

## Resource summary – Perpetrators (treatment, orders, court system)

### Issues

- Lenient penalties/sentences
- Lack of understanding around coercive control and the nature of abusive relationships
- Ineffective perpetrator orders
- Poor availability of perpetrator treatment programmes
- Issues around evaluation of perpetrator treatment programmes

### Few domestic abuse related crimes result in conviction

- Eg; police recorded 758,941 domestic abuse-related crimes in England and Wales (excluding Greater Manchester Police), in the year ending March 2020
- The number of domestic-abuse related CPS prosecutions fell 22%, from 78,624 in the year ending March 2019 to 61,169 in the year ending March 2020
- Over three-quarters of domestic-abuse related CPS prosecutions were successful in securing a conviction in the year ending March 2020 (78%)
- <https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/articles/domesticabuseandthecriminaljusticesystemenglandandwales/november2020>

### Lenient penalties

Westmarland et al's (2018) research found that out of court resolutions (restorative justice and community resolutions) were used by every police force in the UK except Scotland to respond to over 5000 domestic abuse incidents (including intimate partner abuse) in 2014. Some of these incidents related to offences with sentencing tariffs up to life imprisonment. Community resolutions were introduced to provide a means by which officers could respond to lower level crimes proportionately – where crimes and disputes could be 'resolved' via officer intervention without resulting in criminal prosecutions. The guidelines suggest that community resolutions are generally to be used for first time offenders, where the victim does not wish to pursue any more formal action, and while they can be used together with restorative approaches, they do not have to meet all the restorative justice preconditions. Importantly, for domestic abuse, this means they would not need to meet the precondition of a victim agreement.

### Suggested solutions

- Professionals working in all areas of the Criminal Justice System require **training in coercive control** (resources available in separate document), given that the offence of controlling or coercive behaviour in an intimate or family relationship was introduced in section 76 of the Serious Crime Act 2015. Whilst convictions under this offence are increasing, police have had difficulties in identifying and proving this offence (see resource in separate document).
- **Use of Specialist Domestic Violence Courts** – a co-ordinated and consolidated approach to domestic abuse between police, prosecutors, court staff, the probation service and specialist support organisations for victims. The courts are held in existing magistrates' court buildings and are said to provide a magistrates' court

model of the best practice in prosecuting domestic violence cases through criminal proceedings. Tailored support is available for complainants from dedicated support services and organisations, dedicated day/time for cases to be heard, specially trained magistrates, police officers and prosecutors and separate entrances, exits and waiting areas so that victims do not come into contact with defendants and/or their associates <https://www.cps.gov.uk/legal-guidance/domestic-abuse-guidelines-prosecutors>

- More availability of perpetrator treatment programmes

### Treatment programmes

Treatment programmes for perpetrators can play a positive role in the overall complement of improved legal, social, medical and community responses to gender-based violence. Can lead to behavioural change necessary to reduce IPV. To be effective, they must form part of a co-ordinated, inter-agency intervention that works to interrupt the pathways to violence at different levels – societal, institutional, community and individual. There is a need for both voluntary and court-mandated perpetrator programmes and minimum standards should apply to both (<https://rm.coe.int/168046e1f2>)

### Common issues with programmes

- Attrition – drop out
- Lack of availability - ‘such programmes are patchy in their availability, limited in the range of perpetrators they can reach safely, and variable in their quality’ (Safe Lives, Every story matters, 2018).

Challenges comparing existing programmes to determine which works ‘best’ due to different types of evaluation designs employed , with different outcome measures from different types of programmes, addressing different groups of perpetrators, who follow different paths of entry and have different motivations for attending (eg, some use control groups, some don’t); how ‘success’ is measured (eg, recidivism rates unreliable; perpetrator assessments may be unreliable; some involve the voice of the victim as to the extent of change; differing timescales for follow-up). Existing evidence suggests that perpetrator programmes can have at least some moderate success in terms of reducing the severity and/or frequency of violence against women, and that increasing the number of perpetrators who complete such treatment programmes can reduce overall offending (<https://rm.coe.int/168046e1f2>)

The government announced in November 2020 that £17.7 million was awarded to police and crime commissioners working with perpetrators of DA. Funding to be used for a range of innovative perpetrator programmes including the Drive partnership, which has been shown to cut risk by 82%, and is a national project in England and Wales with service providers delivering the intervention in local areas aimed at high harm, high risk perpetrators (<https://www.gov.uk/government/publications/717-million-awarded-to-pccs-for-tackling-perpetrators-of-domestic-abuse>)

- The Drive Project – pilot scheme worked with 506 prolific domestic violence perpetrators, aged 17-81 and involved one-to-one counselling sessions. Nearly half

of the men were involved in ongoing legal proceedings in the criminal or civil courts. They were given help on building relationships, controlling their impulses and developing empathy and understanding of the impact of abuse. Results from the project were analysed by the University of Bristol who said it was the largest evaluation of perpetrator intervention to be carried out in the UK. It found that Drive had led to a drop in incidents of abuse to a greater degree than in cases where only victims were given help, with improvement sustained for more than 12 months after the scheme ended. Police data for one sample of perpetrators showed domestic abuse offending had reduced by 30% in the 6 months after the scheme, compared to the 6 months before. A control group, made up of offenders who had not taken part in the project, were reported to be committing crimes at the same rate as before. The key groups behind the project, Safe Lives, Respect and Social Finance, claim the findings demonstrate the urgent need for perpetrator programmes to be made universally available, with the costs outweighed by savings for the NHS, social services and the criminal justice system (<https://www.bbc.co.uk/news/uk-51177628>).

- Key findings – the number of drive service users using each type of DV/A behaviour reduced substantially (as measured by IDVAs, partners, MARACs, police data - <http://driveproject.org.uk/wp-content/uploads/2018/11/Evaluation-of-the-Drive-Project-Year-1-Feasibility-Study.pdf>) The use of
  - Physical abuse reduced by 82%
  - Sexual abuse reduced by 88%
  - Harassment and stalking behaviours reduced by 75%
  - And jealous and controlling behaviours reduced by 73%

#### Perpetrator orders - Existing orders are limited in their effectiveness (Refuge)

Current range of orders that can be used in DA cases include Non-Molestation Orders, Occupation Orders, Retraining Orders and DVPOs. These vary widely in terms of who can apply for them, the conditions that can be attached, and the consequences of breach. In addition, there is currently no single order that is accessible across the criminal, family and civil courts. This can lead to confusion for victims and practitioners in DA cases and problems with enforcement. The survivors Refuge work with consistently report that existing injunctions are limited in their effectiveness... Refuge therefore welcomes the provisions establishing the new consolidated Domestic Abuse Protection Order (DAPO) and that breach of a DAPO will be a criminal offence. Further, Refuge is pleased that the new DAPO can be applied for, and recognised, in both criminal and civil courts.

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

The Domestic Abuse Bill 2020 introduces a new civil Domestic Abuse Protection Notice (DAPN) to provide immediate protection following a domestic abuse incident, and a new civil Domestic Abuse Protection Order (DAPO) to provide flexible, longer-term protection for victims. The Bill will repeal the current Domestic DVPNs and DVPOs. A DAPN would be issued by the police, and could, for example, require a perpetrator to leave the victim's home for up to 48 hours. DAPOs will:

- Have flexible duration to enable longer term protection to be provided where necessary and proportionate
- Be applied for by police to a magistrates' court. However, alternative application routes will be introduced to allow victims and specified third parties to apply directly to the family court for a DAPO. Criminal, family, and civil courts will also be able to make a DAPO of their own volition during existing court proceedings.
- Impose prohibitions and positive requirements on perpetrators.
- Have requirements imposed which can be varied by the courts to respond to changes over time in the perpetrator's behaviour and the level of risk they pose
- Provide power to the courts to use electronic monitoring to monitor a perpetrator's compliance with certain requirements imposed by a DAPO
- include notification requirements – perpetrators required to notify the police of their name and address and of any changes to this information.
- Include breach as a criminal offence, carrying a maximum penalty of up to 5 years imprisonment, or a fine, or both. Breach will be dealt with as civil contempt of court and the victims views considered when deciding which sanction for the breach is appropriate

#### Issues with judiciary/court system

- Pro-contact culture of courts resulted in systemic minimisation of allegations of domestic abuse
- Lack of communication and co-ordination between family courts and other courts and agencies working with families, which led to contradictory decisions and confusion
- Adversarial system with parents placed in opposition

The government identified that some of these barriers could be addressed by trialling an Integrated Domestic Abuse Court (IDAC) – a one family, one judge court which uses a non-adversarial, investigative approach to deal with families who have cases in both the family and criminal jurisdictions. The government committed to create an IDAC pilot, to consider family and criminal matters in parallel in order to provide more consistent support for victims. IDACs integrate court processes with services to promote safety, advocacy and support. At present the evidence base on IDACs is small and unclear and the government pilot promises to add to understanding of their impact. International practice shows that IDACs bring together domestic abuse cases which would be heard separately in the criminal, civil or family courts into one court process.

<https://justiceinnovation.org/sites/default/files/media/document/2020/IDAC.pdf>