistrates. The District Judges made decisions rapidly and came across as decisive. The Magistrates were observed to be more explanatory, although there was no indication that this resulted in different outcomes for victims. In some cases, multiple people entering and leaving the court due to adjournments disrupted the flow of the court process.

Treatment of Defendants and Victims

The phrase 'do you understand' was asked of participants very often to confirm that they understood what was happening. This was used extensively by the District Judges and Magistrates. Guidance was given to defendants on the different options that they had and how their plea could alter the level of fine that they were ordered to pay. Restraining orders were used often and asked for as a possible option by Districts and Magistrates, which was seen as good practice, providing welfare for the victim when appropriate.

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The court facilities were not sufficient in all cases; having a single entrance to the courts mixed up defendants and victims. There were also limited rooms for clients to speak privately with their legal counsel, although it was noted that the facilities at Telford were better suited to DA than the older courts that were observed. Soroptimists noted that the children's court was set up in a way that could be of benefit to victims if it was free, as it was a less intimidating environment for victims.

As of January 2020, IDVAs had not been available for 9 months in Telford court. It is unknown if this has changed since the Soroptimists visited. The reason for this was not clear, although it was suggested this could be due to funding limitations.

Redditch Court Protocols

The court did not initially understand what the Soroptimists were there to do, although they were very welcoming once the situation was explained to them. Ushers and Magistrates were both welcoming once they were recognised. The ushers and clerks were also noted as very helpful throughout the process.

The Soroptimists at Redditch recommended that it might be useful if they could get a slot on a training day for the Magistrates ahead of their arrival to explain who they were and what they were trying to achieve.

Case Management

With the Redditch Magistrates court, the morning sessions were staggered to allow some overrun into the afternoon which allowed additional time to be allocated to cases if needed. Soroptimists had no concerns over adequate time being allocated to hear each case. No District Judge court sessions were observed.

Control and handling of evidence was good and time was allocated to review submissions. This was achieved through duty solicitors who ensured that everyone had had access to and reviewed all relevant evidence before the case was heard. Additional paperwork had been prepared before the session which allowed fast, informed decisions by the Magistrates.

Only one victim attended in the sessions they observed. The victim's wishes for restraining orders were discussed and taken into consideration. On one occasion it was discovered the victim had not given an opinion to the court and the IDVA was instructed to contact the victim immediately to ensure their views were represented. All cases seen were either resolved or referred to the Crown Court.

In one case where a victim who was unfamiliar with the court process attended, the Soroptimists were the ones

who briefed them on what was happening. During a break it became clear that the ushers knew who the victim was but the Magistrates were not aware. This breakdown in communication was then addressed but could have led to a situation where the victim was sitting with the defendant's family which would not have been the best outcome.

Treatment of Defendants and Victims

Redditch is a modern court that appeared smaller and friendlier than more traditional environments; it is also a specialist DA court. However, the acoustics in the building meant that some parties were unable to hear key information that was presented to the Magistrates as those speaking faced away from the victims and defendants.

Magistrates always spoke respectfully to the defendants and asked if they understood the process before moving on and interpreters were provided if required. There were plenty of private rooms with good accessibility which allowed options for all parties to converse away from others. The courts were also accommodating of individual needs, for instance when defendants were hard of hearing they moved them closer to the speaker and ensured they had understood what had been said. Great effort was taken to ensure the protection of children and access to parents. This was also applied to defendants, particularly when they were identified as the primary carer.

One observation was that the IDVAs were not getting access to lists of cases being heard each day with enough lead-in time. The reason given for this by the court was data protection concerns. This led to some complications where IDVAs were in the building but had not been informed there were DA cases being heard. They were also unable to prepare ahead of time for cases which reduced their capacity to assist victims attending the court. One solution that had been suggested to address this would be the IDVAs being organised through the police and obtaining an appropriate vetting level. There was some concern that this method could result in the IDVAs losing their independent status which is vital to their role. However, it was noted that IDVAs get involved with the process in a multi-agency setting very often and are often funded through the local authorities without having their independence compromised.

In one case, an IDVA was not available to support the victim. It was noted that may have been due to the fact that victim was male, although this was not confirmed at the time.

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An efficient bomb evacuation drill was observed at Redditch but might result in victims and defendants being grouped together for evacuation. Members accepted the need for a pragmatic approach when evacuating a building but wondered if disparate groups could be separated slightly more than they currently are.

Soroptimists noted that if a case was referred to crown court, it was not immediately clear who was responsible for solicitors' costs. The Soroptimists understanding is that initially there is no cost to the participants; however, they may be liable for some of the costs once the case moves to Crown Court and legal aid is not as prevalent as it once was. This may become a welfare and affordability issue for some victims and defendants.

Newcastle-under-Lyme Court Protocols

Soroptimists noted it was sometimes difficult to find out when DA cases were being held. Initially they experienced difficulties in getting access due to unfamiliarity with court staff. This led to some issues obtaining start times for some hearings. Once the link was established the staff and ushers were very helpful. The magistrates were also very helpful to the Soroptimists. They provided members with a briefing on their decision-making process. This allowed members to appreciate the level of understanding required before ruling on a case.

On their first day, one group of Soroptimists observed some inefficiencies in the court process. For example, one case was adjourned due to confusion in documentation, bail dates and the requirement for a report from probation. A case had to be deferred due to a breakdown in the video link. However, on subsequent visits these issues were not present, IDVAs were available, and the court ran on time. The Soroptimists assessed the previous inefficiencies as being related to the case load and pressures the court was subject to.

Case Management

Members at Newcastle observed both District Judges' and Magistrates' courts. Their behaviour was consistent with the other courts visited with Magistrates taking more time to deliberate but no indication that this negatively impacted victim outcomes. Both District Judges and Magistrates were observed to be highly professional and showed a clear understanding of the cases they saw.

Members observed a District Judge who was very efficient in processing cases. He was always very clear in determining why the perpetrator was not in court and also always asked if there was an IDVA available; even delaying some cases until one was available

because they didn't feel the victim had enough support available to them.

Most evidence heard was verbal although several went on for reports which were produced expeditiously. The Soroptimists agreed that the cases were not rushed and appropriate time was allocated to each one. The judges even allowed cases to overrun in some instances. This did mean that some cases would be delayed in the afternoon but ensured that the victims were able to express their case sufficiently.

The physical layout of the court meant that waiting rooms were joint for both parties, which caused some concern about separation of victims and perpetrators.

Treatment of Defendants and Victims

Video feeds were used to hear evidence from those in custody which enabled them to articulate their statements directly. Audio clarity was sometimes an issue in the court as they were not using a microphone although they were available. This made it difficult for victims to hear what was being said at some points.

The judges provided a good explanation of the process to victims and defendants, ensuring that they understood what was happening in the court at all stages. Every magistrate that was observed possessed appropriate DA training, which was encouraging to see from the Soroptimist perspective.

IDVAs were requested if they were not immediately available to provide assistance to the victim. If they were not available, the District Judge would postpone the case until there was support available. When victims did not attend court, IDVAs sat in the gallery. This meant the IDVAs were able to inform their clients of any proceedings at the court that day. In one case, a restraining order had been requested to be lifted by the victim. Upon inspection it was clear that the victim was vulnerable and had been coerced into requesting this. The IDVA was able to speak with the victim and advise them of the best course of action, which resulted in the restraining order being upheld, demonstrating the value they add for the DA process.

Soroptimists observed that the lack of separate rooms at Newcastle mixed the victims and defendants together when they were physically attending court, which could be seen as a welfare issue.

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Hereford

Court Protocols

Initially, the ushers did not know that the Soroptimists were going to be attending the court. However, once they had explained their purpose, they were very accommodating. The ushers were also very helpful in explaining the caseload each day and communicating if there were any DA cases being seen.

Having a Soroptimist with no experience was useful in that it could be analogous to that of a victim who is having their first time in court, making their perspective when paired with an experienced member very valuable.

Case Management

It was noted that the court clerks were very good at managing the caseload and were able to swap around cases to ensure that court time wasn't wasted. There were few victim impact statements given in comparison to the number of cases seen, although when they were, the time management of the court was observed to be good by the Soroptimists. Access to evidence for all parties was also good.

In one observed case, the victim wanted to withdraw her complaint due to social services being 'on her back' with the school questioning her children about their situation at home and the relationship between the mother and father. This caused the children to be fearful of going to school and resulted in the victim withdrawing their case. The Soroptimists reflected that perhaps the presence of an IDVA could have altered that outcome.

Treatment of Defendants and Victims

The clerk invoked section 38 and 37 orders to ensure the defendant would not be able to cross-examine the victim personally and have it deferred to their solicitor. The Soroptimists observed this to be good practice and provided good welfare for the victim.

As a matter of routine, victims were screened, although in some instances the defendant was screened from the court to enable the victim to give their statement directly to the Magistrates. Members had not observed the approach in the other courts and gave additional options.

Interpreters were used frequently, even when defendants had good understanding of English to ensure they understood the legal terms being used.

Soroptimists noted that Hereford did not have specialist DA court or access to IDVAs. When asking court staff about this, members were told that Hereford used to have these capabilities but not any more.

Cannock

Court protocols

At Cannock, the Soroptimists group praised the court ushers and staff. For instance, if the DA court case location changed, the ushers were proactive in seeking out and informing the Soroptimists. Court staff were very accommodating when they encountered gaps in their schedule and provided guidance to the Soroptimists on their court processes when asked, integrating them into the system well. Members noted that the Cannock court management process ran very smoothly.

As good practice, it was recommended that for the first visit to a court, you have at least one Soroptimist present who has previous experience in the court system. This allows them to effectively represent the work of the Soroptimists to the court staff and enables smoother interaction during subsequent visits.

Pairing Soroptimists who had experience in a court environment with those who didn't was also seen as good practice. The experienced individual can brief the other and the less experienced individual will be able to observe without any preconceived notions about the process.

In some cases, the Magistrates allowed the Soroptimists to remain in the courts when members of the public were asked to leave as they understood their role for DA review.

The use of video link highlighted some problems with that method. Technical difficulties delayed the hearing of some cases which must have been frustrating for the victim and defendant.

Case Management

Members in Cannock attended both District Judges' and Magistrates' courts. They noted that District Judges seemed to be able to expedite the process quickly compared to the Magistrates, although did not believe that this influenced the eventual outcomes of the cases heard.

Evidence handling by the District Judges was very good, it was clear that they had researched each case they saw. The evidence submitted was agreed by all parties in observed cases and there was only one case where there was some question of a police report not being available. In one instance a case was delayed until evidence was available.

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All Magistrates that sit on DA cases in Cannock were confirmed to have received specialised DA training. Soroptimists believed that this was also the case for Wolverhampton, which was seen as good practice.

As other cases were interspersed with those of Domestic Violence in Cannock, time allocation was not an issue and deemed appropriate in all cases. Soroptimists only saw one case where the defendant was sent out to speak with Probation and another short case was heard in the interim.

Treatment of Defendants and Victims

During one case, a defendant made a 'no-indication' plea in a stalking case, which the Soroptimists weren't aware was an option. When reflecting on this, they recommended that the questionnaire they were using to record court data be updated to reflect this possibility.

Great concern was shown for victim welfare at Cannock. In one case, the defendant had a restraining order placed on him to protect the victim and her children as they had had to move schools. The court recognised the risk of revealing the new school address and it was withheld to prevent safeguarding issues. In another case, a safeguarding report submitted by Dudley police identified a high risk DA victim that was being coerced into requesting a restraining order be lifted. This evidence meant that the restraining order was maintained and observed as good practice by the Soroptimists. When remanding cases, if screens were required, judges ensured they were available for future dates to safeguard the welfare of victims.

Rehabilitation orders were often incorporated into sentences, which was observed as good practice to mitigate risks posed by defendants. Interpreters were available for defendants if required. Judges also challenged requests for custodial sentences, referring to the sentencing guidelines, which made it clear to the defendant and their solicitor of the severity of the offence.

IDVAs were not observed very often in the courts, although they did provide welfare support to a victim who needed her case heard earlier due to a difficult pregnancy. They also attended a relevant case to provide feedback to the victim when they could not be present.

The Soroptimists observed that some of the accused were able to 'play' the court systems to get extensions to their sentencing dates. The ushers helped interpret some of the procedural aspects of the court systems that assisted the Soroptimists in understanding these tactics. However, judges were decisive and issued arrest warrants when they recognised that delaying tactics were being used by the defendant.

Cannock is a newer court and was observed to be a better environment for DA cases, as there were specific rooms that could be used for private discussions with solicitors. Ushers were also observed to be good at keeping the different parties separate in court.

Audio clarity was sometimes an issue in the court as they were not using a microphone, although they were available. This made it difficult for victims to hear what was being said at some points. However, judges provided a good explanation of the process to victims and defendants and ensured they understood the implications of their statements.

Birmingham Court Protocols

The first Soroptimist group that attended Birmingham had no prior experience in court, so they arranged to observe at Leamington to get a bit more familiar with the process. This provided a useful induction.

Finding information in Birmingham was extremely difficult due to the size of the court and the availability of staff. The Court Office referred members to the notice board to identify their own cases, none of which were identified as DA. IDVAs and ushers were instrumental in helping identify cases and navigate the court system. When Soroptimists split the morning and afternoon shift, the morning team would contact the afternoon team to confirm if they knew there were going to be DA cases for their session, as in several instances' DA cases were cancelled with no communication.

Subsequent Soroptimist visits had to re-establish their credentials to the Magistrates to be allowed access to the court. They did this by retaining a physical copy of their terms of reference, which supported their purpose. This was recognised as good practice in case they were challenged in the future.

Birmingham cancelled often and moved cases around with no communication, which led to wasted time on the Soroptimists attendance. Members agreed that Birmingham was the hardest court to interact with logistically.

Case Management

The Birmingham Soroptimist groups only saw cases before a bench of 3 Magistrates and did not see a District Judge's court. When observed, there were no concerns with access and appropriate sharing of evidence. The Clerk to the Magistrates/Legal Advisor was the lynchpin of proceedings, importantly in one case, she was able to point out to the Magistrates that one of the conditions of bail proposed was not appropriate and needed to be approached in a different way.

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There was a timetable but the courts were often unable to keep to it as perpetrators weren't present or were involved in other aspects of the case, delaying the process. For instance, they were meeting with their probation officer prior to the time they were due to be in court. When cases were heard, the time allocated to each was deemed appropriate. In most observed cases the victims were not present, therefore the IDVA or Solicitor gave the courts the relevant information.

Defended cases were transferred to the Crown Court. The IDVAs also consulted with the victims to understand the outcome they were seeking from the court before making their statements on the victim's behalf.

A CPS lawyer engaged with members at the end of a morning session, expressing her frustration at the way cases were listed and some of evidence provided - she was very clear about being willing to continue with prosecution even where the witness has retracted the complaint.

Treatment of Defendants and Victims

In all cases the Chief Magistrate treated the defendants courteously, gave clear explanations (sometimes more than once) of the offence at the beginning and then the

decision of the Court and the penalties. The Acoustics at Birmingham were not ideal, given the age and layout of the court; however, this was mitigated by the actions of the Magistrates.

There was an IDVA in attendance for almost every sitting in Birmingham. They obviously play an important and accepted part in proceedings as they were referred to with queries and also sent out on one occasion to check on the possible attendance of a victim and another to phone to see if she could find out the victim's opinion on suggested terms of bail conditions.

Soroptimists were informed that Court 3 at Birmingham was designated to DA cases. However, there were other cases interspersed in this court leaving members without much evidence to support what they had been told. Soroptimists also understood that some cases may have taken place in other courtrooms.

Soroptimist Lessons Identified and Recommendations

A Summary of the lessons identified, and recommendations provided by this debrief are as follows.

Lessons Identified

Number	Body Text
1	Soroptimists recognised the role and value added by the legal advisors and clerks. They were excellent at managing the logistics of each case and provided good legal advice within the court system.
2	Modern courts were observed to be better environments for managing DA cases. They had more access to private rooms and were a less intimidating environment for victims.
3	It was obvious that different courts were run differently. While all observed courts treated DA cases appropriately, it seemed to be a postcode lottery regarding the level of support and facilities an individual will have access to.
4	Access to IDVAs was inconsistent at the observed courts, which was concerning considering the value they added where they were observed in action.
5	The use of video link technology to take statements was sometimes disrupted due to connection issues but it was viewed as preferable to delaying a case.
6	Rehabilitation orders were often incorporated into sentences, which was observed as good practice to mitigate risks posed by defendants.
7	The phrase 'do you understand' was asked of participants very often to confirm that they understood what was happening. This was used extensively by the District Judges and Magistrates courts. Guidance was given to defendants on the different options that they had and how their plea could alter the level of fine that they were ordered to pay. Restraining orders were used often and asked for as a possible option by Districts and Magistrates, which was seen as good practice, providing welfare for the victim when appropriate.
8	The clerk invoked section 38 and 37 orders to ensure the Defendant would not be able to cross examine the victim personally and have it deferred to their solicitor, which was seen as good practice.
9	Less experienced Soroptimists benefited from being paired with others who had experience in the court system already. This enabled them to draw on the knowledge of their partner while also maintaining a fresh perspective on the court process.
10	There were observed differences between District and Magistrates courts. The District Judges were viewed as slightly faster and more decisive. Magistrates were viewed as more explanatory and took more time to deliberate decisions. However, the difference between the two did not affect the quality of outcomes in the DA process.
11	In all cases, the welfare of victims and defendants was clearly a priority and was reflected in how each case was managed. This should always be a priority for all DA cases.

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Recommendations

Number	Body Text
1	Add the following options to the Soroptimists' Questionnaire: <ul style="list-style-type: none"> • Application of restraining orders, as these featured quite often in the observed cases • Add a 'no indication' option to the questionnaire in the 'guilty/not guilty' plea section • Add more options to break down the case categories
2	Family courts should be considered as environments where DA hearings could take place, particularly when restraining orders are in use or children are involved
3	Access to welfare support for the Soroptimists is important due to the nature of some of the court cases they were exposed to. This is particularly important for Soroptimists that don't have a background in courts.
4	The Soroptimist questionnaire must be combined with a structured debrief for an effective review process.
5	Share all materials freely with other Soroptimist groups to enable a standardised approach to DA review nationally.
6	When arriving at a court for the first time, Soroptimists should be prepared for the court to be unaware of their role or purpose, despite any previous communications. Until a relationship can be established with the court staff, Soroptimists should be able to describe or carry their terms of reference to help prove their purpose if challenged.
7	Soroptimists should be able to follow individual cases from start to finish, to see if a change of court had any impact on outcomes. To achieve this, Soroptimists could be assigned to specific cases instead of specific days to attend.
8	When possible, pair experienced and inexperienced Soroptimists together. The experienced individual navigates the court system and the less experienced individual will be able to observe without any preconceived notions about the process, enabling more objective observations.
9	If IDVAs are not present at a court the reasons for their absence should be understood, as they often play a valuable role for victims.
9	Where possible, courts should provide breakout rooms that can be used by attending parties to have private discussions about how they wish to approach a case.