

PPS Policy for Prosecuting Cases of Domestic Abuse

Summary of Consultation Responses

The Public Prosecution Service's consultation on its Policy for Prosecuting Cases of Domestic Abuse was issued on 7 November 2022 for a period of 12 weeks. The aim of the consultation was to seek a wide range of views to inform the development of the Policy.

An extension was made to the closing date for the consultation in order to maximise stakeholders' opportunity to respond. The final closing date was **24 February 2023**.

Responses were received from the following:

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This document provides a summary of the main issues raised in response to the consultation. All comments have been carefully considered and feedback provided as required.

The following questions (9 in total) were asked as part of the consultation:

- Q1. Chapter 2 (see 2.1 and 2.2), is there sufficient information in respect of the legal framework, and in particular the new provisions under the Domestic Abuse and Civil Proceedings Act (NI) 2021?
- Q2. At Chapter 2 (see 2.3), is there sufficient information to explain how prosecutors will apply the new domestic abuse offence (Section 1 of the 2021 Act).
- Q3. Chapter 3 sets out how we take decisions in domestic abuse cases. In your view, does this explain the key issues considered by the prosecutor – including the steps taken where there is a retraction or withdrawal by the victim?
- Q4. Chapter 4 provides an overview of how we deal with cases at court, including the sentencing stage. Is any additional information required regarding the PPS's approach?
- Q5. Chapter 5 provides an overview of victim and witness issues and the services and other support available. Does this chapter cover all relevant issues or are there other matters that should be dealt with?
- Q6. Annex A provides an overview of issues relevant to particular groups (e.g. men, women, younger people, ethnic minority communities etc.). Is this useful?
- Q7. Thinking about the document as a whole, is the information clear and easy to understand? For example, is there any complex legal language or jargon which needs to be amended or explained?
- Q8. The overall purpose of this policy is to provide guidance on the general principles, commitments and associated working practices, and to explain the standards of service expected from the PPS in cases involving domestic abuse. In your view, does the updated guidance deliver this? (If not, please explain the reasons why).
- Q9. Are there any other comments you would like to make about this policy?

Thank you to all the organisations and individuals who took the time to respond to this consultation. Your feedback is much appreciated.

ASSIST NI	
Comment	PPS Response
Question 1	
Para 2.1.1 Whilst it is recognised that the PPS has adopted the existing definition from the NI Executive's document, this document is currently being revised and is now 7 years old.	The definition referenced in our policy has also been adopted in the draft Domestic and Sexual Abuse Strategy 2023 – 2030 (DoH / DoJ).
This definition does not deal specifically with, for example, isolation which in our view would be one of the earliest indicators of coercive abuse. Nor is isolation mentioned in 2.1.2 under psychological/emotional abuse.	Please see above. We have made reference to isolation as a tactic of abuse throughout the policy.
Further the definition of sexual abuse is vague and unclear. It does not cite from what legislative provision this is brief overview of sexual abuse is drawn. It does not seem to account for example, non-contact sexual abuse (such as being made to watch explicit pornographic material), coercion into exchange of explicit images, forced use of birth control.	We have updated the information on sexual abuse at Annex A. A link has also been included to the PPS Policy for Prosecuting Sexual Offences
It is our position that the phrase 'forced sex' is implicit of the requirement for physical strength to be used / violence threatened in the commission of rape which perpetuates the rape myths surrounding violence in rape. This is not accurate. This could be altered to 'non-consensual sexual activity'.	We have removed the reference to 'forced sex' from the section on Sexual Abuse within Annex A.
It would also be our position that if including sexual abuse within the definition, which we agree is paramount, then explanation should be provided as to the PPS approach to consent, explicit and implicit consent and demonstrating / evidencing and prosecuting the withdrawal of consent, particularly within relationships where consensual activity has previously been undertaken. This will achieve greater consistency between prosecutors within this regard.	Noted with thanks. A link to the PPS Policy for Prosecuting Sexual Offences has been included in Annex A.

Question 2	
Para 2.3.4 ought to be extended to include foster children, children under guardianship.	A footnote has been added at page 19 to include this information.
It would be our position that para 2.3.9 is inaccurate and misleading. It states that ‘there is no requirement to prove that the victim suffered actual physical or psychological harm’ which is indeed the intention of the legislative provision. However, it is our experience that victims are frequently and persistently required to prove abuse through medical notes, photographs, therapy notes, service records. The practice contradicts the policy, therefore either the policy needs to reflect the reality or the practice needs to be stopped as it is setting unhelpful barriers to prosecution.	Further information has been provided at paragraph 2.2.18.
The current text of ‘behaviour’ does not go far enough, the behaviour in singularity will undermine the new legislative provision for coercion and needs to direct the ‘reasonable person’ to the context of the case.	More detailed information on the operation of the Act and the evidential requirements for the Domestic Abuse Offence has been included at section 2.2.
Para 2.4 - Appreciating that the new legislative provisions will need to be tested by the courts to attain NI centric precedence, can the PPS point to any transferable legislative examples from the England & Wales legislation which has been used to sufficiently and successfully demonstrate coercive behaviours in a non-violent coercively abusive setting, this could be included here explicitly as guidance to prosecutors and to set expectations to support services and victims.	We are unable to provide this information within our policy.
Question 3	
At para 3.1.2 and at a various other junctures the policy uses the words ‘should’ - ‘prosecutors should ensure that they consider the full facts’, ‘prosecutors should proactively request further information from police’ – it would be our position that this does not go far enough and that ‘should’ ought to be replaced with must/will. If it is not a directive, it risks not been done or, precedent will be set for it to be	The language used throughout the policy has been amended to reflect our duties under the Victim Charter.

<p>'best case scenario' as opposed to every case scenario which is simply not sufficient. The wording ought to be clear as to what is required in every circumstance.</p>	
<p>At para 3.1.3 the policy states 'prosecutors should proactively address the security and safety of the victim'. What does 'proactivity' look like? How will this be demonstrated/evidence by prosecutors and what can victims expect to be undertaken on their behalf.</p>	<p>Further information on case building and risk assessments has been included at sections 3.10 and 3.11 respectively.</p>
<p>At para 3.1 it states the policy will 'understand the impact and dynamics of domestic abuse' yet at para 3.1.7 , when detailing the reasons for withdrawal or that victims may not be likely to report abuse - there is no acknowledgement that previous failings by statutory services, including PPS, and unsuccessful attempts previously to attain a prosecution including experiencing exponential court delays, barriers to reporting and an overall lack of confidence in the Justice system contribute to this reluctance to engage. These are some of the most prevalent reasons for failing to report and for disengagement in Justice and the prosecutors guidance ought to demonstrate humility and awareness of this within this section. It would demonstrate a willingness to accept some responsibility and understanding of the dynamics a victim of cyclic offending encounters.</p>	<p>Noted and referenced in the policy.</p>
<p>At para 3.2.1 the policy reads 'Prosecutors are trained' – it would be our position that this should be replaced with 'Will undertake regular and periodic training' (with specifics annexed thereto) to recognise awareness in victim centred, trauma informed services which understand the dynamics of domestic abuse is not a 'one off' training provision but a commitment to long term evolution of the Justice system by continual training, learning, development.</p>	<p>Noted and amended at section 1.1.12.</p>

<p>Para 3.2.3 again the policy reads ‘Prosecutors should be careful not to make assumptions’ – in our view this needs to be stronger, for example, ‘Prosecutors must not make assumptions’ and detail how the prosecutor might engage with other statutory and non-statutory agencies to achieve contextual understanding.</p>	<p>The language used throughout the policy has been amended to reflect our duties under the Victim Charter.</p>
<p>At para 3.3.5 ‘The prosecutor should consider the needs of the complainant when taking a decision on a file’ in our view must be stronger – for example ‘The prosecutor must consider the needs and views of the complainant ...’</p>	<p>The language used throughout the policy has been amended to reflect our duties under the Victim Charter.</p>
<p>At 3.4.3 when considering withdrawal of a victim, no statement provided etc. the policy proposes ‘Prosecutors should’ ... as previously stated, language is important. Amending this to ‘Prosecutors will’ demonstrates the importance of the action and priority placed on a victims views in the proceedings. Also 3.4.4.</p>	<p>The language used throughout the policy has been amended to reflect our duties under the Victim Charter.</p>
<p>At 3.4.5 it would be our view that the wording used is inappropriate – as above language matters. The policy proposes ‘but the victim is not willing to support the prosecution’ insinuates an unhealthy and outdated victim blaming culture. It fails to take account of the predominant reasons for disengagement, many of which are seated in the Justice process itself and, in the course of the Policies application will be reduced to ‘the victim is not willing’ which minimises and whitewashes the true reasons for discontinuation. Other language which is more inclusive of the broader realities might be ‘The victim is currently unable to support a prosecution’ for example.</p>	<p>Noted and amended.</p> <p>A section on trauma informed practice has also been added at section 1.5.</p>
<p>At para 3.5.2 could reference use of other agencies here also, to provide independent advocacy direct to victims (for example ASSIST NI) to engage victims and witnesses before compelling them to court.</p>	<p>Noted and included in Chapter 5.</p>

<p>At para 3.6.1 the policy sets out the importance of communicating a non-prosecution decision. It stipulates 'timely, sensitive and clear'. Firstly, it would be our position that this ought to include precisely and explicitly what is considered an appropriate time parameter to communicate this decision to the victim.</p>	<p>Noted.</p>
<p>It would be our position that communication of this by letter (3.6.3) is not acceptable in the case of domestic (and sexual) offences. We are advised consistently and persistently that the letters are often not received, are often intercepted by perpetrators or family members, difficult to understand, are too 'general' with little by way of specific explanation which outlines that the prosecutor has upheld the obligations set out elsewhere in the policy. Whilst we acknowledge that an appeal process exists, and is welcomed, this does not negate the need for a more effective communication of the decision- and decision-making process. Victims have repeatedly referred to this as demonstrable of 'elitism' and the perception that PPS / prosecutors do not wish to engage directly with victims. This is something that as an advocacy service we would be very keen to see overcome.</p>	<p>Further information has been included at section 3.14.</p>
<p>At 3.6.4 again provides the prosecutor with a policy clause; in which a victim may request further explanation but 'it might not always be possible'. Given the seriousness of the offence, the impact of this offence and outcomes on a victim's life, this in our view is not acceptable and every victim ought to have equal access to an explanation as a basic right.</p>	<p>Further information has now been included at section 3.15</p>
<p>Question 4</p>	
<p>4.1.2 fails to go far enough and allows too much margin for disparity for victims at court. To say 'Where possible, the prosecutor will try to speak to victims and witnesses' again enables disparity of process depending on court, prosecutor, case, complexity and is</p>	<p>The information provided at section 4.2 is consistent with our Victim and Witness Policy and Code for Prosecutors.</p>

<p>highly vulnerable to those facing additional barriers to be further excluded from the process (particularly relevant here is equality measures and Section 75 qualifiers) – this is not about ‘putting a witness at ease’ but about acknowledging the gravitas of the trial / outcome for the victim at the centre of the contest.</p>	
<p>When considering sentencing outcomes; para 4.1.10 could go further to ensure detailed explanation is provided to victims that, when accepting plea’s to alternate offences, victims are fully appraised of the impact that decisions will have on sentencing powers available to the court.</p>	<p>Further information has been provided at section 4.3.</p>
<p>Question 5</p>	
<p>At para 5.1.4 the policy proposes ‘Ideally, early decisions should be taken’. It would be our position that this must go much further and ought to indicate what ‘early’ looks like including a specific time frame. Likewise, ‘ideally’ allows margins for practice to be undertaken other than in accordance with the policy which undermines the policy at the outset.</p>	<p>Noted.</p>
<p>At 5.1.3 the terminology ‘offences involving domestic abuse are automatically presumed to be eligible for special measures. The judge makes the decision about whether special measures will be allowed’ Is, in our view contradictory. Automatically presumed would indicate that they are available should the victim wish to avail of them and yet the next sentence affords the judge the ability to revoke this eligibility. Again 5.1.4 then further denotes the ‘application process’. Either domestic abuse cases are automatically eligible and the victim can avail or measures which they request or the process is application based, at the judge’s discretion and available only according to court facilities and accessibility. It isn’t both and these paragraphs are trying to indicate that special measure are both ‘available to all’ and yet also ‘at the</p>	<p>Further information has been included at section 5.1.</p>

<p>judges/courts behest'. Again, this speaks to the difficulties victims face in accessing special measures and the unnecessarily arbitrary process of attaining the measures for victims.</p>	
<p>At para 5.3.7 the policy acknowledges that delays can add to the distress encountered by victims. It would be our recommendation again that this policy has the opportunity to set clear, realistic timeframes which victims ought to be able to expect the PPS to work to in relation to their case. The policy uses phrases throughout such as 'timely', 'without delay', 'fully informed'. It would be our strongest recommendation that the policy ought to be populated with a time frame for the prosecutors to work to which the victims can utilise to manage their own expectations, their personal circumstances and their recovery following abuse. This would increase engagement exponentially for victims and demonstrate accountability for prosecutors.</p>	<p>Noted.</p>
<p>Question 6</p>	
<p>Annex A- This section is useful but it ought to be stressed these are examples and not exhaustive. As guidance to prosecutors, this section could include links to relevant case law per section.</p>	<p>Noted.</p>
<p>Question 9</p>	
<p>Para 1.1.5 uses the term 'without avoidable delay'. It would be our position that the policy and direction for staff and the public would benefit from more explicit and transparent time processes. What can the victim expect in terms of time taken from submission of a file to a charging decision? Charging decision to contest etc.? The inability to forecast accurately owing to lack of realistic or accurate time scales by statutory services, including PPS, is a primary cause of disengagement for victims of domestic abuse in the Justice System. There is an opportunity here to be more transparent, direct and explicit as to what</p>	<p>Noted.</p>

<p>victims can expect in terms of time periods for the Justice process.</p>	
<p>Para 1.1.6 and 1.1.7 Appear to read in contradiction of each other. 1.1.6 states it 'allows prosecutors to adopt a more holistic approach' whilst 1.1.7 states 'each case must be considered individually'. There is no place in the policy which indicates whether a 'case' refers to a specific incident of domestic abuse, or a specific victim considering multiple incidences (perhaps for the application of the coercive offence) or indeed a specific perpetrator considering multiple incidences of behaviours against multiple victims. Clear direction is required to indicate exactly how the prosecutors will consider the coercive behaviours as creating a pattern of behaviour and acknowledging the harm caused by perpetual behaviours rather than 'singular case' of criminality. Further explanation, perhaps examples required, to illustrate how the prosecutor will effectively account for the persistent behaviours which exemplify the coercive behaviour and allow for those to provide the context for which the abuse has taken place.</p>	<p>Further information on the operation of the Act has been included at Chapter 2.</p>
<p>Para 1.3 reflects on the commitment to victims and witnesses to attain the best possible evidence. It is our position that the policies in place are not being upheld in practice effectively, particularly in achieving Special Measures for the court process in domestic abuse cases. In 18 short months, countless examples of difficulties have arisen for clients. Our service has experienced first-hand the complexities of achieving Special Measures even as a professional and partner service. Specific examples have been provided to PPS outside of this consultation process. What is notable is the lack of accountability; advocates and victims passed from PPS to VWCU to Investigating Officers to Victim Support Court Support officers, yet no outcome is provided and no decision made. No one agency seems to act in sole responsibility for the application</p>	<p>Noted.</p> <p>Work is ongoing internally within PPS to improve our delivery in respect of Special Measures.</p>

<p>for Special Measures and this is leaving victims without a decision, without measures and exposed in the court process to unacceptable pressures and trauma.</p>	
<p>There is little point in the policy saying there is a commitment to victims and witnesses if the practice does not uphold this very basic provision for them to provide their best possible evidence.</p>	<p>Noted.</p>
<p>Para 1.3.4 The language 'prosecutors will need to bear in mind' the different impacts of domestic abuse, in our view is minimising. Recommend this is reworded to a more trauma informed and committed position i.e. "Prosecutors will actively demonstrate cognisance of the impact..." and could go further still to provide examples of how this will be evidenced by PPS in its application of its own policy with its prosecutors.</p>	<p>Noted.</p>
<p>Para 1.3.5 Lists external specialists which a prosecutor will utilise for support and to protect victims at court including interpreter, translators, registered intermediaries etc. It would be our position that a professional, trauma informed, advocacy practitioner ought also to be available to both the prosecutor and the victim at all stages of the process and this could/can be signposted later in the policy (Annex C).</p>	<p>Noted.</p>
<p>Para 1.3.7 States 'The PPS is committed to working with agencies, both statutory and voluntary'. There remains significant barriers to engagement directly with PPS, ourselves included, particularly relating to the safe and appropriate exchange of information.</p>	<p>Work is ongoing to provide PPS with a statutory basis upon which to share information.</p>
<p>Annex B : (x) / (xi) Does the 'No history of volatile relationship' and 'Defendants criminal history' include like domestic, coercive or violent offences against other partners / family members also. Does it allow for the prosecutor to draw on the pattern of behaviours employed</p>	<p>Prosecutors will have access to details of offending behaviour against other partners/family members through PSNI.</p>

<p>by the perpetrator in previous or concurrent qualifying relationships.</p> <p>Statistically, perpetrators are known to perpetrator against more than one victim at any one time and evidence to this effect ought to be relevant to the decision making process.</p>	
<p>Finally, we would welcome the addition of ASSIST NI contact details at Annex C:</p> <p>ASSIST NI Domestic and Sexual Abuse Advocacy Service c/o 30 Adelaide Park, Belfast, BT9 6FY</p> <p>Website www.assistni.org.uk Email info@assistni.org.uk</p>	<p>Further information has been included.</p>

Commissioner Designate for Victims of Crime for NI

Comment

PPS Response

Introduction

The Commissioner Designate welcomes the opportunity to respond to the Public Prosecution Service's (PPS) consultation on the draft policy for Prosecuting Cases of Domestic Abuse. The Commissioner Designate also welcomes the range of initiatives being undertaken by the PPS alongside other stakeholders to improve the experience of all victims within the Criminal Justice System (CJS). In particular, the Commissioner Designate is pleased to be working alongside the PPS and others to progress ICO recommendations to limit the amount of victim's personal data being sought during investigations, including the use of counselling records.

The Commissioner Designate identifies a range of key recommendations for the PPS to consider when finalising the draft policy as well as number of specific actions underneath each of those recommendations.

Noted.

Recommendation 1

Strengthen the commitment throughout the policy of the PPS's intention to comply with the statutory obligations set out in the Victim Charter, paying particular attention to the language used.

While the Commissioner Designate welcomes the recognition throughout the document of victim's entitlements under both charters, the draft policy needs to demonstrate a stronger commitment of the PPS's intention to comply with their statutory obligations to the Victim Charter and provide the same credence to entitlements set out in the Witness Charter.

The language used throughout the policy has been amended to reflect our duties under the Victim Charter.

In paragraph 1.1.9 (Purpose of this Policy) the PPS states that it will have 'regard' to both the Victim and Witness Charters. The Commissioner Designate recommends the

Noted and amended.

<p>use of stronger language here to effectively convey that the PPS understands that it has a legal obligation to comply with the requirements set out in the Victim Charter. Furthermore, while the Witness Charter has not yet been given statutory footing, the Commissioner recommends that the PPS should give the same weight to any entitlements afforded to witnesses.</p>	
<p>In paragraph 3.7.1 (Reviewing decisions not to prosecute) the PPS policy states that a victim can ask for a review of a decision not to prosecute in appropriate cases. The Victim Charter states that:</p> <p>'The right to a review of a Public Prosecution Service decision not to prosecute applies regardless of the crime type or potential court tier'.</p>	<p>Further information has been included at sections 3.14 and 3.15.</p>
<p>The PPS Victims and Witness Policy further lays out the entitlements concerning a right to review stating that:</p> <p>'Victims are also entitled to ask for a review of the decision not to prosecute after detailed reasons have been requested and/or received. Such requests should be made in writing within three months of the date the decision letter is received. If there are any difficulties with this, the VWCU Case Officer should be contacted. Once received, the PPS will conduct a review of the decision'.</p> <p>In light of this, the Commissioner Designate recommends that the draft policy explicitly states that all victims of domestic violence have a right to apply for a review where it is requested within the three month timeframe. The policy should also include a commitment That the PPS will notify victims of the need to apply for a review within the stated timeframe.</p>	<p>Further information has been included at section 3.15. There is also clarification that a review should be requested within one month.</p>
<p>Paragraph 5.2.8 (Other Support) of the draft policy sets out the services that are provided by the Victim and Witness Care Unit (VWCU).</p>	<p>Further information on the role of VWCU has been added at section 1.4.</p>

<p>This section should also highlight that if the case progresses to prosecution, a victim is entitled to a timely individual assessment by the VWCU to identify any needs, necessary support or special measures (Victim Charter, Point 40, Page 22)</p>	
<p>Recommendation 2</p>	
<p>A stronger commitment to proactively address the safety concerns of the victims and their dependants.</p>	
<p>The draft policy acknowledges that where a victim of domestic violence is supporting a prosecution, it may place them at increased risk of abuse by the defendant and as a result the victim may require enhanced security measures and support.</p>	<p>Noted.</p>
<p>The literature shows that this trauma may have physical, psychological and cognitive effects. The effects may include the victim being constantly fearful of their abuser, having uncontrollable physical or emotional reactions to being in close proximity to the abuser (or in anticipation of that occurring), being unable to recall or describe events clearly or in chronological order, and experiencing flashbacks or re-traumatisation when recounting or being questioned about the abuse.</p>	<p>Noted.</p>
<p>The Commissioner Designate recommends that the PPS should commit to proactively monitoring the safety needs of victims who are engaging in trial proceedings. It is not enough to 'have regard', taking a more prominent role in meeting the safety concerns of the victim is crucial not only in safeguarding the victim but also in ensuring best quality evidence and continued engagement of the victim with criminal proceedings.</p>	<p>Information on risk assessments has been included at section 3.11.</p>

<p>In paragraph 1.3.5 (Our Commitment to Victims and Witnesses) the PPS states that it will 'consider' a range of legal measures to support and protect victims and will make appropriate applications to the court to enable victims to give their best evidence.</p> <p>The PPS should explicitly state that they will ensure that the victim receives a Needs Assessment, as set out in the Victim Charter and where a specific need is identified they will ensure that need is met.</p>	<p>Information on the role of VWCU and the needs assessment process has been included at section 1.4.4.</p>
<p>In point 3.1.5 (Understanding the Impact and Dynamics of Domestic Abuse) the PPS draft policy states that prosecutors will be 'sensitive towards' the changing security risks and safety needs of victims. This is not sufficient enough to ensure the safety of victims and their dependants, particularly where the victim has been part of a Multi-Agency Risk Assessment Conference (MARAC).</p> <p>The draft policy should state that prosecutors will ensure they are aware of any specific security needs that have been identified during the MARAC and/or those set out in a victim's needs assessment. The prosecution team should also commit to checking whether there is any additional information that the VWCU has on the safety needs of the victim and their dependants / wider family.</p>	<p>Further information on MARAC has been included at section 3.11.4.</p>
<p>Where the PPS becomes aware that victims have come under increased threat during the course of the trial, they should notify the officer in the case of the risk and consider whether any additional special measures or practical steps can be taken to help support the victim.</p>	<p>Noted.</p>
<p>In point 3.1.5 (Helping Victims and Witnesses to Give Evidence) the draft policy recognises that a victim of Domestic Violence who initially refuses special measures may change their mind as the trial draws nearer. The draft policy states that the PPS will ensure the victim knows they are entitled to change their mind</p>	<p>Noted with thanks.</p>

<p>and that in these circumstances, the judge will decide whether special measures are appropriate.</p>	
<p>The Victim Charter states that: 'If your needs or the elements that form the basis of your individual assessment change significantly during the criminal proceedings you are entitled to be given the opportunity to be re-assessed. You can also have your assessment updated, if the service provider is aware of the change of circumstances that impacts on your needs or you make them aware of this. Once a service provider has identified your needs, they should try to ensure that relevant information is passed on as necessary to other service providers with responsibilities under the Charter and to victim support services, where appropriate.</p> <p>The PPS should make clear in the draft policy that where the victim changes their mind or there is a change in circumstances, the prosecutor will advise the victim that they are entitled to have their needs re-assessed or updated. Furthermore, the PPS should proactively commit to liaising with relevant service providers around any change in the victims safety requirements.</p>	<p>Noted.</p>
<p>In paragraph 3.3.5 (Case Building) of the draft policy, it states that the prosecution should 'consider the needs' of the complainant when taking a decision to prosecute. The Commissioner Designate would welcome an inclusion that the PPS will engage directly with the victim at this point to understand their views of what is needed for them to feel safe and protected during court proceedings.</p>	<p>Noted.</p>
<p>The PPS should also commit to checking that the victim's needs assessment is up to date at this point. Where there has been a significant change in circumstances the prosecutor should alert the victim that they are entitled to have their needs re-assessed as per the Victim Charter.</p>	<p>Further information on risk assessments has been included at sections 3.11 and 3.12.6.</p>

<p>Paragraph 4.1.4 (Dealing with the Case at Court) is concerned with the decision on whether bail is appropriate in a case of domestic violence. The draft policy states that in order to make representations to the court about bail, the Prosecutor is provided with evidence and information from the police.</p> <p>The policy also states that the primary concerns of the prosecutor should be the safety of the victim and any children or dependants. The Commissioner Designate recommends that the draft policy includes a commitment that the prosecution will actively seek out the victim's view on bail as part of the evidence provided by the police. The voice of the victim and their lived experience is crucial to determine the impact that any bail recommendations will have on the safety and wellbeing of the victim and their family.</p>	<p>Information has been included at section 4.1.4.</p>
<p>The Commissioner Designate recommends that the PPS include within the draft policy that the prosecution will establish whether there are any parallel proceedings underway within the family courts. Where this is established, a nominated person in each of the criminal and family court cases should keep their counterpart informed of any changes in the circumstances of victim's safety on a consistent and ideally agreed basis.</p>	<p>Noted.</p>

Recommendation 3

Robust data collection is vital to understand victim attrition in cases of domestic violence and to identify measures to improve victim support for a prosecution

It is well established that victim attrition in cases of domestic violence is a substantial reason for the low levels of prosecutions for this type of crime.

The PPS has an obligation under the Victim Charter to support victims of domestic violence and foster an environment where they feel confident to pursue a prosecution against their perpetrator. Collecting relevant victim data to understand and effectively meet their needs is crucial to meeting this obligation.

The Commissioner Designate is keen to see more comprehensive data captured to identify the points at which a victim withdraws support for a prosecution and the reasons why support is withdrawn. This will help ensure clear understanding of areas that need addressed and establish a baseline against which success can be measured.

We are currently working with the Department of Justice and the PSNI with a view to improving information in respect of attrition in sexual and domestic abuse cases.

Recommendation 4

Proactive and open communication with victims of domestic violence.

Research over the last thirty years has consistently found that what victims and victims' families want is information relating to three key areas:

- Information about the criminal justice process at all stages of the case;
- Timely and accurate updates about the progress of their case; and
- Information about the types of support services available and what the services can offer.

Confusion as to who is responsible for keeping victims updated at each stage of the process and a lack of consistency in how information is communicated emerges as a consistent

Noted.

<p>theme from research into victim's experience of the CJS.</p>	
<p>In paragraph 4.1.10 (Dealing with the Case in Court) the draft policy states that where the PPS is considering whether to accept a guilty plea to a different, possibly less serious charge 'it will take the proper interests of victims into account as required under the Victim Charter'. The Commissioner Designate recommends that the draft policy sets out in more detail what 'taking the proper interests of the victim into account' means.</p>	<p>Noted.</p>
<p>The PPS Victim and Witness Policy states that where the PPS is considering possible changes to charges they will: 'Whenever possible, explain to the victim why this is being considered and listen to their views. In many cases this may not always be possible, for example, if issues have to be dealt with quickly at court'.</p> <p>The Commissioner Designate would like to see the PPS commit to consulting with the victim in every case where they are considering any changes to charges. Where issues are being dealt with quickly at court, this may mean asking the Judge for extra time to speak with the victim. The only reason for not consulting with the victim in these instances is if they are unavailable e.g. chose not to attend court, are in hospital etc.</p>	<p>Noted.</p>
<p>In paragraph 5.3.3 (Tackling Avoidable Delay) of the draft policy, the PPS states that 'we will do our best to ensure that the victim is kept informed of the reason for any significant delay in proceedings.'</p> <p>The Commissioner Designate would like to see a stronger commitment by the PPS than 'doing our best' to ensure that victims fully understand the reasons for any delay.</p>	<p>Noted.</p>
<p>The Commissioner Designate recommends that the PPS seek the views of the victim on</p>	<p>Noted.</p>

<p>whether they would like to be updated concerning any delays. Where the victim does wish to be updated, the VWCU should commit to providing an update at least every few months.</p>	
<p>Recommendation 5</p>	
<p>Improve communication with victims who are involved in concurrent cases against the same defendant.</p>	
<p>Where a victim is involved in coinciding cases against the same defendant, the Commissioner Designate recommends that case officers ensure they are alert to all potential cases in the system that pertain to the same victim and defendant. Case officers should also ensure they gather all relevant information that is available from the various cases to inform their case preparation. In any contact with the victim, the case officer should ensure the victim is clear as to which case they are being contacted/informed about.</p>	<p>Noted.</p>
<p>Handling Victims' Personal Data</p> <p>The Commissioner Designate also recommends that the PPS include a section within the draft policy to inform victims as to when third party material will be sought and how victim's personal data will be handled. The Commissioner Designate noted at the beginning of this consultation response that the PPS and various stakeholders including the CVOC are currently progressing work on ICO recommendations to limit the amount of victims' data being sought during the investigation.</p> <p>The PPS draft policy should highlight that prosecutors will only seek information where they believe it is relevant and necessary for the prosecution and that they will apply a strict disclosure test before any information would be disclosed further to the defence. This could help reassure victims of domestic violence that</p>	<p>These matters are dealt with in detail within the PPS Policy for Prosecuting Sexual Offences.</p>

<p>the disclosure of their personal information will be sensitively managed.</p>	
<p>Ensuring consistent use of language</p> <p>In Annex A the draft policy uses the terms 'victim' and 'complainant' interchangeably. The Commissioner Designate recommends using either victim or complainant consistently in the annexes and throughout the document.</p>	<p>Noted and amended.</p>

Department of Justice (1)	
Comment	PPS Response
Para 1.1.6 suggest change “views domestic abuse” to “views and handles domestic abuse”.	Noted and amended.
Para 2.1.1 change reference to new strategy	Noted.
Para 2.2.1 suggest adding “Coercive and controlling behaviour is often used to describe domestic abuse, particularly when the abuse is more psychological in nature rather than physical.”	Noted and amended.
Para 2.2.3 suggest changing to “behaviours of these types are captured in section 2 of the Act which sets out what constitutes abusive behaviour	Noted and amended.
Para 2.2.5 suggest hyperlink to DOJ statutory guidance	A link has been included.
Para 2.3.4 clarify aunts / uncles / nieces / nephews not covered under the legislation.	Noted and amended.
Para 2.4.6 consider adding information about section 15 aggravator.	Further information has now been included at section 2.3.
Para 3.2.2. suggest amendments to myths.	Noted.
Para 3.4.9 suggest amending to “listened to” rather than believed.	Amended.
Para 4.2.3 suggests adding information about aggravators.	Noted and included.
Annex A LBGT change “domestic violence” to abuse.	Amended.
Annex A Disability change “violence” to abuse.	Amended.
Annex C query whether we add DAART?	Noted

Department of Justice (2)

Comment	PPS Response
Para 1.1.4 highlights use of both victim and complainant and suggest using victim throughout.	Noted and amended.
Para 1.2.2 suggest hyperlink to Code for Prosecutors.	A link to the Code for Prosecutors has been added.
Para 1.3.5 suggest hyperlink to Victim and Witness Policy.	A link to the Victim and Witness Policy has been added.
Para 2.1.1 suggest amendment to include definition of abusive behaviour which encapsulates domestic abuse.	Amended.
Para 2.2.4 suggest different arrangement of bullet points and change to footnotes to reference NI statutory guidance instead of Home Office guidance.	Amended.
Para 2.3.1 suggest using earlier references to 'Act'.	Noted.
Para 2.4.1 query use of 'exert control' and suggests changing to abuse.	Noted.
Para 2.4.3 suggest changing language to move away from reference to repetitive pattern.	Noted.
Para 2.4.6 consider adding information on domestic abuse aggravator.	More information on the aggravators has been included in Chapter 2.
Para 3.2.3 suggest using 'individuals' rather than 'parties'.	Noted.
Para 3.4.7 add abuse to last bullet point.	Noted.
Para 3.6.3 add VWCU acronym after first reference to Victim Witness Care Unit.	Noted.
Para 4.1.2 add word victims.	Added.

Para 5.1.6 add hyperlink to DACPA.	A link has been added.
Para 5.2.3 add VSNI to first reference to Victim Support NI.	Noted.
Para 5.3.4 query whether reference to VWCU would be correct.	Noted.
Annex A - a number of amendments suggested as set out in comments to draft.	Noted and amended.
Annex C - suggest adding DAART, Rainbow and link to NI Direct website that has all support agencies.	Noted.

NEXUS

Comment

PPS Response

Question 1

Q1. At Chapter 2 (see 2.1 and 2.2), is there sufficient information in respect of the legal framework, and in particular the new provisions under the Domestic Abuse and Civil Proceedings Act (NI) 2021? - Please provide comment

Yes, however we are of the view that it would be useful for PPS to produce a "user-friendly" version for public use. The legal jargon, length, and depth of detail is useful for service providers and key stakeholders, but the current document is not an accessible nor digestible read for people who need to navigate the justice system, such as victims and their families and advocates. Our Client Forum has highlighted their struggles with engaging in the legal system, including a lack of clarity on the rule of law and under what provisions can they seek justice.

We have simplified the language used throughout the document and incorporated explanations of legal terms used at the relevant sections.

Question 2

Yes, however we are of the view that it would be useful for PPS to produce a "user-friendly" version for public use. The legal jargon, length, and depth of detail is useful for service providers and key stakeholders, but the current document is not an accessible nor digestible read for people who need to navigate the justice system, such as victims and their families and advocates. For example, creating a graphic that showcases the pathways that prosecutors can take in cases of domestic abuse offences can provide a visual representation that is easy to reference and explain the role of the prosecutor, the avenues for prosecuting cases, and what avenues are available when decisions are made in a case.

Please see above.

Question 3

We have several points that we would like to raise with this section: Firstly, there needs to be included in this document a link to any guidance document(s) on how victims should be informed of the process for decisions to prosecute that includes processes, contacts, and next steps and what to expect. If a document(s) like this does not exist, then we would strongly recommend formulating a document with support of key stakeholders and victim advocacy groups such as Assist NI, NSPCC, Victim Support, etc.

Further information on the role of VWCU has been included at section 1.4 of the Policy.

<p>Secondly, further information is needed with regards to decision to prosecute without witness and/or victim support and/or testimony. Specifically, victims and witnesses need to have confidence that their rights and safety have been balanced fairly and safely against public interest- Chapter 3 needs further discussion for the benefit of the victim(s) and/or witness(es).</p> <p>Finally, we would like to emphasize the need for clearer transparency and compassion for victims with regards to communicating decisions in their case. A letter or brief phone call is insufficient and does not give the victim time to process complex emotions as well as begin to plan for the future- whether that includes a court case, appeal, or a decision to not prosecute.</p>	<p>Further information on proceeding in cases where the victim has withdrawn has been included at section 3.13 of the Policy.</p> <p>Noted.</p>
<p>Question 4</p>	
<p>We would like to see further information on the rules around inappropriate cross-examination and questioning of a victim, particularly about their previous conduct or behaviour. In conjunction with this, we believe this document would benefit from including more information on the tests that judges apply to assess the appropriateness of such cross-examination questions and tactics. We also believe, much like in our answer to Question 3, that this Chapter should include user-friendly information and/or links for victims and their support networks to provide greater transparency on cross-examination and what is and is not appropriate. Victims, witnesses, and anyone else on the stand should have a clear insight into the tests being applied and the techniques being employed by the defence, as well as assurances that any tests or cross-examination will be appropriate, communicated properly, and consensually.</p>	<p>Noted.</p>
<p>Question 5</p>	
<p>A significant portion of victims who go through the legal system report feeling alienated by the courts, with little to no consistency in communication with victims about court proceedings, timelines and expectations, as well as a lack of understanding of the re-traumatizing experiences throughout the entire judicial processes that often results in "tertiary victimisation" defined in this research as "the trauma of waiting and feeling out of control induces further anxiety about court attendance which in turn impacts upon victims' ability to be heard" (see Dr Emma Forbes' piece titled Beyond Glass Walls: How Domestic Abuse Victims</p>	<p>Noted.</p>

Experience the Criminal Justice System¹). Similarly, a report by the Domestic Abuse Commissioner into the provision of court-related domestic abuse and sexual violence support across England and Wales found that 71% of survivors did not receive court support, and that 89% of respondents who received no support were not aware of support being available (see the Domestic Abuse Commissioner Report on Understanding Court Support for Victims of Domestic Abuse, 2021²). Nexus believes, and this research demonstrates, that guidance should be issued on how victims are kept up to date with any progress on their case, the support available from partner organisations and advocacy services, and the expectations of communication- for example, many of our clients report receiving phone calls with no warning and no consideration for the privacy and mental health of victims who are already experiencing trauma and a removal of their autonomy and control.

Question 6

Annex A is a useful section, however we believe the section needs expanding to better capture the additional barriers for individuals who face societal and statutory discrimination. Specifically, the section on LGBT relationships needs updated- both in name and in content- to reflect the entirety of the LGBTQIA+ community, including genderfluid, intersex, and non-binary individuals. Secondly, there needs to be an expansion to the section detailing any special measures for those with immigrant, refugee, and/or asylum seeker status who have no recourse to public funds. If no such measures exist, this should be considered as it is likely to deter reporting to statutory bodies. We would also like to highlight that there are extra barriers for individuals who are unhoused; individuals who suffer from drug addiction; the Traveller and Roma Community.

Finally, we are concerned with the wording and content of the section titled "Individuals involved in prostitution". It is widely recognised by sex worker organisations and advocacy groups that the word 'prostitution' is deeply problematic and heavily stigmatises individuals as immoral, dirty, and criminal (see ASWA Alliance; Stella; Scarlet Alliance for more details³). It is generally agreed that the term "sex work" or "sex worker(s)" is a more inclusive term that highlights the labour and economic implications of involvement in the sale of sexual services (see Benoit et. al. 2017⁴), including the myriad of occupational experiences of

Noted.

This reference has been removed.

<p>sex work, ranging from human trafficking, to sexual exploitation, to acting out of free choice.</p> <p>Further, in regards to this section on sex work- the entire section is catered to the perception that sex work is entirely non-consensual and victimising in and of itself without any consideration or advice for people who willingly enter into sex work by choice. In order for this section to be truly representative, we believe that there needs to be an effort made to include both the vulnerability and agency of sex work.</p>	<p>Noted.</p>
<p>Question 7</p>	
<p>As practitioners, we were able to understand the document despite its length and heavy legal jargon. However, this document makes a strong assumption that those who are reading it have a background in legal services. Therefore, the information is not easy to understand and does not serve to inform the public. We reiterate our stance from questions 1 and 2 where we advocate for an easy-read version to support independent public readership and address any accessibility needs.</p>	<p>We have simplified the language used throughout the document and incorporated explanations of legal terms used at the relevant sections.</p>
<p>Question 8</p>	
<p>Our view, as we have stated in previous answers, is that this policy document does not translate easily into a readable document for those unfamiliar with legal definitions and terminology.</p> <p>As well as this, the policy lacks reference to guidance on certain operational matters, such as how victims should be kept informed of outcomes and progress of their case, and the test(s) for appropriate cross examination.</p>	<p>See above.</p> <p>Noted.</p>
<p>Question 9</p>	
<p>We also believe that the content in Annex A needs to:</p> <ul style="list-style-type: none"> • Take a non-gendered approach unless the specific circumstance relates to violence against women and misogyny. For example, the section on manipulation of children can be undertaken by perpetrators regardless of gender. • Include reproductive coercive control as it presents as a key issue to the Domestic and Sexual Abuse Helpline, which is hosted by Nexus. It is important to note that, as in our previous suggestion, reproductive coercion needs to be included as gender non-specific, as those who 	<p>Noted.</p>

identify as male can also be victims of reproductive coercion

- Take into consideration the needs of non-verbal victims, including specialist consideration and support
- Special measures for those with various immigration statuses, as noted in our response to Question 6.

NI Centre for Racial Equality

Comment

PPS Response

Question 1

Yes, but with caveats. This section lays out the legal framework well, however there are things that could be clearer or that need further clarification.

Noted.

Clarity is urgently needed at 2.1.2 on sexual abuse. The phrasing used of a “situation when a person is forced (without consent) to participate in unwanted, unsafe or degrading sexual activity” and then “forced sex” is enormously problematic as it gives the impression that physical force must be used to meet the legal threshold for sexual abuse. Sexual abuse can be perpetrated by grooming, by deceit, by manipulation, while the person is asleep, and a myriad of other possibilities. While this is true in the law, the choice of language here implies that physical force is a necessity for a charge of sexual abuse. This should be urgently amended to “situation where a person experiences unwanted unsafe or degrading sexual activity without their consent” and “non-consensual sex” respectively.

This section has now been amended in Annex A and all references to ‘forced sex’ have been removed.

Ethnic minority women who could not speak English; their passport under husband/partner’s custody; nor has the courage to confront the public authorities, such as immigration officers, police officers, prosecutors, lawyers, judges, etc. Their vulnerability are exposed. If you are belonging to one of those vulnerable groups within ethnic minority such as Irish Travellers, Roma, Gypsy, etc., discrimination, mistreatment and ignore are commons and inevitable.

Noted.

Moreover, most of the ethnic minority women do not trust police officers in which PPS relies very much on evidence collected by police. Their case ends up before PPS nor gets support from PPS to pass the minimum threshold for prosecution.

Noted.

Question 2

Further detail would be beneficial at 2.3.16 on different courts and their powers in terms of sentencing. From the point of view of a victim or survivor, it is important that they understand why a case might be heard in one or another court, and this lack of clarity may lead to a perception that a

Further information on modes of trial is available in our Code for Prosecutors. A link to our Code has been included at section 3.2.1 of this policy.

decision has been made pre-trial as to the seriousness of the case or the impact of the harm done to the survivor.

A few sentences explaining the ways in which these decisions are made - or indeed referring the reader to a different policy paper where this is accounted for - would be valuable.

Expand on 2.3.17 regarding the defence to the domestic abuse offence, where the defendant can show that the “course of behaviour was reasonable”. In this section, two examples are used to illustrate where that defence may be used, but it would be helpful to include some examples of things that do not meet the threshold of “reasonable”. This is not just for the purposes of clarification and setting out clearly the purposes of this defence, it is also for the benefit of survivors who - due to the psychological nature of domestic abuse, may be convinced by their abuser that they are indeed not reasonable and that any abuse they experience may be intended as being “for their own good”. Any account of this defence therefore needs to acknowledge the common reality of abusers gaslighting their victim to believe their abuser is in fact their protector, and the extraordinary efforts that need to be made by survivors to overcome that conditioning and report the abuse.

We are unable to provide this information within this policy.

More detailed information on the operation of the Act including the defence has now been included in Chapter 2.

Question 3

Overall, this section accurately outlines the issues considered by prosecutors in domestic abuse cases. With that said, this is the stage of the process at which the most sensitive decisions are taken and the greatest risk of upsetting outcomes – at least from the PPS – arises. For this reason, it would be valuable to take extra care in the use of language and to ensure that some details are expanded to provide reassurance for victims. These are outlined below.

We recommend a rephrasing of harmful language at 3.1.6 with regard to offenders having “a lot to lose if prosecution leads to a permanent separation” and that a decision to prosecute may “result in some offenders embarking on conduct to maintain a relationship, or alternatively witness intimidation/harassment”. The issue here goes beyond the choice of words; the implication is that the prosecution may cause undue stress – as opposed to entirely deserved consequences – on offenders and that the outcomes of that

Noted.

This reference has been removed.

<p>stress may impact the victim. In reality, the victim is already harmed in the case of domestic abuse, regardless of PPS action, and the language must not excuse the offender's chosen actions regardless of what allegedly precipitated them. Similarly, any suggestion of victim blaming must be expunged, bearing in mind that prosecution most often flows from the victim's complaint, and if this is the case it is the responsibility of the justice system in all its parts to protect the victim from further harm, not to give succour to the offender.</p> <p>Clarity is recommended with regards to risk assessments at 3.3.4 – footnote 5 says that these “usually” take place and that they “should” address any risks around children. Mindful that these are police risk assessments and not the work of the PPS, it would be helpful to clarify how often these do not happen, under what circumstances they may not be done, and under what circumstances they will not include any risks around children.</p>	<p>Further information on risk assessments has been included in section 3.11.</p>
<p>3.3.5 covers special measures at courts, including screens and giving evidence via video link. The WPG takes the view that this should be standard practice when dealing with extremely traumatising and intimate harm such as domestic abuse. Given that it is not, at present, we would suggest that this section should require the prosecutor to offer this to the victim, rather than it being at the prosecutor's discretion. A prosecutor is not necessarily best placed to assess the needs of a survivor. We are mindful that this is covered in more detail in Chapter 5, and it would be helpful to signpost this fact at this point in the document.</p> <p>At 3.4.2 a helpful list of reasons a victim might withdraw their support for prosecution is given, but we feel it would benefit from the addition of a consideration of paramilitary intimidation. WRDA research and work by Women's Aid NI has demonstrated that this is a real phenomenon in the lives of women seeking to escape domestic abuse and, because of the nature of paramilitary control of entire communities, survivors may fear consequences from their abuser's associates even if their abuser is themselves imprisoned for a lengthy period of time.</p> <p>In the same list, the mention of a fear of coming face to face with one's abuser in court is another reason to make changes to the provision of special measures as standard, while the fear of their abuser's associates adds credence to</p>	<p>Noted.</p> <p>Noted.</p> <p>Noted.</p>

<p>arguments to limit the use of the public gallery in these cases.</p> <p>In terms of worrying language, it is brought into stark relief when, while listing factors that are useful when considering the public interest, this policy lists “the culpability of the defendant” at section 3.4.7. This is rather baffling at best, as their guilt or otherwise has yet to be decided by the court, so it seems to suggest that there are some kinds of alleged domestic abuse for which the abuser may not be responsible. We would urge immediate clarification of this point or removal of it entirely as in its current form it is very harmful and victim blaming language to use.</p> <p>Finally, Section 3.8 on Alternatives to Prosecution is overall unclear and unhelpful. WPG agrees with Women’s Aid NI on this; diversionary disposal is not appropriate in these cases because of the nature of the harm caused and the nature of the offence itself. While 3.8.1 says it is “rarely” appropriate, this is unhelpfully vague and something so sensitive and important needs to be spelled out clearly; when do the PPS consider it appropriate and why? Further questions are raised at 3.8.3 which implies that this course of action may be taken even when the complainant has expressed the desire that this not proceed. Urgent clarification is needed at least, and ideally a rethink of diversionary disposal for these crimes should be considered.</p>	<p>This reference is consistent with our Code for Prosecutors.</p> <p>Further information has been included at section 3.8.</p>
<p>Question 4</p>	
<p>Overall, this section is excellent, although there are a few instances where some clarification would be welcome.</p> <p>At 4.1.6 which covers inappropriate cross-examination, it would be welcome both to include the circumstances in which Judges may allow some questioning of the victim, so that they may be prepared to face it and understand why it is allowed. It would also be valuable to include (perhaps in a footnote) what a victim ought to do if they believe the prosecutor did not proactively object to a line of questioning that they believed was inappropriate or damaging to either their case or to their reputation or health.</p> <p>At 4.1.9, the Policy outlines that the acceptance of alternative pleas will be transparent except in the “most exceptional circumstances”. Any clarification as to what these circumstances would be welcome.</p>	<p>Noted with thanks.</p> <p>Information on our complaint procedure has been included at section 1.3.4.</p> <p>Further information has been included at section 4.3.</p>

<p>At 4.2.4 there is an outline of the mitigating pleas that the defendant can enter before sentencing. Given that this is a very contested issue, and the fact that the prosecutor is empowered to object only when it is disparaging to a prosecuting witness rather than to question its truthfulness or relevance, this is something we urge urgent reform on. The WPG believe that this kind of evidence should not be admitted in either domestic abuse cases or sexual offences cases, it is harmful to the ends of justice.</p>	<p>Noted.</p>
<p>Question 5</p>	
<p>Once again, this is an excellent chapter that provides a lot of useful information. We do have a number of requests for clarification, however.</p> <p>Firstly, at 5.1.1 we appeal again for special measures to be standardised. The PPS seems to recognise throughout this policy that this kind of crime can be extremely traumatising for survivors. Given this is the case and given that many cases take place with special measures in place, it would seem both simpler, faster, and more mindful of the duty of care to survivors to include these measures as standard, with an option for the victim to “opt-out” if they wish. With regards to the possibility of clearing the court of the public and mindful of the new approach to this issue in cases of serious sexual offences following the Gillen Review recommendations, we would recommend that a similar approach should be taken as standard in cases of domestic abuse.</p> <p>On a related issue, it is again mentioned at 5.1.3 that a judge makes a decision with regards to allowing or disallowing special measures. An outline of the information the judge uses to make such a decision would be helpful.</p> <p>Again, we recommend a change of approach to the Victim and Witness Care Unit (VWCU)’s approach to contacting survivors with key information on the progress of their case, any appeals or release of the offender and related matters. While this document does say that these matters “may” be notified to the victim, we recommend a standardised approach and a duty to notify victims and survivors, and to do so in a timely manner. It is not an area of the PPS’s work that has a great deal of positive feedback from survivors, with many saying they had to proactively make contact for updates on their case, and lived in fear of encountering the</p>	<p>Noted with thanks.</p> <p>Noted.</p> <p>Noted.</p> <p>Noted.</p>

offender before they were told about changes to bail conditions or adjusted release dates. Given the trauma and fear, as well as the palpable danger, arising from these cases we urge a review of how this service operates at present and every effort be made to improve the service.

Question 6

The WPG welcome the inclusion of this Annex and the consideration of issues relevant to more marginalised and impacted groups. We also welcome a recognition that a person’s intersecting identities mean that they experience many of these marginalising factors at once, and that this presents challenges for those survivors that the PPS need to be cognisant of in their work.

We do have some concerns about some of the content, however.

In the subsection on men, the following line is included: “Some women may use children within the relationship to manipulate a male victim, by for example threatening to take away contact rights.” The PPS will be aware that these contact arrangements are, when contested, the purview of the family courts and not a right that a woman may bestow or deny to a child’s father. In addition, concerns about child contact following family breakdown can apply equally to either partner in any relationship, and including it here, and with this specific phrasing, implies it is a unique concern of men in heterosexual relationships – something women, specifically, do to men, specifically.

Repeating this argument in this language strays close to repeating the debunked and dangerous ideas known as “parental alienation”, so often used against women who have left abusive relationships and so ignorant of a child’s rights and needs . This document is elsewhere extremely careful to stress that domestic abuse can happen to anyone and be perpetrated by anyone – even in this same section on men who experience abuse – and this sentence takes a markedly different approach. To suggest that “us(ing) children within a relationship to manipulate” is a gendered phenomenon is wrong and dangerous; it repeats misogynist propaganda and its acceptance by authorities like the PPS has a real impact on real families going through the family courts.

This sentence needs to be at least rephrased and ideally used verbatim in the section on women also, as follows:

Noted with thanks.

This reference has been removed.

This reference has been removed.

Noted and removed.

“Some parents may fear loss of contact with their children should they report domestic abuse, and their partner may threaten to withhold contact should the victim report to police.”

In the sub-section on same sex, bisexual and transgender (LGBT) relationships, we recommend expanding on the sentence that mentions “there may be threats of removal of children by Social Services” – this is not incorrect, but this is worth clarifying in terms that apply specifically to LGBT relationships but not to other kinds of relationships, for example the issues faced by a partner who may not be biologically related to a child but is their parent, such as through the use of IVF, in a way that would make this a particular challenge.

In the sub-section on older people, we urge a rephrasing of the sentence “where the victim is physically impaired or experiencing ill health, abuse may begin as a result of ‘care giver’ stress or anxiety”. This is a really worrying phrasing to use as it implies that abuse is something that happens almost as a natural consequence of stress, as opposed to something that an individual perpetrator holds full responsibility for. There have been real cases where this has formed the substance of the defendant’s case, and while the phenomenon of carers abusing the person they care for is very real the PPS must take care not to suggest that this is an unfortunate chain reaction set off by the victim’s illness or incapacity. The responsibility lies always with the perpetrator. See also our response to Q3 where we query the use of the term “the culpability of the offender” at section 3.4.7, as though some kinds of circumstances justify domestic abuse. It is a victim blaming trope and the PPS needs to amend this.

Please also see our response to Q2 above, with regards to section 2.3.17 on the defence of a “reasonable course of behaviour”. We believe that this provision disproportionately impacts on disabled survivors and elderly survivors.

In the sub-section on disability, we have no concerns about the content, but we would urge the PPS to ensure they include more detail, specifically on the disproportionate rates of domestic abuse experienced by disabled women and the particular barriers they face in reporting that abuse, which may include abuse from their caregivers. This is covered in detail in our research on VAWG outlined in

Noted.

Noted.

Noted.

Noted.

section 2. In research that showed 83% of respondents had been impacted by men’s violence against women, that figure rose to 92.4% for disabled women .

Please also see our response to Q2 above, with regards to section 2.3.17 on the defence of a “reasonable course of behaviour”. We believe that this provision disproportionately impacts on disabled survivors and elderly survivors.

In the sub-section on minority ethnic communities, we have no major concerns, but we note that it rightly mentions honour-based abuse and forced marriage. The WPG believes that these two items should be listed separately as they are separate (if often linked) forms of abuse.

We also argue that the phenomenon of honour-based abuse exists in communities that are not minority ethnic communities, most commonly carried out by paramilitary organisations. Our views on this are informed by Coumilah Manjoo, an expert on honour-based abuse who worked with us on our Feminist Recovery Plan . Our position, therefore, is that this belongs here, but that paramilitarism as a phenomenon needs to be considered and integrated into this plan, as it is such a prevalent force in Northern Ireland and in domestic abuse cases here.

In the sub-section on individuals involved in prostitution, the WPG urges the PPS to replace the word “prostitution” with “sex work”. This has two major arguments in its favour; it both reduces the stigma and the negative connotations associated with the word “prostitution”, and it encompasses other kinds of sex work, for example online sex work that is not technically ‘prostitution’ as defined here but it is increasing in prevalence and subject to the same kinds of concerns outlined here. It is also in line with the language used in the Gillen Review to describe this line of work.

In the sub-section on immigrants, refugees and asylum seekers, the circumstances in which a person wishes to settle permanently in the UK as a victim of domestic abuse are laid out. While the list of things that they need to prove is clearly laid out, it is not clear how the victim may prove that – a guide regarding the kinds of things that would qualify as proof would be valuable. If the standard of proof is a conviction from a UK court, that must be made clear. If they have fled another country because of domestic abuse and come to the UK to seek refuge, it ought to be clear what

Noted.

Noted.

Noted.

Noted and amended.

Noted.

<p>kind of proof they need to present to have their claim accepted. If the PPS or Home Office have policies relating to these matters, they ought to be linked, summarised or both.</p>	
<p>Question 7</p>	
<p>Overall, the language is clear and free from excessively technical jargon, although the PPS may consider a glossary with technical and legal terms to be included as an annex.</p> <p>Our main concerns in terms of clear and easy to understand information is that the Policy is occasionally too vague and non-committal when describing things, mentioning for example that a decision is for a judge to make but not clarifying on what grounds, or saying that something “may” be considered or done, but not on what grounds this may happen.</p> <p>In addition, we have concerns about use of victim blaming language on more than one occasion, however non-intentional, and the perpetuation of harmful stereotypes. We have outlined these in detail above, but they include the suggestion that a decision to prosecute may cause a perpetrator’s behaviour to escalate, rather than an unequivocal statement that they choose this course of action themselves, and the incredibly dangerous statement covered in response to Q6 where it is implied that women weaponise children against men to keep them in abusive relationships, fuelling dangerous myths around family courts and misogynist tropes about women.</p>	<p>The language used throughout the policy has been simplified and explanations of legal terms used have been included in the relevant sections.</p> <p>Noted.</p>
<p>Question 8</p>	
<p>Overall, yes, although as outlined above, we have concerns that could be amended before publication.</p> <p>These fall approximately into 3 categories:</p> <ol style="list-style-type: none"> 1. Clarifying with specific details 2. Avoiding victim blaming implications in phrasing and avoiding the repetition of harmful tropes 3. Policy changes to how things are done by the PPS, for example the provision of special measures as standard <p>It would be helpful to ensure that easily accessible resources, where key facts are presented in as straightforward language as possible, are available to local</p>	<p>Noted.</p> <p>Noted.</p>

<p>communities, so that people of all backgrounds can access them. This includes translations into main languages used in Northern Ireland, and outreach to relevant organisations, who can assist with the correct language and phrasing and support in outreach to communities.</p>	
<p>Question 9</p>	
<p>In addition to the above, and mentioned briefly at Q3 and Q6, please consider the relevance of the Northern Ireland context. The presence of active paramilitary organisations that continue to wield control and are justifiably feared in many communities presents a barrier, not just to the reporting of these crimes and the willingness of a complainant to continue to support a prosecution, but also to the machinations of justice itself. We realise it is outwith the scope of this document to address the scourge of paramilitarism but recognising it as an ever-present reality would be helpful as it is a significant factor in willingness to report and likelihood of withdrawal of support for prosecution.</p>	<p>Noted.</p>
<p>Conclusion</p>	
<p>To conclude, NICRE supports the introduction of measures to improve the prosecution of domestic abuse cases. However, there are several issues with the proposed PPS Policy on Prosecuting Cases of Domestic Abuse which we have identified and explained in this response, in particular Introduction of international human rights standard and the vulnerability of ethnic minority women who are survivors/victims of domestic violence. We pledge the PPS has a special training on ethnic minority women who are the survivors/victims. With their participation and co-designed the training programme for PPS. We would like to see these issues addressed before such a policy is implemented and are keen to engage further with the PPS on this work.</p>	<p>Noted.</p>

NSPCC

Comment

PPS Response

Question 3

While the family court is not the focus of this policy, there is overwhelming evidence of a link between domestic abuse and counter allegations of parental alienation that should be considered and reflected in this policy. The idea that parental alienation is a syndrome has been widely criticised and contradicted by a range of studies. Despite this, consideration was being given to parental alienation being recognised in the World Health Organisation (WHO) International Statistical Classification of Diseases (ICD-11). However, following a Collective Memo of Concern to the WHO about its potential inclusion in the revised ICD-11 from a group of, ‘352 Concerned Family Law Academics, Family Violence Experts, Family Violence Research Institutes, Child Development and Child Abuse Experts, Children’s Rights Networks and Associations and 764 concerned individuals’ (the collective memo) it has been removed from the ICD-11 classification list. In calling for its removal, the collective memo cited the research and experience of contributors which “...has demonstrated that parental alienation, which lacks credibility, is frequently employed to divert attention from domestic violence and abuse and other evidence relevant to the best interests of the child.”

Noted.

The Ministry of Justice (MoJ) review of private law children’s cases, “Assessing Risk of Harm to Children and Parents in Private Law Children Cases” raised concerns about the use of parental alienation as a form of ‘counter allegation’ to domestic abuse in private law proceedings. The report argues that parental alienation acts as a barrier to victims of abuse telling the court about their experiences. Accounts are highlighted in the review of cases where counter allegations of parental alienation resulted in allegations of domestic abuse being dismissed and residence transferred to the alleged abuser. The review report states that while the panel accepts that some resident parents may be opposed to their children’s contact with the non-resident parent, the strong association between claims of alienation and domestic abuse allegations, and the weight of the research evidence and submissions suggest that accusations of parental alienation are often used to threaten and blame victims of domestic abuse who are attempting to

Noted.

<p>protect their children and achieve safer contact arrangements.</p>	
<p>Question 5</p>	
<p>Section 5.2.3 references the NSPCC’s Young Witness Service (YWS) but no further information is included about the service. We recommend that information is included on the aim and work of the service. Through the YWS, the NSPCC workers and volunteers provide information and advice to children and young people – as well as their family, friends and supporters – before, during and after the trial. The YWS ensures full and appropriate attention is given by professionals and the criminal justice system to the needs of young witnesses, helps children complete their victim personal statements and makes referrals to other agencies for further support for the young witness. The service will also liaise with the PPS and PSNI during this time.</p>	<p>Further information on the role of the Young Witness Service and a link to the website has now been included at section 5.5.</p>
<p>In Section 5.2.5 the PPS recognises difficulties that some victims will find when providing evidence and may need further practical and emotional support. The section states that, “nobody known to the victim is allowed to be present during the recording of an interview, or in the live link room if they are also giving evidence during the trial,” but fails to recognise circumstances where the victim or witness is a child. We would recommend the inclusion of information in this policy on the process which is followed when consulting with child witnesses and the safeguards that will be put in place in such circumstances e.g. having an appropriate adult or family member present etc. This should be included in the policy and careful consideration given with regard to child victims or witnesses of domestic abuse.</p> <p>Section 5.2.7 notes the role of ASSIST NI as the advocacy services for victims. As we understand it ASSIST NI does not currently offer advocacy services to children and young people, despite the provision of an all-population service being one of the Minister for Justice’s key intentions when setting up this service. While we understand that the service is planning to provide a service to children in the future, as we understand it, currently children and young people do not receive an advocacy service. Political and stakeholder pressure for creation of an advocacy service is known to have been building since 2010. Responding to pressure, in 2013 the DOJ committed to, “develop advocacy services to support victims in accessing the services and information</p>	<p>Noted.</p> <p>We have confirmed with Assist NI that their service is currently available for children.</p>

that they need from the criminal justice system,” in its Victim and Witness Strategy; and subsequently in the year 2 Stopping Domestic and Sexual Violence and Abuse Strategy Action Plan – “Establish a framework for the introduction of a streamlined Advocacy Support Service.”

Paragraph 5.2.7 should be clarified to reflect the current situation with regard to the advocacy service provided by ASSIST NI for children and young people.

With regard to the information outlined in Section 5.3 on avoidable delay, the NSPCC welcomes the recognition by the PPS of the severity of the impact of delay in cases and how this can be extremely distressing for victims. It is recognised and well evidenced that delay can further contribute to stress and poor wellbeing in the pre-trial period. Child witnesses involved with the criminal justice system often experience symptoms of stress, and problems with sleeping and eating, depression, panic attacks and even self-harm. Reducing delay between reporting and trial is crucial to ensuring that children are kept safe from harm through expediently dealing with cases as well as ensuring that children are enabled to give the most complete testimony possible.

Please see above.

Noted.

Question 6

Annex A provides an overview of issues relevant to particular groups but fails to include issues relating to children and young people as victims in their own right. While we welcome the fact that there is a section outlining specific information for teenagers in abusive peer relationships and teenagers and young people in care homes, there is no acknowledgement of children and young people as victims or witnesses in domestic abuse cases.

It is understood from Section 2.3.15 that where a perpetrator has parental responsibility for a child under 16 years of age, abusive behaviour in these relationships will be covered by the child cruelty offence under section 20 of the Children and Young Person Act (Northern Ireland) 1968. However, there is no recognition of children and young people as victims where the perpetrator is another member of the family. We recommend that the PPS reviews this section and includes information on how cases will proceed where a child or young person is the victim of Domestic Abuse perpetrated by a wider family member.

A section on children and young people has been added at 1.6.

Further information on the child aggravators has been included in Chapter 2.

Question 8

The policy lacks specific reference to children and how they will be supported through the prosecutorial process, as a victim or witness. Although the policy refers to children when they are used by a perpetrator to inflict abuse, or if they are witness to the abuse, there is no reference to how a child will be assisted through what can be a very daunting, long and often traumatic experience. The policy currently reads that children will be treated in the same manner as adults. There does not appear to be any reference to adjustments that will be made or considerations which will be taken into account which reflect the particular vulnerabilities of children.

Annex B of the policy covers factors considered to either support or not support the decision to issue a witness summons. Point (v) deals with the consideration whether the incident was witnessed, seen or heard by children. This does not appear to be in line with the approach taken regarding the child aggravator in Article 9 of The Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021 or the recent amendment to the definition of harm under the Children (Northern Ireland) Order 1995 through the Adoption and Children Act (Northern Ireland) 2022. In both of these pieces of legislation, in recognition of the damaging impact on a child of living in a home where domestic abuse is taking place, there is no requirement for a child to have an awareness or understanding of the abuse.

A section on children and young people has been included at 1.6.

Noted and removed.

The impact of abuse on children is profound and extremely corrosive. Children who experience domestic abuse have been shown to have an increased risk of immediate harm, with greater risk of physical abuse occurring, or being killed as a result of a domestic abuse incident. They can pick up on a parent's distress or be severely impacted upon by living in a home where its inhabitants live in fear. The psychological impact of living with the day-to-day reality of abuse can also have significant detrimental impacts on a child's sense of self, safety and wellbeing. One study estimates that children who live in a household with domestic abuse are three times more likely than other children to have a conduct disorder.

Children living in a household where domestic abuse is taking place can also be detrimentally impacted upon by their parent's compromised capacity for parenting. This

A section on children and young people has been included at 1.6.

impacts on children, including very young children, and threatens the attachment relationship with their parents. Children are at greater risk of emotional harm and neglect due to living in homes where domestic abuse takes place and many experience physical and mental health difficulties, and detrimental impacts on development and the ability to learn. One study found that over half of children (52%) had developed behavioural problems, over a third (39%) had difficulties adjusting at school and nearly two thirds (60%) felt responsible or to blame for negative events. Longer term, children also face increased risks of interpersonal difficulties in future relationships and friendships, risks of experiencing sexual abuse, sexual exploitation and other forms of violence and abuse in later life.

Domestic abuse also impacts significantly on family dynamics. Children may begin to feel the need to parent their caregiver or take over the parenting role for siblings. Alternatively, the abusive parent or carer may seek to undermine the relationship between a child and the parent being abused (usually the mother). This may be done through being openly hostile or violent towards the mother in front of the children 'and encouraging them [the children] to form negative opinions of their mother'. This can result in some children feeling resentment towards the non-abusive parent or believing that the harmful behaviour caused by the abusive parent is a 'positive and desirable' way to behave. These tactics can also mean that the non-abusive parents can struggle to emotionally connect and maintain a positive relationship with their children. Given the serious impact living with domestic abuse has on children we would like to see this section of the policy being amended to reflect that children do not need to have witnessed, seen or heard the domestic abuse for this to be a consideration in deciding whether to issue a witness summons.

We also believe that explicit reference should be made to the obligations on the PPS to work in partnership to deliver improved outcomes for child victims as under the Children's Services Co-operation Act (Northern Ireland) 2015. Effective co-operation is a precursor to improved outcomes for child victims and witnesses. We would like to see a clear and explicit commitment to compliance with the statutory obligations in the Act in this policy. Firstly, by referencing it in the final policy document and through the creation of a

Noted.

Noted.

<p>monitoring tool to identify where co-operation is working to improve the wellbeing of child victims of domestic abuse, where it is lacking and where there are further opportunities for co-operation so that improvements can be made. Progress should be tracked and then reported on as required under section 5(3)(c) and 5(4)(a) of the Act.</p>	
<p>Question 9</p>	
<p>Overall, the policy needs to have a clearer focus on children and young people. A 2020 NSPCC briefing examined key issues and learning for improved practice around domestic abuse. The paper was based on case reviews published since 2019 where children experienced domestic abuse. The published case reviews suggested that in cases of domestic abuse, details of the parents' relationship can overshadow that of their children. The review suggested that professionals sometimes struggle to focus on the children when they are working with families where there is domestic abuse. We understand that the nature of domestic abuse is complex, but it is important to ensure that the impact on children and young people is fully recognised and addressed in policies, strategies and in practice in this area.</p>	<p>Noted.</p>
<p>Conclusion</p>	
<p>The NSPCC is grateful for the opportunity to respond to the consultation on the Public Prosecution Service Policy for Prosecuting Cases of Domestic Abuse. Please do not hesitate to contact us if further clarification or any additional information is required on any points noted within this submission.</p>	<p>Noted with thanks.</p>

Probation Board for Northern Ireland

Comment	PPS Response
<p>PBNI welcomes this guidance as it believes it will enhance the likelihood of holding perpetrators of domestic abuse to account. PBNI recognises the importance of keeping victims fully informed and supported as much as possible to ensure there is an increase in successful prosecutions.</p>	<p>Noted with thanks.</p>
<p>As highlighted in a recent Domestic Homicide Review, it is important for the Public Prosecution Service to ensure that it avoids any perception of victim blaming. The sections in the guidance on understanding the impact and dynamics of domestic abuse and challenging the misconceptions, myths and stereotypes surrounding domestic abuse will assist in ensuring prosecutors avoid unconscious bias in their decision-making.</p>	<p>Noted.</p>
<p>PBNI also appreciates the impact that unnecessary delay in progressing domestic abuse cases through the criminal justice system can have on victims. PBNI is therefore committed to ensuring that it does not contribute to any avoidable delay in the preparation of pre-sentence reports for such cases.</p>	<p>Noted.</p>

Safeguarding Board for Northern Ireland

Comment

PPS Response

Introduction

The purpose of the PPS in taking prosecutorial decision in respect to cases arising from domestic abuse is clearly identified.

Noted with thanks.

The policy acknowledges that victims and witnesses should be given support, information and services they need to minimize the disruption and upset caused to them, while enabling them to give the best evidence.

Noted with thanks.

It is important to acknowledge that once a complaint is made or indeed the victim if the victim has left the relationship, the significant increase in risk for the victim's safety as the perpetrator is aware of their loss of control within the relationship.

Further information has been included under the section titled 'Women' within Annex A.

There must be a recognition of the statutory responsibility of agencies to ensure children and young people are safeguarded and protected, specifically the role of statutory agencies in identifying ways to enhance the early intervention, prevention, investigation and prosecution of cases involving domestic abuse.

Further information on the role PPS plays in safeguarding has been included at section 1.6.

The policy identifies the best practice standard a victim can expect with respect to supporting a prosecution, identification of access to the complaints procedure, should this standard not be achieved, should be outlined.

Further information on the PPS complaint procedure has been included at section 1.3.4.

The policy lacks specific reference to children and young people and the pathways of support they will receive throughout the prosecutorial process either as a victim or witness.

A section on children and young people has now been included at 1.6 and further information on the impact domestic abuse on young people is set out in Annex A.

It is important to acknowledge the frightening and overwhelming experience this can be for

Section 5 has also been updated to include more information on the support available to young people and a link to NSPCC provided.

<p>a child or young person, as well as the impact of trauma as a result of their experience of domestic abuse.</p>	
<p>Question 1</p>	
<p>Whilst there is clear description of child aggravator recognising that children may not be aware that they are victims of domestic abuse, the policy should clearly identify that children are not complicit within the cycle of abuse, demonstrating that children can be used in the abuse rather than used to abuse someone else. This will help to clarify that a child remains a victim of domestic abuse, recognising the impact of trauma for a child affected by domestic abuse.</p>	<p>A section on children and young people has been included at 1.6.</p> <p>Further information on child aggravators has now been included in Chapter 2.</p>
<p>The policy states that child aggravators are applied at the discretion of the prosecutor, further explanation is needed to detail rationale when these aggravators are not applied to ensure clarity in the decision-making process.</p>	<p>Further information on the operation of child aggravators has been included at paragraph 2.2.29.</p>
<p>Question 2</p>	
<p>There is clear insight into understanding the impact and dynamics of domestic abuse however there must be due consideration given to patterns of behaviour relating to abuse that the victim may experience, as many victims may not recognise they are living within an abusive relationship.</p>	<p>Further information on the domestic abuse offence and the course of abusive behaviour has been included in Chapter 2.</p>
<p>The PPS must proactively address the protection as well as the security and safety with respect to child victims, which underlines the importance and statutory responsibility to protect children from experiencing domestic abuse.</p> <p>Engagement with children’s safeguarding services, in particular children’s social services, which will enable the PPS to identify pathways for protection and safety of both adult and child victims of domestic abuse.</p>	<p>Further information on the role of the PPS in safeguarding has been included at section 1.6.</p>

Question 5	
While the family court is not the focus of this policy, there is overwhelming evidence of a link between domestic abuse and counter allegations of 'parental alienation' that should be considered and reflected in this policy. The Ministry of Justice (MoJ) review of private law children's cases raised concerns about the use of 'parental alienation' as a form of 'counter allegation' to domestic abuse in private law proceedings. The report argues that 'parental alienation' acts as a barrier to victims of abuse telling the court about their experiences. Accounts are highlighted in the review of cases where counter allegations of 'parental alienation' resulted in allegations of domestic abuse being dismissed and residence transferred to the alleged abuser.	Noted.
The Criminal Evidence (Northern Ireland) Order 1999 outlines special measures for vulnerable witnesses, all children under 18 years old are deemed vulnerable, child victims and witness will automatically be entitled to special measures. Section 3.3.5 highlights the use of special measures in certain circumstances, however it should also note the above difference when children are involved.	Further information on Special Measures for children has been included at section 5.1.
Further information should be included identifying the aim and work of the NSPCC's Young Witness Service. Section 5.2.7 notes the role of ASSIST NI as the advocacy services for victims, clarification is needed to establish the role regarding the service in providing advocacy support to young victims aged 16 years and above.	Further information on these services with links to their websites has been included at section 5.
Due consideration should be given to the role of the Health and Social Care Trusts and their statutory function to protect children and their families.	Noted.
PPS recognises difficulties that some victims will find when providing evidence and may need further practical and emotional support.	Noted and removed.

<p>The section states that, “nobody known to the victim is allowed to be present during the recording of an interview, or in the live link room if they are also giving evidence during the trial” but fails to recognise circumstances where the victim or witness is a child.</p>	
<p>The SBNI would expect to see information contained in the policy on the process which is followed when consulting with child witnesses and the safeguards that will be put in place in such circumstances e.g. having an appropriate adult or family member present etc. This should be included in the policy and careful consideration given with regard to child victims or witnesses of domestic abuse.</p>	<p>Noted.</p>
<p>With regards to the information outlined in Section 5.3 on avoidable delay, the SBNI welcomes the recognition by the PPS of the severity of the impact of delay in cases and that it can be extremely distressing for victims. Reducing delay between reporting and trial is crucial to ensuring that children are enabled to give the most complete testimony possible. It is recognised and well evidenced that delay contributes to stress and poor wellbeing in the pre-trial period.</p>	<p>Noted.</p>
<p>Question 6</p>	
<p>Although there is a section outlining specific details for teenagers in abusive peer relationships, there is no acknowledgement of children and young people as victims or witnesses to domestic abuse. It is understood from Section 2.3.15 that where a perpetrator has parental responsibility for a child under 16 years of age, abusive behaviour in these relationships will be covered by the child cruelty offence under section 20 of the Children and Young Person Act (Northern Ireland) 1968. However, there is no recognition of children and young people as victims where the perpetrator is another member of the family or indeed children with disability and the increased vulnerability to abuse. Children must be seen as ‘victims’ of</p>	<p>A section on children and young people has been added at 1.6.</p> <p>Further information on the child aggravators has also been included at Chapter 2.</p>

<p>domestic abuse, with a clear understanding of the impact of adverse childhood experiences and trauma, to develop a clear understanding of language of communication as being interpreted through behaviour which may be violent in nature.</p>	
<p>An example given under the section titled Men referring to '<i>women using children within the relationship to manipulate a male victim, by for example threatening to take away contact rights</i>' reinforces the previous commentary regarding 'parental alienation' and should therefore be avoided.</p>	<p>We have removed this reference.</p>
<p>Young people who are 'looked after' have often experienced breakdown and rejection from multiple relationships especially those of their biological parents. Abuse and exploitation occurs as a result of; someone actively abusing / exploiting, alongside inadequate protective structures to disrupt the perpetrators behaviour. Identification of young people who are 'looked after' referenced as a specific grouping is potentially reinforcing of prejudicial stereotypes which may result in unintentional victim blaming language.</p>	<p>Noted. This section has been amended.</p>

South Eastern Domestic & Sexual Violence Partnership

Comment	PPS Response
Question 1	
<p>It is right and proper prosecutors must always act in the interests of justice and not solely for the purpose of obtaining a conviction. Some victims want the abuse to stop and do not want to pursue a prosecution however attaining a prosecution is sometimes the only way to disrupt an offender.</p> <p>The policy acknowledges that victims and witnesses should be given the support, information and services they need to minimise the disruption and upset caused to them, while enabling them to give the best possible evidence (irrespective of their Section 75 status).</p>	<p>Noted with thanks.</p>
<p>The policy sets out the gold standard of what a victim can expect in terms of supporting a prosecution. Would be useful to advise how to access complaints procedure should the promised standard not be achieved.</p>	<p>Further information on the complaints procedure has been included at paragraph 1.3.4.</p>
<p>The phrase “forced sex” is implicit of the requirement for physical strength to be used however this is not accurate and we would suggest referencing “non-consensual sexual activity”.</p>	<p>We have removed references to ‘forced sex’ and provided further information in the section on Sexual Abuse within Annex A.</p>
Question 2	
<p>2.3.12 clear description of child aggravator - recognises that children may not be aware that they are victims of domestic abuse, however it states where “they have been used to abuse someone else” suggest this is reworded to note where they have been used in the abuse to remove blame and reinforce that children are victims. We need to recognise it is incumbent on us to fulfil our statutory obligations in terms of protecting and safeguarding children impacted by domestic abuse.</p>	<p>Noted.</p>

Question 3	
Good insight into understanding the impact and dynamics of domestic abuse but need to consider patterns of behaviour not individual incidents.	Noted.
3.1.3 It is only after suffering – would change “suffering” to “experiencing” as many victims do not recognise they are living in an abusive relationship. Good prosecutors recognise that victims and/or children or other family members are at increased risk by coming forward when making a complaint and therefore the PPS must proactively address the security and safety of the victim and others. The safety of the victim and their children should be a prime consideration (3.4.4) How will this be done? Would suggest active engagement with children’s safeguarding services for an assessment? Would also recommend should be replaced with “will”.	Further information on risk assessments has been included at section 3.11.
3.4.7 before or after the attack(s)/abuse. Need to move away from focussing on an individual incident as this minimises impact of coercive control and patterns of behaviour.	Noted.
3.5.4 don’t agree that issuing a summons can be viewed as assisting attendance and has the potential to re-traumatise a victim and ultimately be counterproductive in achieving a prosecution. It is victim-blaming and masks the real reasons why the victim has sought to disengage from prosecution process. Also need to consider engaging advocacy services for the victims before compelling them to Court.	Noted.
3.6.4 – In what circumstances would the PPS try to accommodate a meeting but it might not always be possible? Need to be victim focussed.	Noted.
Question 5	
5.1.3 – The Judge makes the decision about whether special measures will be allowed.	The information contained in the Policy is in keeping with the legislation.

<p>This contradicts that offences involving domestic abuse are automatically presumed to be eligible for special measures. On what basis does the Judge make this call – is he/she afforded any specialist medical or psychological training before deciding this?</p>	
<p>Don't like the layout and content of Annex A. Would recommend it is re-worked. By listing specific groups run the risk of leaving a group out. Also the abuse attributed to the respective groups is not mutually exclusive to that group.</p>	<p>Noted.</p>
<p>Under the heading Men for e.g. references – “some women may use children within the relationship to manipulate a male victim, by for example threatening to take away contact rights”. This smacks of the parental alienation debacle and needs to be avoided. Research has shown that parental alienation acts as a barrier to victims of abuse telling the court about their experiences and have evidenced where counter allegations of parental alienation resulted in allegations being dismissed and residence transferred to the alleged abuser.</p>	<p>Noted and amended within Annex B.</p>
<p>5.2.7 Clarification of ASSIST NI role re young victims 16 years +. Would want to see role of NIGALA highlighted with reference to safeguarding children and young people subject of court proceedings.</p>	<p>Noted.</p>
<p>5.2.8 would like to see role of PPANI identified.</p>	<p>Noted.</p>
<p>Question 6</p>	
<p>Presents children as perpetrators of violence rather than trauma informed perspective recognising the impact of ACES Do not believe that young people in care homes should be referenced as a distinct grouping – think this is prejudicial and verging on victim blaming.</p> <p>*Vulnerability is not the reason abuse and exploitation occurs – it is only relevant because there is someone willing to abuse or</p>	<p>Noted.</p>

exploit alongside inadequate protective structures to disrupt their behaviour.	
<i>Teenagers and young people in care Homes</i> <i>Para 2</i> Does this relate to abuser threatening Social Services may remove children? Comment appears to be attributed to Social Services? Para 2 - "or there may be threats of removal of children by Social Services" – badly worded – needs clarified.	Noted and removed.
<i>Older people</i> Some older people may be vulnerable to domestic abuse as a result of their mental or physical frailty – again victim blaming language. Responsibility should fall squarely on abuser. Where the victim is physically impaired ---- stress or anxiety. Needs reworded as it is excusing DV. No reference throughout document re impact of shame in preventing victims coming forward.	Noted.
<i>Disability</i> No reference to children with disability and the increased vulnerability to abuse. Also children may get hurt in seeking to defend the parent being abused.	Noted.
<i>BAME</i> Representation required re the traveller community. BAME can also be subjected to more mainstream abusive behaviours.	Noted.
Consideration of complainant's injuries (including psychological) Serious injuries High – who decides this? - particularly re psychological harm endured and there are no physical injuries.	Noted.
Question 9	
Para 1.1.5 – uses the term "without avoidable delay". We would recommend that the policy	Noted.

is more explicit in outlining timescales and provide victims with trajectories.	
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The Rainbow Project

Comment

PPS Response

Introduction

LGBTQIA+ Victims and Survivors experience similar forms of domestic abuse, harassment and stalking as heterosexual cisgender people. However, there are specific barriers that face when trying to access support and the silence that exists around our experiences of domestic abuse both in and outside of our community.

Noted.

Throughout the Rainbow Project's nearly 30-year history, we have conducted significant pieces of research into the health and well-being inequalities experienced by LGBTQIA+ people in Northern Ireland. We consult with the wider LGBTQIA+ Community and help to establish dedicated services to support their needs. Our research has identified two key overarching themes which contribute to negative outcomes for LGBTQIA+ people; isolation and invisibility.

Noted.

Domestic abuse is related to any behaviour between two people that involves acts of physical and sexual violence, emotional and psychological abuse, and controlling behaviour. Our research in 2021 has shown the existence of domestic and sexual abuse among LGBTQIA+, and its incidence is comparable to or higher than that among heterosexual couples.

Noted.

Question 1

We would welcome further clarification and recognition of the specific forms of domestic abuse used in LGBTQIA relationships. For example; an outing of an LGBTQIA+ person includes intimidation and threats of disclosure of sexual orientation, gender identity or HIV Status to family, friends, work colleagues, community and others. An abuser undermines their sense of sexual and/or gender identity/self-expression, making a person feel

Further information has been included within Annex B.

<p>guilty or ashamed or even questioning the validity of their sexual orientation and gender identity. Telling the victim that reporting the abuse would be to tarnish the LGBTQIA+ community and the abuser using the internalized fear or perceived fear of having to come out and face possible homophobia / biphobia / transphobia from mainstream services.</p>	
<p>Sexual Abuse – “situation when a person is forced (without consent)” We would recommend that we amend the language here as it would suggest that physical force is required to meet a legal threshold. We know that this is not the case as sexual abuse is often perpetrated by a person using many different forms to coerce or manipulate a victim. Also, sexual abuse comes in a range not just “forced sex” - sexual abuse can include other acts such as non-consensual exposure, penetration or touching of body parts.</p>	<p>We have removed references to ‘forced sex’ and provided further information in the section on Sexual Abuse within Annex A.</p>
<p>We are seeing a growth in the use of online and technological abuse is where abusers exploit the use of technology, social media or other online means to control or coerce LGBTQIA+ victims. Over 25% of respondents (both Male and Female) and over 40% of trans individuals have experienced any online harassment through social media or an app such as Grindr. This seems to be a growing issue and we are being contacted regularly by victims of image-based abuse. In these incidents, attempts are made to blackmail or coerce the person into further action, which can be further sexual activity. According to our research over 1/3 of those who have experienced domestic abuse have felt pressured to have sex or to perform sexual acts when they didn't want to.</p>	<p>Noted.</p>
<p>Question 2</p>	
<p>We welcome the recognition with regards to the familial circumstances and the expansion of connections to include those from same-sex</p>	<p>Noted with thanks.</p>

<p>relationships and various make-ups of families in society.</p> <p>Additionally we welcome the inclusion of 2.3.7.</p>	
<p>Question 3</p>	
<p>Clients from the LGBTQIA+ community are fearful of reporting incidents of Domestic or Sexual violence with over 68% never reporting incidents to anyone and just under 10% of individuals not open about sexual orientation or gender identity worried others would find this out if they reported or if it went to court.</p> <p>Multiple factors deterred them from reporting incidents in the first place including being worried that the police would discriminate against them because of their LGBT+ identity, fearful that PSNI and other support services would neither recognise them as victims or that their experiences would not be taken seriously and or police would not be able to do anything about it.</p>	<p>Noted.</p>
<p>We would like to see further development in training for both PPS and the Judiciary, as a negative perception of criminal justice within the LGBTQIA+ leads to significantly high levels of under-reporting (concerning domestic or sexual violence. This then creates invisibility and therefore their needs not being recognized or considered.</p>	<p>Noted.</p>
<p>We welcome the section around special measures, and we would urge PPS to consider this to become standard practice when dealing with hate crimes or domestic or sexual violence cases involving victims from the LGBTQIA community.</p>	<p>Work is ongoing internally within PPS to improve our delivery in respect of Special Measures.</p>
<p>Question 4</p>	
<p>We are content with this section.</p>	<p>Noted with thanks</p>
<p>Question 5</p>	
<p>This is a useful chapter and provides a lot of information. Again, we would urge PPS to consider special measures to become</p>	<p>Noted.</p>

<p>standard practice (opt-in or opt-out) when dealing with cases involving victims from the LGBTQIA community.</p>	
<p>We would welcome a change to approach in the Victim and Witness Care Unit and this would include working with key advocacy services designed to support victims. For example, The Rainbow Project alongside consortium partners provides the Hate Crime Advocacy Service. Our role is to support clients as they report incidents of homophobic or transphobic hate crimes. We are reliant on a client disclosure to inform us about PPS decisions, we are often fielding questions and managing expectations around timeframes and why decisions have been made.</p>	<p>Noted.</p>
<p>Question 6</p>	
<p>Annex - Individuals involved in prostitution We recommend the removal of this phrase and replacing it with “Sex Work”. The Rainbow Project has been providing one-to-one support for sex workers including, advocacy with reporting crimes and issues around discrimination when accessing services. Replacing this word reduces the stigma and negative connotations associated with the word Prostitution. Sex work includes the range of work undertaken by individuals which can include online sex work such as video, cyber and only fans.</p>	<p>Noted and removed.</p>
<p>Immigrants, refugees and asylum seekers who experience domestic abuse. Abusers are using the hostile Home Office experience, to keep LGBTQIA+ victims in a situation by using immigration law to threaten a person with deportation to the country of origin, which might be unsafe due to e.g. anti-gay legislation. In domestic abuse situation, an abuser may threaten to inform the home office that the victim is faking their claim around sexual orientation or gender identity.</p>	<p>Noted.</p>

Question 7	
Yes, we believe that the information is clear and easy to understand. A suggestion is to include some examples of how and why particular decisions may be made by PPS – to highlight again that some cases may be heard in either Crown or Magistrates' etc.	Noted.
Question 8	
Yes, we would suggest that PPS publish an easy-read document to allow those who are not professionals working in the field to help explain decisions and what the PPS can or cannot do in these cases. In this document, it can highlight the pathway from the incident reported, the decision made by PPS and follow on & ongoing support from key organisations.	Provision of more accessible information is currently being considered, for example by way of supplementary guidance, videos / animations etc.
Question 9	
We are keen to expand our work with PPS and have welcomed opportunities to train prosecutors around the specific forms and experiences of domestic abuse for the LGBTQIA+ Community and would be happy to engage further on any issues raised in this response.	Noted with thanks.

Victim Support NI

Comment

PPS Response

Question 1

Chapter 2 contains good explanations of what domestic abuse and coercive control are. In particular, the examples of coercive controlling behaviour listed at 2.2.4 are very useful. At 2.2.5, a link to the DOJ's Statutory Guidance should be added.

Noted with thanks.

A link to the statutory guidance issued by the Department of Justice has been added at 2.3.4.

Question 2

It would be helpful if at 2.3.5 the document provided clarity on what would and would not be considered a course of conduct. For example, many of the behaviours and actions that cumulatively amount to coercive control may be in and of themselves relatively minor. They may not, for instance, have been reported to police. It would be useful if the document could clarify how the PPS would assess such a situation and whether the example of 'two incidents a year apart' would include cases where two crimes are reported a year apart but coercive controlling behaviour has been ongoing according to victims and witnesses. In the alternative, if these were not deemed to be a course of conduct would they be assessed as individual crimes, for instance under the Threatening and Abusive Behaviour offence within the Protection from Stalking Act.

Further information on the operation of the Act has been included at Chapter 2.

At 2.3.17 when discussing the defence of reasonableness, we recommend that more clarity is given to how this is assessed. For instance, does a medical condition have to be diagnosed by a psychiatrist for the defence to be considered? How would the PPS regard cases in which assessments traditionally don't occur until a certain age or are under-diagnosed?

Noted.

At 2.4.4, more explanation may be required to make this comprehensible for the general public, who may not fully grasp the difference

Further information on the operation of the Act has been included at Chapter 2.

<p>between a domestic abuse aggravator and the offence of domestic abuse.</p>	
<p>Question 3</p>	
<p>The explanation of the dynamics of domestic abuse and complexities of determining who is a victim is very helpful.</p>	<p>Noted with thanks.</p>
<p>We welcome the commitment for prosecutors to “proactively address the security and safety of the victim” but seek more detail on how this will be done effectively.</p>	<p>Noted.</p>
<p>We welcome the instruction within 3.1.5 for prosecutors to be “sensitive to the changing risk to the complainant, as well as changing safety requirements”. This section captures well the shifting dynamics of abuse after a victim leaves the relationship. We would welcome some detail as to how such assessment and how prosecutors would act in the event of changing safety requirements.</p>	<p>Noted.</p>
<p>It would be useful for the policy to outline in this section how further reports of stalking, harassment and other abusive behaviours might affect an initial report of domestic abuse in relation to the new law. For instance, if a victim reports an episode of abuse, and a file is sent to PPS, and then further ongoing abuse occurs post-reporting and after a victim leaves, how will the PPS handle this case? A more detailed explanation of any holistic approach whereby evidence continues to be gathered, and decision-making is flexible and reactive to new information would be welcome here.</p>	<p>Noted.</p>
<p>At 3.1.7, the policy outlines some of the circumstances in which victims may be reluctant to report. It would be useful if this was followed by guidance on how the PPS and Prosecutors can do their part to help victims report, give them confidence in the system and know they will feel safe if they report. Some instruction would be useful on how an empathetic and sensitive approach from</p>	<p>Noted.</p>

<p>prosecutors can help reassure victims in these situations and encourage them to report or not withdraw from the justice process.</p>	
<p>We also recommend that the document recognises that parallel proceedings may be taking place in family courts, and that these can have an impact on how the victim might interact with criminal proceedings and might impact on how safe they are. We recommend that the document includes instruction for prosecutors to make themselves aware of any proceedings happening in family or civil courts that may be relevant to a domestic abuse-related criminal case.</p>	<p>Noted.</p>
<p>Under the section of myths and stereotypes, we welcome the list of myths outlined at 3.2.2. However, in our experience supporting victims we witness some of these myths continuing to be influential in the justice system, and we would like to see an explicit commitment in this policy to challenge those myths when raised. We would like to see more explicit reassurance in the policy that prosecutors will be given training that specifically addresses how to challenge rape myths and victim blaming stereotypes when they arise.</p>	<p>Noted.</p>
<p>The instructions for prosecutors about cultural sensitivity and understanding at 3.2.4-6 is very welcome.</p>	<p>Noted with thanks.</p>
<p>In relation to prosecutors making decisions in light of a retraction or withdrawal by victims, we feel that this is a helpful outline. The list of reasons why a victim may withdraw is useful, though we recommend the addition of 'Trauma caused by the justice system' as a reason why many vulnerable and traumatised victims withdraw from the process.</p>	<p>Noted and point now included.</p>
<p>It may also be useful to include within the policy instruction for prosecutors on how they might best work with victims, police and support agencies to mitigate the risk of a victim withdrawing in the first place. Not only is such</p>	<p>Noted.</p>

<p>an approach trauma-informed, it is also beneficial to prosecutors to help achieve best evidence in a case.</p>	
<p>Under 3.3.5, please include reference to Remote Evidence Centres as an option for special measures for victims of domestic abuse.</p>	<p>Noted – reference now included at section 5.2.</p>
<p>Regarding the issuing of summons, the document lays out well the care that should be taken when considering this step. We would point out that anecdotally we have observed different practice whereby summons are issued to pressure a victim into not withdrawing, then not followed through when victims refuse to engage. This in our VSNI Response to PPS Policy for Prosecuting cases of Domestic Abuse Page 4 of 15 view is not an appropriate or effective tactic to encourage victim participation in the justice system. It may also be viewed by victims as a controlling or manipulative tactic and may be detrimental to their recovery from abuse. A more effective and dignified approach would be to engage from the earliest possible stage with victims in a gentle and compassionate manner, building a victim’s sense of safety and confidence in the justice process.</p>	<p>Noted.</p>
<p>Regarding decisions not to prosecute (3.6), the statement that decisions not to prosecute “does not mean that the Prosecutor does not believe the victim” is invaluable.</p>	<p>Noted with thanks.</p>
<p>The communication of decisions not to prosecute with victims of domestic abuse in a timely, sensitive and clear manner continues to be an issue for victims. They have told us there remain issues with the manner and language in which letters are written, and delay continues to thwart this stage of the process. The issuing of these decisions lies wholly with the PPS but given the recognised vulnerability of domestic abuse victims and the existence of both SOLAs and the ASSIST service, where a victim is engaged with these</p>	<p>Noted.</p>

<p>services, a commitment to inform and include the support staff from these services that a decision letter is being issued can enable those support staff to prepare victims for the news.</p>	
<p>Question 4</p>	
<p>At 4.1 where it states “we have measures in place to make this a more comfortable process”, a reference or link should be added to clarify what this means. This could be as simple as referring the reader to Chapter 5 on Special Measures and information elsewhere in the document about the Victim Support NI Witness Service and NSPCC Young Witness Service. Direct, clickable links to support service websites would also be helpful and make the digital document more intuitive and user-friendly.</p>	<p>Noted. Additional information has now been included at Chapter 5.</p>
<p>We are concerned by the weak language and commitment at 4.1.2 to “where possible... try to speak to victims and witnesses before they give evidence.” In light of the recognised vulnerability of victims of domestic abuse and the risks of withdrawing from the justice process, we strongly urge that the PPS should be making a stronger commitment to engage with victims before trial.</p>	<p>The information provided at section 4.2 is consistent with the PPS Victim and Witness Policy and Code for Prosecutors.</p>
<p>At 4.1.5 – 4.1.7 we welcome the statement that “the PPS will ensure that the prosecutor is proactive in objecting to such questioning where it is considered to be inappropriate” and will “object to allegations about the character and demeanour of the victim which are irrelevant to the issues of the case”. We recommend that more training is given to prosecutors to make this a reality, as currently we do not feel that this commitment is being fully met in practice. This is notwithstanding our recognition that this issue does not sit solely with the PPS, and that inappropriate conduct by defence counsel is primarily an issue for the Bar Council of NI. We would however point out that every barrister is bound by the Bar of NI’s Code of Conduct and that</p>	<p>Noted.</p>

<p>Prosecutors have a role in challenging any behaviour which does not meet these standards.</p>	
<p>In relation to pleas, we welcome the statement at 4.1.10 that the PPS will take the proper interests of victims into account when considering whether to accept pleas. However, from what victims have told us suggests that, in practice, this is not happening with consistency. Nor is there clarity on how such decisions are made, and whether training in this area emphasises the need to take the voice of victims into account and keep victims informed of such deliberations in a manner that is compassionate and trauma-informed.</p>	<p>Noted.</p>
<p>At 4.2.2, please include information for victims about making Victim Personal Statements and how free assistance to complete a VPS is available through Victim Support NI, with a link to the relevant Victim Support webpage.</p>	<p>Noted. Additional information has now been included at section at 4.5.</p>
<p>At 4.2.4, it would be useful if the concept of 'good character' is expanded upon in a domestic abuse context. Often abusers cultivate 'good character' or standing in the community to make it easier to abuse undetected. Abuse is not only about control and manipulation of direct victims, but manipulation of family, friends and communities to hide behaviours and allow abuse to continue unchallenged. This makes it less likely that victims will be believed, and less likely that victims will report. We recommend that as part of this policy the PPS commits to challenging the use of 'good character' evidence as a means for mitigation during sentencing and where appropriate highlighting it as a component of coercive controlling behaviour.</p>	<p>Noted.</p>
<p>In this section under ancillary orders, it would be useful to outline under what conditions ancillary orders might be requested and granted, and how this process happens.</p>	<p>Noted.</p>

Victims and members of the public know little about these procedural details and would benefit from knowing whether the PPS has a role in securing such orders.	
Question 5	
Section 5.1.1 could include the option of Remote Evidence Centres in the bullet point list.	Noted and now included.
At 5.1.3, please include information as to whether victims still have to ask to apply, or if the PPS or Prosecutors will always offer this option as a matter of course.	Further information has now been included in Chapter 5.
At the end of 5.1.4, a commitment to apply for Special Measures in a timely fashion would provide reassurance to victims. At 5.1.5 it would be helpful if the policy outlined that victims would be given reminders at key points and multiple opportunities to reconsider whether they would like to avail of special measures.	Noted.
At 5.2.2, the document should be amended to read “British Sign Language (BLS) or Irish Sign Language (ISL)”. These are languages in themselves, and not just sign ‘versions’ of spoken languages.	Noted.
At 5.2.3 and throughout, please use the phrasing Victim Support NI and remove all other abbreviations.	This has been amended.
<p>At 5.2.4, we recommend adding the following information about Victim Support NI’s Witness Service that would be of help to victims:</p> <ul style="list-style-type: none"> • That we provide a separate room for victims and prosecution witnesses to sit so they do not have to interact with the defendant and his/her family and supporters • That we offer pre-trial visits to reduce anxiety about going to court • That we provide support and information throughout the court proceedings 	<p>Noted.</p> <p>A link to the Victim Support NI website has been included.</p>

<ul style="list-style-type: none"> • That our staff and volunteers can accompany witnesses to Live Link rooms and maintain a silent presence while they give evidence. 	
<p>At 5.2.6, a link should be included to a list of specialist agencies for clarity and accessibility.</p>	<p>Noted and included at Annex F.</p>
<p>At 5.3.3, we strongly urge that a more concrete commitment is made to communicate regularly with victims of domestic abuse.</p>	<p>Noted.</p>
<p>In the section on delay, it may be useful to specify how long an average trial process can take from report to verdict at both Magistrates' and Crown level. This would be a key way to ensure victims of domestic abuse are entering the justice process with understanding of what they are embarking on. It would also be helpful for a flow chart of the justice process to be included to help victims visualise what is ahead and manage expectations.</p>	<p>Noted.</p> <p>We are unable to provide this information within our Domestic Abuse Policy.</p>
<p>At 5.3.7, we welcome the call for victims to get in touch with the PPS if they have concerns about delays in their case. It would be useful to include more specific instruction on who to get in touch with at the PPS, as victims have shared experiences of "being sent around the houses" to try and speak to the right person to discuss delays in their case. In keeping with our previous comments we strongly urge that the PPS makes a stronger commitment to proactively reach out to victims of domestic abuse and/or their support and advocacy workers, as the trauma victims experience often curtails their ability to take on additional administrative burden of chasing agencies for information.</p>	<p>Noted.</p>
<p>Question 6</p>	
<p>Overall this Annex is very welcome and goes some way to explaining the different dynamics of abuse relating to gender, sexual orientation, relationship type and culture.</p>	<p>Noted with thanks.</p>

<p>Under the section on Women, we recommend including information about how statistically women are at greatest risk of harm when leaving or just having left a male abuser, and that abuse is statistically more likely to start or escalate during pregnancy.</p>	<p>We have included this information under the section titled 'Women' within Annex B.</p>
<p>We recommend re-wording the phrase “to avoid the female bringing the family shame or dishonour”, as in its current form the sentence may be construed as victim blaming and may inadvertently give credence to the concept of violence being perpetrated for reasons of ‘honour’. It should be clear that so-called ‘honour’-based violence is perpetrated for the purposes of controlling women within families and communities.</p>	<p>Noted.</p>
<p>Under the section on Men, we recommend re-wording the phrase “damage their reputation, or pride”, as we feel this characterisation may inadvertently minimise the experience of male victims. The reasons behind men under-reporting abuse are complex and are tied in with patriarchal stereotypes and myths which portray men as alpha beings who cannot be victims of abuse. These societal stereotypes can lead to male victims feeling shame that their experience does not conform, or difficulties understanding their own abuse and how it has happened to them. Many men also opt not to report out of fear that others will disbelieve that they as men could be victims of abuse, or that they won't be taken seriously. This is not an unsubstantiated fear, as culturally abuse of men by women continues to be the butt of jokes in Northern Ireland and abuse of men continues to be profoundly misunderstood.</p>	<p>Noted.</p>
<p>Under the section on Young People, we recommend adding an explanation that young victims can be targeted by older perpetrators as they may be easier to control due to naivete, immaturity or lack of life experience. In such cases, it is likely that those abusers will</p>	<p>Noted.</p>

<p>have their own accommodation that a victim may visit or reside.</p>	
<p>It would also be helpful to add in this section that children living in a home with an abusive parent are victims of abuse in their own right, and that these forms of abuse are dealt with under child abuse and neglect laws.</p>	<p>A section on the impact of domestic abuse on children and young people has been added at 1.6.</p>
<p>Under the section on Teenagers and Young People in Care Homes, it should be pointed out that in addition to looked after children being targeted for criminal or sexual exploitation as listed, they may also be targeted by domestic abusers due to their vulnerability and ease of control. Although these cases may not fall under CSE or CCE, they can nonetheless be serious cases of domestic abuse warranting equal attention and intervention. This section should also recognise that children with a corporate parent or guardian may be less likely to have the same dedicated safety net that biological parents can offer during criminal proceedings, and this can have an impact on the support needs of victims who are or have been in care. Prosecutors should be trained to understand these nuances and act accordingly to ensure they are accurately needs-assessed and adequately supported.</p>	<p>Noted.</p>
<p>In the section on Child to Parent Abuse, we recommend re-wording of the bullet point “little understanding of the issues which may contribute to the abuse perpetrated (e.g. new baby in the family, breakdown of family relationships, new partners of family members, substance or alcohol misuse, mental health issues etc.).” In its current form we feel this point could be construed as victim blaming or excusing abuse perpetrated in such circumstances. We would also add that in many cases, victims have a strong understanding of the circumstances relating to the abuse, but don’t take action or report as they don’t feel the justice route offers them a good solution for themselves and their family.</p>	<p>Noted.</p>

<p>Victims can also opt not to report as they fear that doing so would harm the cohesion of the family unit.</p>	
<p>In the section on Same Sex, Bisexual and Transgender (LGBT) Relationships, we would add that victims sometimes don't report because they fear not being believed because societal perception is that domestic abuse is a 'straight' issue, they can fear bringing a negative spotlight on an already marginalised community, and they fear that their safety cannot be guaranteed if they report (for instance trans women may fear that there might be no safe refuge for them). In particular, victim deliberations do not happen in a vacuum, and trans women will undoubtedly be affected by the barrage of anti-trans sentiment in the UK and online currently and worry that they will not be treated with compassion or their safety secured if they report. It should also be noted that victims in a relationship with someone of the opposite sex may be bisexual and prosecutors should be alert to potential issues in this regard, such as fear of being outed on grounds of their bisexuality and other abuse targeted at a person's bisexual orientation.</p>	<p>Noted.</p>
<p>It would also be useful in this section to provide guidance for prosecutors on working with LGBT folks, for example not to make assumptions about any victim's sexuality, to clearly understand the difference between sexual orientation and gender identity, and to use correct pronouns and avoid deadnaming trans folks.</p>	<p>Noted.</p>
<p>In the section on Older People, it would be helpful to recognise that some victims may have reported their abuse years or decades ago and been failed by agencies or community leaders who told them to go home and put up with the abuse, so may be untrusting of agencies including the PPS. There should also be clear distinction made between elder abuse and domestic abuse.</p>	<p>Noted.</p>

<p>In the section on Disability, we welcome the statement that “early identification of specific support needs is critical”. However, in our experience supporting disabled victims, and indeed older victims with additional support needs, such needs are rarely identified and then communicated adequately in advance of trial. It is not uncommon for victims to arrive at court only for a case to be adjourned due to accessibility issues being unresolved (e.g. Victim unable to access witness box, no loop systems available in the building). The document should clarify the PPS and prosecutor role in communicating these needs to NICTS staff or other relevant person to avoid delay and ensure the dignity of victims giving evidence. We would also point out that in cases of older people and people with disabilities that it is especially important to needs assess on an ongoing basis as health circumstances can shift and new needs emerge over time</p>	<p>Noted.</p>
<p>In the section on Minority Ethnic Communities, we welcome that the policy warns against reliance on stereotypes. In the bullet points on page 40 it would be helpful to add coercive control of female partners and family members under the guise of ‘cultural practice’ to the list. This will make explicit that coercive control in any context is unacceptable, and cultural practice is not a reason to excuse such behaviours.</p>	<p>Noted.</p>
<p>It would be useful to make a statement under this section that the PPS does not pursue immigration issues when working with a case of domestic abuse where victims have insecure status or status that is connected to their abuser. We appreciate that this is less likely to arise as an issue for the PPS than, for instance, for the PSNI. However, such a statement would provide reassurance to any victim with insecure immigration status that their safety and wellbeing will be the priority of the PPS if they decide to report domestic abuse.</p>	<p>Noted.</p> <p>We are unable to provide this information within our Domestic Abuse Policy.</p>

<p>In the section on Individuals Involved in Prostitution, we recommend adding in the first paragraph that sex workers can be less likely to report abuse because of perceived VSNI Response to PPS Policy for Prosecuting cases of Domestic Abuse Page 11 of 15 or real judgment by agencies of their status as a sex worker. This is not only a barrier to reporting, but also a reason for targeting sex workers by abusers who may be emboldened that their abuse is less likely to be reported. Victims can also be vulnerable if someone threatens to 'out' them as a sex worker to friends and family. This is in itself a form of coercive control and abuse. We recommend that anti-bias training should be required for Prosecutors working in this area and that bias and prejudicial thinking about sex workers should be included therein.</p>	<p>Noted and amended.</p>
<p>We welcome the strong statement that the safety of victims who are sex workers must remain paramount at all times.</p>	<p>Noted with thanks.</p>
<p>In the Immigrants, Refugees and Asylum Seekers section we urge that, similar to the section on ethnic minorities, a statement is added confirming that it is not policy or practice of the PPS to report or prioritise immigration issues when dealing with a case of domestic abuse. As stated above, we appreciate that this is less likely to arise as an issue for the PPS than, for instance, for the PSNI. However, such a statement would provide reassurance to any victim with insecure immigration status that their safety and wellbeing will be the priority of the PPS if they decide to report domestic abuse.</p>	<p>Noted.</p>
<p>This Annex would benefit from an additional section which highlights the impact of the trauma of domestic abuse on victims. This should include guidance on the average length of time a victim might experience abuse before they actually report. The profound impact of layers of trauma should not be underestimated by Prosecutors, and particular care should be</p>	<p>Noted.</p>

<p>taken by prosecutors to understand the impact of such compounded trauma.</p>	
<p>Question 7</p>	
<p>Unfortunately this document is not suitable in its current form for the general public or victims of crime. The language is complex and inaccessible throughout. The issue may lie in the intention to make this document both a public-facing policy and a guide for prosecutors. In our view, it cannot do both. We recommend that another companion document is created which retains the detail of the current document but is written in accessible, plain English, possibly in the second person to speak directly to victims of domestic abuse.</p>	<p>Noted. Provision of more accessible information is currently being considered, for example by way of supplementary guidance, videos / animations etc.</p>
<p>If this document is intended to be read by the general public as well as prosecutors, it should include a glossary of terms to explain in plain English the meaning of words like complainant, perpetrator, offender, and so forth. We also recommend a review of the document to ensure that the same terms and descriptors are consistently used throughout the document. For instance, we see “perpetrator” and “offender” being used interchangeably and this may be confusing to non-legal practitioners.</p>	<p>Noted.</p>
<p>The title of Annex B is unwieldy and difficult to understand.</p>	<p>Noted and removed.</p>
<p>In Annex C, please separate the details of Victim Support NI from that of the Domestic and Sexual Abuse Helpline, as these are different organisations. It would be clearer for any victim reading if Victim Support NI was given its own heading as per the editorial convention used for the rest of the named organisations in Annex C.</p>	<p>Noted and amended.</p>
<p>Question 8</p>	
<p>In the main, the draft policy lays out accurately the impact that domestic abuse can have on victims, the many additional barriers that</p>	<p>Noted with thanks.</p>

<p>victims face, and the many reasons why victims may feel pressured to withdraw from justice processes. With that in mind, we would like to see a stronger commitment throughout this document for the PPS and prosecutors to pro-actively engage with domestic abuse victims and their support agencies to enable them to stay in the process. There is reassurance to victims at 1.3.6 and 1.3.7 that the PPS will work collaboratively to identify ways to enhance provision and is committed to ensure victim safety and support a prosecution; however we would like to see evidence of steps already taken and what specific, additional commitments to victims of domestic abuse have been made by PPS.</p>	
<p>We recommend that additional measures could include definitive commitments to make and maintain contact with victims throughout the process, and a policy of compassionate contact whereby PPS and prosecutors dedicate time to speak in person with victims and provide more hands-on assistance. The policy should also recognise that prosecutors should approach victims at all times with sensitivity and avoid where possible exerting pressure on victims to accept pleas or dropping of charges or pressuring victims to stay with the process. Apart from being stressful to victims of domestic abuse, these approaches are often counter-intuitive and do not lead to the best outcomes in terms of achieving best evidence.</p>	<p>Noted.</p>
<p>One means of positively working with victims would be for Prosecutors to ask at the outset if victims are linked in with a support agency and advise what support is available to them such as Victim Support, ASSIST NI, Women’s Aid or Men’s Advisory Project.</p>	<p>Noted.</p>
<p>Question 9</p>	
<p>On page 5, under ‘About the PPS’ we suggest the explanation of who the PPS represent is improved. The reference to the “people of NI” could be misconstrued as including</p>	<p>Noted.</p>

<p>representation of victims during trial, which is not the case.</p>	
<p>At 1.1.6, we note that the PPS is now able to use a more “holistic” approach to prosecuting domestic abuse. However it is not clear what this means in reality. It would be helpful to specify just how the law has enabled the PPS to work differently.</p>	<p>Noted and amended.</p>
<p>At 1.1.9, we would point out that the PPS should be complying with the Victim Charter, not merely “having regard to” it.</p>	<p>Noted and amended.</p>
<p>It would be useful for this document not only to include the PPS’s general commitment to victims and witnesses (at 1.3) but also to formulate domestic abuse-specific commitment to victims, including commitment to compassionate treatment, staff who are expertly trained to understand the dynamics of domestic abuse and a PPS which acts in a trauma-informed manner towards victims of domestic abuse at every stage of the justice process and beyond. This should be the case for anyone working as a Prosecutor, whether they are Prosecutors by trade, or usually work as Defence counsel, or typically practice elsewhere.</p>	<p>Noted.</p>
<p>We would like to see clearer reference to the PPS’s commitments under the Victim and Witness Charters and how the policy will go towards meeting those requirements. It may not be the role of the PPS to act as representatives for victims of domestic abuse and other crimes, but that does not mean that the PPS do not have responsibilities towards them as victims.</p>	<p>Noted.</p>
<p>The document should also lay out clearly and in detail the avenues of redress open to victims in the event that their Victim Charter rights and entitlements have not been upheld, or if a prosecutor fails to act in accordance with this policy. With this in mind, it would be helpful to make reference to the existence and role of</p>	<p>Relevant information has now been included at paragraph 1.3.4.</p>

<p>the PPS's Victim Champion throughout the document.</p>	
<p>The policy would benefit from more concrete strategies to address the issue of attrition, and how the PPS can play a positive role in making victims feel comfortable, safe and confident enough to go ahead with a case. This part of the policy should also reference support agencies, who are well placed to assist in this work.</p>	<p>Noted.</p>
<p>We would also like to see more recognition throughout the document that a major barrier to domestic abuse victims getting justice is the hostile nature of the justice process itself, of which the PPS is part.</p>	<p>Noted.</p>
<p>Overall, we recommend that the policy document reflects the importance of the voice of victim in the justice process. As the document recognises, victims of domestic abuse are unique in that they often continue to be at risk after reporting crime to the police, they are at risk of pressure and intimidation to drop charges, and their abuse is often characterised by a loss of control and agency in every aspect of their daily lives. The policy should set out what role the PPS will play in overcoming these barriers by ensuring victims they deal with are given as much agency, control and compassion as possible throughout the justice process. The justice process is by its nature not victim-friendly or victim-centred, therefore all agencies including the PPS should make specific efforts to listen to the voice of the victim at all stages of the process.</p>	<p>Noted.</p>
<p>We strongly recommend that an accountability mechanism is included to monitor how effectively this policy is being implemented, and that such monitoring is transparent to victims and victim support organisations.</p>	<p>Noted.</p>

Western Domestic and Sexual Violence Partnership

Comment

PPS Response

Question 1

The WDSVP found the information in 2.1.and 2.2 was thorough and well set out in a way that will increase accessibility to the information for many practitioners within the Partnership . However , the use of the term “virtual” in the definition needs further elucidation. In 2.1.2. it is addressed as online/ technological abuse. There is no linking between technological abuse and sexploitation and when there is later in the document it appears to be targeted at younger people and coercive control rather than acknowledging how it is used as a coercive control tactic in many domestic and sexually abusive adult relationships. The WDSVP currently have a Task and Finish Group looking specifically at this form of abuse and have concerns given its prevalence, context and impact. We recognise that digital and technological abuse changes rapidly but believe it needs to be further expanded in this document. The relevance of consent may also need to be included. We would also consider that isolation is a key tactic used in coercive abuse that needs to be included.

Noted.

We have included more information on these types of abuse within Annex A.

Question 2

There is comprehensive information in this section outlining the understanding of what constitutes family members. Reference needs to include foster children and those under guardianship. In the experience of our members aggravators can be difficult to explain/comprehend particularly in regard to child aggravators. We believe that this needs to be made clearer.

A footnote has now been included at paragraph 2.2.23.

Question 3

There is clear information in this chapter, particularly in outlining how risk factors increase with separation and the context of intimidation others and potential added risk in close knit communities.

Noted.

<p>3.1 However this sub section states the policy will 'understand the impact and dynamics of domestic abuse' yet when detailing the reasons for withdrawal or reduced likelihood to report abuse there is no acknowledgement of victims' experiences within a system or in agencies that increase their lack of confidence in the Justice system allied with a reluctance to engage.</p>	
<p>While we realise that is document is intended to clarify protocols and procedures we wondered if there was any opportunity to consider aspects of the relational approach necessary to reduce retractions and withdrawals and what that means for prosecutors training and approach to each victim.</p>	<p>We are unable to provide this information within our Domestic Abuse Policy.</p>
<p>Sub section 3.5.2. needs to be expanded to details what is meant by all avenues have been exhausted i.e. to include those who have been advocating and supporting the victim through the process to this point. We believe that ASSIST NI needs to be referenced here specifically as an advocacy and support mechanism when there are retractions and withdrawals by victims.</p>	<p>Noted.</p>
<p>Question 4</p>	
<p>The need to be alert to allegations about the character and demeanour of the victim , how this can be affected by "perpetrator grooming" of practitioners, professionals and the judicial system itself needs to be further expanded. It is good to see the clear link to the Victims Charter.</p>	<p>Noted.</p>
<p>Question 5</p>	
<p>5.2.5 There needs to be more knowledge provided in the Victim and Witness Care Unit somewhere in the document . We are also aware that other agencies other than the two witness support schemes referenced in 5.2.3. offer witness support and believe these should be referenced in some way.</p>	<p>Information about the VWCU has been included at section 1.4.</p>

Question 6	
Annex B is very detailed however there needs to be more reference to sextploitation particularly under the women section and the reference in the teenage section should go further than 'online' but reference example of sexting or uploading images.	Noted.
Need for awareness of technological abuse not to be restricted to young people.	Noted.
There is some reference to adult safeguarding under the disability section page 39 but this is limited: 'Assisting disabled and vulnerable victims through prosecutions may need the involvement of multiple agencies to ensure a holistic approach is taken to the handling such cases. Where appropriate, the PPS will consider the use of registered intermediaries for some victims...'. This would need to be more explicit around adult safeguarding / adults at risk or adults in need of protection.	Noted.
Question 9	
Annex B is very detailed however we would emphasise there needs to be more reference to sextploitation particularly under the women section and the reference in the teenage section should go further than 'online' but reference example of sexting or uploading images.	Noted.

Women's Aid Federation NI

Comment

PPS Response

Introduction

Within the introduction there is a failure to recognise that domestic abuse as a crime disproportionately affects women and girls, and therefore any policy should refer to the gendered nature of this crime within the introduction to the policy. There is also no reference to Violence Against Women and Girls and the proposed strategic work being undertaken by the Executive Office at this time to implement this strategy and should underpin the policy of the PPS in relation to prosecution of domestic abuse cases.

No mention of human rights and a rights-based framework to this policy:

"Violence against women is a manifestation of historically unequal power relations between men and women, which have led to domination over and discrimination against women by men and to the prevention of the full advancement of women, and... violence against women is one of the crucial social mechanisms by which women are forced into a subordinate position compared with men."

UN Declaration on the Elimination of Violence Against Women:

VAWG refers to many different types of abuse that occur around the world that disproportionately affect women, because they are women, and are overwhelmingly perpetrated by men. The VAWG framework does not exclude the fact that anyone can experience abuse and that anyone of any gender can perpetrate abuse. However, the framework exists to reflect the gendered nature of these crimes. There is no context as the extent of domestic abuse within the introductory section and this would be valuable for any victim or survivor engaged in this process to know of international frameworks.

Istanbul Convention:

As Europe's leading human rights organisation, the Council of Europe has undertaken a series of initiatives to promote the protection of women against violence since the 1990s. The Parliamentary Assembly has also taken a firm political stance against all forms of violence against women. It has adopted a number of resolutions and

Further information has been included in the introduction.

recommendations calling for legally-binding standards on preventing, protecting against and prosecuting the most severe and widespread forms of gender-based violence. There are different pillars within the Istanbul Convention, Prevention, Protection, Prosecution and Monitoring:

Prosecution:

Countries that ratify the Istanbul Convention have to take action to ensure the prosecution of perpetrators of violence by:

- Defining and criminalising different forms of violence against women and girls, including psychological and physical violence, sexual violence and rape, stalking, female genital mutilation, forced marriage, forced abortion and forced sterilisation;
- Taking action to ensure the effective investigation of any allegation of violence against women and domestic violence;
- Ensuring that culture, custom, religion, tradition or so-called "honour" are not considered as justification for such acts.

Intersectionality

It would be useful to take into account intersectionality and diversity within the introduction. We are aware that there is mention within the Annex, but important to set this out, how the PPS deal with diversity and inclusion within the prosecution of a case. The concept of intersectionality describes the ways in which systems of inequality based on gender, race, ethnicity, sexual orientation, gender identity, disability, class, and other forms of discrimination "intersect" to create unique dynamics and effects.

For the PPS an intersectional perspective to anti-discrimination highlights the structural aspect of discrimination and links policy efforts both meant to prevent discrimination and to correct.

Section 1.2.5 has been added with a reference to Annex B. Annex B is introduced as follows:

This section is intended to identify the different impacts of domestic abuse on people from a range of communities and groups, and the particular considerations that prosecutors should bear in mind.

Some of the issues listed will be common to all victim and perpetrator groups, such as many victims trivialising the abuse they suffer, of fearing they may not be taken seriously. Victims may fall into one or more categories listed below. Therefore, each case will need to be assessed on its own facts and merits, and support needs identified accordingly.

Trauma

Survivors have asked us to understand that the trauma they and their children experience is real, and its effects are long-lasting and unpredictable. They have asked our institutions to recognise this trauma, and to understand how it shapes their responses to the staff and agencies which are charged with supporting them and their children. Survivors want statutory and voluntary agencies to recognise that domestic abuse is a gendered crime, and a crime that will affect women differently based on their position within a society, and the multiple forms of marginalisation that they may face. Recognising this, and listening to survivors in this way, not only demands a 'joined-up' approach to supporting domestic abuse survivors and their children; it also demands that each survivor's unique circumstances and agency are acknowledged by the staff of statutory and voluntary agencies. This acknowledgement begins by asking each woman, ***'How can I, along with my colleagues, best support you?'***

In terms of the courts, survivors demand a complete and full review, where the law is viewed as a product of its time, rather than somehow aloof from political, cultural, and historical exigencies. Viewing the law in this way should allow for an examination of which parts of the law reflect a genuine regard for due process, and those which merely reflect the misogynistic society in which it was drafted. The word "trauma" is mentioned but there is no definition or context in relation to the trauma that victims and survivors can feel within the court process. A definition of trauma within the introduction could be useful. It is important to name this, PPS need to be creative and brave if they want to move forward and really be trauma informed. More emphasis could be placed on trauma informed work and acknowledgement of the impact through research

Children

Children are not adequately covered within this section, and it would be useful to acknowledge further the support services available to them as well as the impact of domestic abuse on children and young people. The issue of ACE's could also be added in this section to recognise challenges.

Children who are routinely exposed to situations such as domestic violence, mental ill health, alcohol, and other substance misuse problems in their homes experience a

Information on Trauma Informed Practice has been added at section 1.5.

Information on children and young people has been added at section 1.6.

negative impact which can last well into adulthood. These chronic stress situations are called Adverse Childhood Experiences (ACEs) and are often associated with poorer outcomes for children in educational attainment, employment, involvement in crime, family breakdown, and a range of health and wellbeing measures.

It is essential that we raise public awareness of the impact of domestic abuse on children and young people and an opportunity for the PPS through this new legislation which is inclusive of children and young people to promote this within any policy or strategy. It is essential when it comes to professionals understanding of supporting children affected by domestic abuse.

Through the introduction of this child aggravator, it highlights the abuser's behaviour as the source of harm and risk to children. This is paramount because at times professionals identify abused mothers "at fault" for choosing abuse partners and "failing to protect" or for remaining in that abusive relationship. The aggravator reinforces the impact of domestic abuse on a child and it should be understood as a consequence of the abuser's actions and choices rather than by the non-abusing parent's failure to protect.

Although we are aware that PPS are not dealing with issues in the family court it is important to recognise the issues are impacting on victims and survivors when they are in the criminal court as well.

Question 1

Within this section the legal framework is explained within the context of the Domestic Abuse offence including the definition taken from Stopping Domestic and Sexual Violence and Abuse in Northern Ireland Strategy (March 2016), which is currently out of date. Would PPS consider own reference to include a gendered acknowledgement of these crimes?

The section fails to tell us that domestic abuse can come under a range of offences and focuses heavily on coercive control, which is of course only one element of domestic abuse. It fails to consider the issue of stalking and an example of those kinds of threatening and abusive behaviours which may be more appropriate for some

PPS must have regard to the government definition of domestic abuse but also acknowledge the gendered nature of these crimes within the introduction.

Chapter 2 has been amended to provide information on the range of abusive behaviours. Further information on the forms of domestic abuse has also been included at Annex A.

victims/survivors of domestic abuse than others. It needs to better explain the behaviours which manifest within coercive control and that the list is fluid.

It also fails to look at sexual abuse with the legal framework and this further exasperates the invisibility of reference to intimate partner sexual abuse.

Domestic abuse can fall under a range of offences which are considered in this section. The DA Act sets out who can be a victim of DA behaviours and establishes how victims need to be connected to the offender. It also makes clear that children are deemed to be victims of DA if they see, hear, or experience the effects of abuse and they are related to the victim or offender. However, it is not reflected the risk that domestic abuse has on an individual and this should be outlined within this section. Regarding safeguarding of victims and survivors together with children and young people.

There should be reference to the link to domestic homicide as well within this section. There is no acknowledgement of the risk to the person of domestic abuse – the links between domestic abuse, stalking and domestic homicide. The escalation of risk when a person has left or is leaving a relationship should also be referenced here.

It might be useful to reference the cycle of violence – this is very informative for victims and survivors as they can relate to these behaviours and patterns.

2.2.5 – there should be a direct link to the Statutory Guidance on The Domestic Abuse and Civil Proceedings Act (NI) 2021 - [Domestic abuse offence guidance \(justice-ni.gov.uk\)](https://www.justice-ni.gov.uk)

Question 2

Within this section the above legislation is detailed and gives account of when the law came into legislation but no indication if a person can retrospectively use this offence. As this is a new offence it is important to go through it in

Please see above.

Further information on risk assessments has been included at section 3.11.

The link between domestic abuse and the risk of future homicide has been referenced at section 1.1.4, at Annex A under NFS and at Annex C under Intimate Partner Abuse. The links between domestic abuse , stalking and homicide will be covered in our Policy for Prosecuting Cases of Stalking which will be released for public consultation in Spring 2014.

This information is covered in other literature and we consider it to be outside the scope of this policy.

This is now included at footnote 5 in section 2.2.

More detailed information on the operation of the Act has now been included in Chapter 2.

detail and outline what the offence means, who can apply for it and what is meant by a connected person.

Within this section surely it is imperative to include all offences available to prosecutors and all specific offences that can be prosecuted which could be domestic abuse related.

It is important to consider this wider and given all the circumstances which are taken into consideration when the PPS are considering which offences are the most appropriate for the circumstances of each individual case.

2.3.10 – refers to the “reasonable person” test – it would be useful for a lay person to have more explanation of this.

2.3.12, 13, 14,15 – apply to the Child Aggravator – it would be useful again to have further explanation of this. It is important within this section again to refer to children as victims and again to reiterate the trauma and the individual impact on them as they are used as victims within the family by perpetrators to further manipulate the abuse.

The policy states that child aggravators are applied at the discretion of the prosecutor, further explanation is needed to detail rationale when these aggravators are not applied to ensure clarity in decision making process.

2.3.16: it would be imperative to have explanation of the differences of cases being heard between Crown Court and Magistrates Court.

Should you not list the other pieces of legislation that are applicable and used within domestic abuse cases. There is such a wide range of legislation and should there be an acknowledgement of that.

Women’s Aid would recommend more information about each individual offence and they should be named instead of e.g. referring to common assault or criminal damage – what is the legislation you can you and the offence you would use?

We know they can be included within the aggravator where the conditions are satisfied within the act but think there could be some clarity as to all offences?

Further information on other offences available to prosecutors has been included at Annex E.

A section has been included at 3.4.11.

Further explanation of the Test has been included at section 2.2.5.

Further information on the child aggravators has been included at section 2.2.

Clarification has been provided at sections 2.2.29 and 2.2.32.

Further information on modes of trial is available in our Code for Prosecutors. A link to our Code for Prosecutors has been included at section 3.2.1 of this policy.

Information relating to other offences created by separate legislation that may fall under the definition of domestic abuse, has been included at Annexes A and E.

<p>2.4 How Prosecutors will apply the domestic abuse offence?</p> <p>Why is there no reference to how they will use other offences in relation to domestic abuse. Everything within this document is heavily leaning towards this particular offence when we know that domestic abuse is much wider than this.</p> <p>2.4.6 mention again of AOABH – but no reference to the legislation that it comes from – need more clarity. This could be included at the end even in the annex reference to what all of these changes mean: a dictionary of useful terms and acronym.</p>	<p>We do not consider this level of detail for all available offences to be necessary or indeed practical.</p> <p>Further information about how prosecutors will use the domestic abuse offence alongside other existing criminal offences has been included at section 3.9.</p> <p>Further information has been included in Annex E.</p>
<p>It's vital that any agency engaging with victims and survivors of domestic abuse through the criminal justice system must do so in a manner that is trauma informed, empathic and most importantly, seeing the victim as a person system currently views victims of domestic and also sexual abuse as both simultaneously the victim and the witness to the alleged crime, and whilst the institution that is the PPS isn't a sentient being, it doesn't mean that the traumatic experiences of victims shouldn't be recognised and in fact, their experiences should fully inform the entire process.</p> <p>With regards to Section 3.1 on 'understanding the impact and dynamics of domestic abuse' Women's Aid welcome the acknowledgement of the appearance of the complex dynamic that can exist within a lot of domestic abuse cases and for prosecutors not to make their decisions based on behaviours they may see at a very surface level.</p> <p>When consulting with survivors of domestic abuse who engage with Women's Aid services in NI, we asked them extensively on their personal experiences with the PPS, the Criminal Justice System and what more could be done to make victims feel as comfortable as possible during this traumatic process.</p> <p>Victims are constantly in fear of their perpetrator, even if during the criminal justice proceedings, they are remanded in custody, so it's essential that the Prosecutors are aware of the legitimate personal safety concerns expressed by victims. It's also important to note the specific safety</p>	<p>A section on Trauma Informed Practice has been included at section 1.5.</p> <p>Noted with thanks.</p> <p>Noted.</p> <p>Noted.</p>

concern of the perpetrator is viewed as an 'actor' in the criminal justice system such as them being a Police Officer or someone who works within the Courts.

It's incredibly important for Prosecutors to take into consideration as well of cultural norms and barriers that may also pressurise the victim to not co-operate with the prosecution, especially within context of Northern Ireland as a post conflict society and the perpetrator with a known association to paramilitaries. This real fear from victims whose perpetrator is affiliated with paramilitaries was expressed by one survivor through the Hear Her Voice project who said:

"The whole court process... every time I was getting solicitors contacting me, I was getting the UDA (Ulster Defence Association) passing messages to me.. I've been exhausted from being hypervigilant and having to look over my shoulder because of these 'men' ... just the jeers, shouting, whatever... This group that's he's part of... said they're going to make an example out of me for standing up to him. I don't know what's going to happen."

It's essential that Prosecutors understand the risk management the victim is trying to do for their own personal safety and how this can translate into lack of cooperation in engaging with the criminal court proceedings, simply as the victim is trying to protect themselves. The PPS must do all possible to reassure victims, who are also witnesses to the inhumane and abusive behaviour they've endured and minimise risk and unnecessary re-traumatisation as much as possible as standard procedure.

Question 3

3.2.2 & 3.2.2

We welcome the inclusion of some of the common myths and misconceptions around domestic abuse and the importance that assumptions should not be made regarding factors like the victim's age, the nature of the relationship with the abuser, the victim's physical appearance or stereotypes of the parties involved in the case. Tackling these myths and assumptions is essential to provide justice to victims and survivors of domestic abuse and encourage

Noted.

Noted.

Noted with thanks.

others in coming forward to seek help for the abuse they may be currently enduring.

An important myth that should also be addressed in this section that victims and survivors have expressed to us on numerous occasions that should be flagged as a concern is the profession and class of the perpetrator. A common myth and an unconscious bias in wider society is perpetrators with 'respectable' professions such as doctors, police officers, dentists, professors, ministers and those generally seen as 'respectable' pillars in the community couldn't possibly be abusers. The crimes endured by victims and survivors of domestic abuse mean they do not suffer any less because their perpetrator is seen by some a 'respectable' member of society.

As one survivor shared with us:

"I was in a controlling marriage. There was no physical violence until one event where he nearly killed me. I have to say, I couldn't speak more highly of the police, or Social Services or Women's Aid, or even the magistrates in the court. But I would be really very critical of the Prosecution Service, and very critical of the judge, which was an appeal judge in the Crown Court, who allowed by ex-husband to walk free. (The Judge) said that he realised he had a notable career as a professor, and if he were to jail him, he would lose his job, and that would impact on international research... the message was to me, just because you have a fancy title and a really nice career, you can walk free. If perhaps you haven't, we have dealt with you differently."

As a key agency in the criminal justice system in Northern Ireland, the PPS must do all it can to tackle these myths, misconceptions and understand that these are real and life alternating barriers for women coming forward to seek redress through our criminal courts and as an organisation, PPS Prosecutors and staff must be thoroughly trained in order to deliver for the interests of victims and for wider society.

3.2.4 & 3.2.5

Having consulted extensively with survivors and Women's Aid staff, a repeated concern raised by them is around the

Noted.

Noted and we thank WAFNI for supporting us through our training partnership in these areas.

Noted.

myths experienced by victims and survivors of domestic abuse around their cultural background and language. Whilst as society we would like to we have moved beyond racism, unconscious bias experienced by women from BAME backgrounds in Northern Ireland is an issue within the criminal justice system we are hearing more frequently as the population here continues to diversify.

Cultural ignorance, even if it is 'unconscious', is creating barriers for women trying to seek justice through the criminal courts, and breeds mistreat with the process in which these women see the PPS as part of this system.

There needs to be greater cultural understanding delivered to PPS staff and Prosecutors through adequate training and living policies to ensure that as the Northern Irish population diversifies further that emerging communities have the same right to justice as everyone else in NI.

It's vital in the interests of justice to stress victims of domestic abuse, especially from BAME backgrounds and women with disabilities who require an interpreter, already feel like they don't have a voice, and to not do everything possible to ensure it heard through the criminal justice system is a massive disservice to them. Effective communication with the women in what she feels comfortable with as both the victim and the witness simultaneously including the use of a certain interpreter is key, as this person can be used to put pressure on the person to staying silent, or deliberately misinterpret what she is trying to say when she is giving evidence in order to protect the perpetrator in their small community.

3.2.6

Within clause 3.2.6 it notes the importance *that "Police and prosecutors should understand the vulnerability of victims and the particular impact that control, coercion and psychological abuse may have on the individual"* and whilst this incredibly important to note, it's also essential that agencies such as police and prosecutors how perpetrators of domestic abuse will use statutory agencies when they can to further perpetuate their abuse of the victim.

The scenario highlighted in the policy document of the offender accusing the victim of having mental health difficulties is a good example of this abuse. The perpetrator

Noted.

Noted.

Noted.

Noted.

Noted.

will have tried to gaslight their victim through agencies such as the Police and Social Services including Community Mental Health to undermine the credibility of the victim, especially as highlighted earlier in this submission if he is **seen** as a 'pillar' of the community.

The PPS, other criminal justice agencies and agencies such as Social Services must recognise that they are not above the manipulation tactics of perpetrators and be trained to be aware of this happening, especially if the victim would be seen as a vulnerable person.

3.3 Case Building

As referenced in this section, domestic abuse is often a crime that takes place behind closed doors, and as such, good evidence gathering is vital to help build the picture of the abuse for court proceedings and to gain a successful conviction, especially in cases where the perpetrator's abuse isn't always physical. It's also essential at this stage that there be a strong focus of the risk of danger that the victim is in and managing these risks in a co-ordinated approach across all relevant agencies to ensure that victim is safe.

We strongly encourage and would urge the standardisation of early involvement with the PPS working with the PSNI to ensure effective gathering of relevant evidence to strengthen the case against the perpetrator and for the victim, ensuring that their case meets the evidential threshold so they can seek justice through the criminal justice system. This should include the victim's DASH form which can give more context to the abuse the victim has experienced and strong indicators for the risk to their personal safety and the use of body worn footage.

Regarding the use of witnesses other than the victim, many witnesses to intimate partner violence want to intervene but often do not know how, and numerous factors discourage them from doing so. Providing guidance on how to assist victims, strengthening protection for witnesses, and including the option to report anonymously may help encourage witnesses to help.

Regarding the use of special measures, Women's Aid have long stressed and lobbied that Special Measures should be automatically applied for in all cases of domestic abuse and

Noted.

Noted.

The PPS have a detailed Service Level Agreement (SLA) with police which sets out the investigative requirements on police and the requirement to share relevant information from the DASH. Where this information is not received from police, prosecutors will make further enquiries with police to ensure all reasonable lines of enquiry have been fully investigated.

Noted.

Under the Domestic Abuse and Civil Proceedings Act (NI) 2021 victims are automatically eligible to apply for

sexual abuse, in order to minimise the further trauma experienced by victims of these types of crimes. Courts must act in a trauma informed manner to best serve the interests of the victim and the public, and we therefore urge the standardisation of the application of such measures in domestic abuse cases.

3.4 Retractions and withdrawals by victims

3.4.1

Over the many years Women’s Aid in Northern Ireland have been supporting women who’ve experienced domestic abuse as they attempt to navigate the criminal justice system, we’ve had various reasons given to us by women on why they choose to withdraw their support from prosecution or retract their statement. As knowledge of the insidious nature of Coercive Control continues to be processed and understood better by criminal justice agencies and the wider public, it still doesn’t take away from the genuine fear and control domestic abuse victims and survivors feel about their perpetrators, so it’s incredibly important that these are always taken into account by Prosecutors in a compassionate and trauma informed manner.

3.4.2 – 3.4.5

The list of example situations given in clause 3.4.2 do encapsulate many different factors. However what is striking in this section is not the number of scenarios covered, but what the PPS could do to help elevate the concerns of victims so that they feel more comfortable during an incredibly traumatic process.

Survivors of domestic abuse who were specifically consulted with for this submission expressed to us their own harrowing stories of the abuse they suffered at the hands of their perpetrator and how difficult it was for them to engage with the criminal justice system.

special measures. Where the victim indicates that they wish to avail of special measures an application will be made to the court and it will be for the court to decide whether this application will be granted. We are currently updating internal guidance for our prosecutors on special measures and the process in cases of domestic abuse.

Noted.

Noted.

We asked these women **“based your experience, what could the PPS do to encourage victims not to withdraw their statements?”**

To which some responded giving the following replies:

- *“Communicate with the victims, pure and simple. It is absolutely no good to meet the prosecuting barrister on the morning of your trial, when the perpetrator has most likely received all the coaching he wants through his barrister, funded by legal aid, which his working victim helps fund whilst she has to pay to protect herself through Non-Mol and Occupation Orders.*
- *“Have open communication. Having worked in criminal law, I have seen how things operate from the other side and the work that goes into preparing a case with a defendant is much more thorough. Yes, I understand the criminal lawyers use every possible opportunity for calls, meetings, letters, conferences with all the parties involved as means of billing the legal aid board but this too should be procedure for the claimant.*
- *“Meet victim before court room and make each victim feel like they are not a bystander in a case to be disposed of.”*
- *“They could work with all professionals to ensure that the attitudes of other professionals are not detrimental to the woman's confidence going forward with her statement.”*
- *“Prosecution and court dates to be done in a quicker time frame so it does not drag on and the victim can move on with their life instead of reliving it waiting for court dates.”*
- *Provide encouragement that this will be taken seriously by the court and assure safeguarding during the judicial process.”*
- *“Liaise with your police point of contact and ensure the victim has support and feels protected at home and in everyday life.”*
- *“Make women feel validated. Work with police or a case worker to support woman to avoid retaliation or counter claims or further abuse.”*

Acknowledging *'this is why victims can withdraw this testimony / support'* is fundamental, but without putting in policy proactive measures PPS staff and prosecutors can do to try to mitigate the reasons is not truly addressing the issue, nor reassuring to the victims of domestic abuse, many of whom have lived in fear of their perpetrator for years, even decades.

Noted.

Regarding meeting the evidential threshold when the victim no longer wants to take part in the prosecution, it's important the PPS work in strong and effective co-operation with the PSNI and other relevant agencies to make the case as strong as possible against the 'alleged' perpetrator. There needs to be at the very least a meeting with the victim to ascertain her thoughts and understand the situation from their perspective.

Noted.

3.4.8

As one Survivor told us during our consultation for this submission:

Noted.

"The majority of women (who experience domestic abuse) live with fear on a daily basis" and having supported women who've experienced domestic abuse for decades through intensely abusive behaviour, Women's Aid can tell you this fear is 100% justified, and these women need to feel as safe as possible to support the prosecution.

Co-operation with the Police at even the faintest concern for the victim's personal safety must be acted on immediately, especially if the perpetrator has been given bail. It's also vital to emphasise how intimidation and harassment now takes place through digital means now and the growth in technology, especially since the COVID-19 pandemic. Women's Aid have heard many incidents over the use of technology used to intimate victims of domestic abuse including the use of drones, the hacking of personal email accounts, setting up fake social media profiles to send harassing messages to victims and the use of tracking apps disguised on the victim's phone and small trackers like Apple Air Tags.

Noted.

No longer is the perpetrator out on bail simply standing on the victim's street corner, they are trying to control their lives and assert their perceived power through digital means to try to break her, and it's important that examples of this

should be referenced in this document in order to protect the victim as much as possible.

3.5.2. + 3.5.3 + 3.5.4

Women’s Aid again would like to stress how incredibly traumatised victims of domestic abuse can be following the abuse they’ve endured and the court process.

Any notion of that these victims are potentially viewed as ‘hostile’ in any way to the prosecuting is quite frankly insulting and does not understand the intense abuse victims and survivors have endured. You aren’t being ‘hostile’ when you live in fear of the person who has more than likely been abusing you for years.

It’s important to also stress an issue that’s referenced in section 3.5.4 that states:

“the intention of obtaining a warrant is to assist attendance at court and not to penalise or criminalise the victim. Prosecutors should use this only when absolutely necessary.”

Women’s Aid would have concerns that the use of the phrase ‘absolutely necessary’ is too vague and may not provide adequate guidance to Prosecutors and PPS staff. There must be a specific procedure in place in cases of Domestic Abuse, Sexual Offences and Stalking to ensure victims who live in fear are not put in any danger nor re-traumatised by said summons and it’s used in only incredibly specific and limited circumstances.

If the victim is not actively co-operating with the process, it’s usually for a very serious reason – fear, intimidation from the perpetrator, intimidation from the community, the fear that if he gets convicted it will be a light sentence – and to issue a summons without realising this is doing a disservice to these victims.

If witness summons were to occur, it must be done with clear communication with the victim with efficient support attached through agencies such as Women’s Aid or other specialist support services for their wellbeing and personal safety.

This language has been amended.

Prosecutors have been provided with clear guidance on the circumstances in which witness summonses should be requested.

Noted.

Noted.

3.6 What happens if we decide not to prosecute?

Repeatedly throughout our consultation with victims, survivors and Women's Aid staff members have stressed to us that effective, timely, sensitive, and clear information given by the PPS is essential, even if it's the outcome that the victim/survivor wasn't hoping for.

Noted.

We cannot stress enough how often clear communication from the PPS was a key want for victims & survivors during our consultation.

Noted.

A survivor gave an example of how she felt communication could be improved on:

Noted.

"A phone call would be better than just a generic letter you get. Phone call and explaining a bit more rather than writing 'ring this number if you want more information' – which sometimes isn't easy to do depending on whatever trauma you've been through, you may not feel comfortable making phone calls to strangers, so a phone call to you. Whether it be from the PPS or passed back to the PPU officer who might be a bit more empathetic. Or someone you have previously dealt with."

Whilst we welcome the inclusion of this information being delivered in this manner in section 3.6.1, it's important to stress that this happening previous by the PPS has been seen by victims and Women's Aid staff as very much 'hit or miss' in its delivery and must be standard protocol on the ground so that the victim knows what is happening clearly.

Noted.

During our consultation with survivors for this submission, one woman expressed to us that she wanted the PPS to know that:

Noted.

"Please realise that victims are not only 'witnesses', which I strongly object to being called, but people with very real fears. Simply providing them with a first name for their case officer is just not good enough."

Whilst we understand the role of Victims and Witnesses Care Unit is an important team within the PPS, they aren't a specialist trauma informed support service, and many of them will not have direct interaction with victims beyond a phone call or a letter. For the wellbeing of victims and survivors, especially when the PPS decide not to prosecute

Noted.

their perpetrator, can be incredibly devastating. The link in with specialist support services is incredibly important at this period, so the VWCU must have and maintain strong links with these specialist services throughout NI. There also must be follow up if offers of support services aren't taking up so that the victim's wellbeing is still being considered even months after the criminal justice process has finished in their case.

During this consultation the theme of better conveying your right to appeal the PPS decision kept recurring and that this right to appeal should be highlighted whenever possible to the victim. We appreciate there may be an instinct reaction of capacity and resourcing issues from the PPS' side on many appeal requests coming through, but know these victims know what has happened to them and knows what their perpetrator is capable of. To not expressly and repeatedly tell victims they have this right is not in the interests of justice and goes against the public interest.

3.6.4

When also conveying the right to appeal the PPS' decision to prosecute and a meeting is arranged to discuss the decision, it must be made clear to the victim if they are allowed to bring an advocate with them, where that be a legal representative or support worker for example. Most of the population do not have a legal background, nor a real understanding of prosecutions and criminal court proceedings, so having someone there to help support them and their understanding in this situation is incredibly important. This is especially the case when dealing with decisions effecting victims of domestic abuse, as having to deal with the trauma of what has happened to them, tied in with the justice system that most of the population doesn't really understand can be overwhelming and distressing.

3.7.1 – 3.7.3

Again, we would emphasis to you the importance that clear and effective communication was repeatedly mentioned by all the women we consulted during this consultation is essential in order to communicate to victims of domestic abuse with the decisions taken by the PPS, even if they weren't the decisions the victim would have hoped for.

We have included more detailed information in sections 3.14 and 3.15. Victims are notified of their rights to appeal in victim correspondence.

This is now included at footnote 10 on page 39.

Noted.

<p>We would also again stress the importance of linking in with specialist support services during this timeframe and especially if the decision taken by the PPS has caused distress to the victim.</p> <p>3.8</p> <p>Having consulted on these submissions and based on our vast experience of specialist support services for women, children and young people who have been victims of domestic abuse that alternative to prosecution via diversionary disposal would not be appropriate for the victim's wellbeing. We welcome the acknowledgement in this section that is rarely appropriate and would stress the importance of the re-traumatisation and the effects of coercive control if such as medium were to be used.</p>	<p>Noted.</p> <p>Further information has been included on diversionary disposals at section 3.8, as well as a link to our Guidelines for the use of Diversionary Disposals.</p>
<p>Question 4</p> <p>4.1.1</p> <p>Whilst it is encouraging to read in section 4.1.1 that measures are in place to make a victim's experience of being in court more comfortable, it would be helpful to have these measures outlined in more detail along with an explanation of how the PPS will ensure that these measures are in place ahead of the victim's time in court. Furthermore, an explanation of how prosecutors will gain sufficient skills for dealing sensitively with victims in cases of domestic abuse would be useful; as the following experiences from survivors will illustrate:</p> <p><i>"I was on the floor in the foetal position after having to confront [the accused perpetrator] and the man from the PPS stood there with his hands in his pockets. We are treated like dogs. Dogs wouldn't even be treated like this."</i></p> <p>Warshaw, Brashler and Gill (2009) explain that '[trauma] "symptoms" may be survival strategies/adaptations to intolerable situations when real protection is unavailable and a person's coping mechanisms are overwhelmed.' Although the draft policy rightfully acknowledges that court is an anxiety-inducing experience for victims, it fails to highlight the potential traumatisation that victims may, and are likely, to experience. Therefore, any opportunity to mitigate against harder-to-overcome barriers such as insensitive court architecture and providing evidence as a</p>	<p>Further information has been included on special measures at Chapter 5 and we are currently updating our internal PPS guidance on this area.</p> <p>Noted.</p>

witness, should be taken. Women's Aid believe that effective training related to trauma-informed practice should be required for practising specialised domestic & sexual abuse prosecutors, enabling them to work effectively with the victim, as well as building self-awareness of potential burnout as a result of vicarious trauma.

Our response to section 4.1.2 will look closer at when and how prosecutors should ideally communicate with victims, with suggestions linked to trauma-informed practice. However, this approach should also be considered in relation to the practical elements of court proceedings including the benefits of domestic abuse hearings not being left until the end of the day. As domestic abuse is a gendered crime and females shoulder the majority of childcare responsibilities, this would not only ensure that cases are more likely to be heard on the day that they are assigned (thus reducing extended anxiety) but also, assist in supporting mothers as they attempt to make arrangements for childcare.

Further practical elements of trauma-informed practice involve the guarantee of Special Measures in advance, without the need for request. It can and should be assumed that the majority of victims of domestic abuse will not want to come face-to-face with their perpetrator, therefore making the need of requesting such measures redundant. By removing the request-requirement, it will assist in reducing some unnecessary pre-court anxiety and limit the chances of error and a woman arriving at court without measures being automatically applied. Furthermore, through our discussions with survivors, it is clear that many women have been uncertain of who to speak to regarding the application and are sometimes met with disdain:

"...the police actually said to me 'there's a bit at the end of the form about special measures but that wouldn't really apply to you, that would be for victims of serious crime like if someone has been raped by a stranger'. So, I felt like I couldn't ask even though the thought of seeing him I couldn't handle."

4.1.2

Women's Aid understand the intense and busy nature of a prosecutor's role, however we believe that it should be required for the prosecutor to speak with victims and

Noted.

Noted.

Noted.

witnesses ahead of court and giving evidence, not only 'when possible' as stated in 4.1.2.

In the majority of cases the victim does not know the prosecutor and has had no previous communication with them. A Women's Aid staff member explained,

"They rush in, they maybe haven't fully looked at the case because they've maybe just been handed it and there is no sense of preparedness... for the victims, it's their case and it's hugely important to them and they've got someone coming in giving the impression that it's trivial."

Not only is the timing of communication important, but the delivery and nature. The below comments from women demonstrate the need for increased compassion and again, highlight a need for trauma-informed training (as mentioned when discussing 4.1.1).

Noted.

Section 4.1.2 of the policy explains that the prosecutor will 'try to put witnesses who may be nervous at ease'. It's also incredibly important to acknowledge the training prosecutors have committed to with Women's Aid and we greatly welcome this relationship for the benefit to victims and survivors engaging in the criminal justice process.

Noted.

However, upon reflection of the following women's experiences, and without commitment from the PPS to ensure effective training, Women's Aid would speculate that not all prosecutors will readily have these much-needed skills at their disposal.

Noted.

4.1.2 & 4.1.4

To effectively be trauma aware and effectively support victims during court proceedings, it's life-saving to understand how the bail and conditions status of the perpetrator is something that victims of domestic abuse are constantly risk-assessing themselves. If the perpetrator is out on bail for example, victims and survivors have expressed to us the immense fear they live in for their own safety that they can encounter them in their community. This fear is particularly heightened for victims and survivors living in rural communities, where the chances of seeing their perpetrator in the one supermarket or Post Office in a small village is greatly increased. One Survivor told us she does not shop in her town at all in case she risks running

The role of the VWCU in updating victims on changes to bail conditions is highlighted at section 1.4.

into her perpetrator, who is out on bail despite pleading guilty to serious assault charges and is awaiting sentencing and will go miles away to enough town or city do her shopping for example.

4.1.5 & 4.1.6

On reviewing this section, we understand the defendant's legal team has the right to challenge the victim's account of the allegations made. We have long campaigned on more trauma informed and trauma led thinking within our legal system here both at the criminal court and the family court, and we welcomed the recent change in the law through the Domestic Abuse & Civil Proceedings Act (Northern Ireland) 2021 that prohibits the cross examination of a victim by the alleged perpetrator. We understand the cross examining of the witness by the defendant's legal team is lawful presently, but we ask that all can be done to make the situation as least distressing as possible for the victim. The implementation of the Gillen review recommendation in domestic abuse cases is something we greatly encourage and will continue to lobby for. A criminal court that is not trauma informed is a court that will cause unnecessary distress and trauma for victims trying to seek justice.

Noted.

4.1.7

Relating to the previous paragraph in this submission, we again stress the importance of a trauma informed criminal court and we welcome the inclusion in this section stating that Prosecutor will object to allegations about the character or demeanour of the victim which are irrelevant to the issues of the case, as again, this will only cause unnecessary distress to the victim and make an already difficult process even more so for the victim. It's also an essential commitment in these circumstances to understand and to be fully aware of myths and judgements surrounding 'victim behaviour'. E.g. alcohol dependency as a result of the abuse.

Noted.

4.1.8, 4.1.9 & 4.1.10

Section 4.1.8 explains that plea bargaining 'has no place in the practice or procedures of the PPS. Many survivors would disagree:

Noted.

“It is plea bargaining so why don’t they just call it out for what it is? They’re saying, ‘we don’t officially do it’ but they do do it. If we decide in Northern Ireland that plea bargaining is the way to go then fine but put some parameters on it and maybe actually involve the victim.”

In an extremely disappointing case of a survivor, ‘plea bargaining’ occurred without her consultation and resulted in the prosecutor settling for the removal of two indisputable charges:

“On the day, the barrister told me he (the accused perpetrator) had changed his plea so I could go home if I wanted to, so I left and it was only when I got the letter from the Victim and Witness Care Unit that I realised that they had dropped two charges that there was video evidence for. He had been captured on camera. I feel they should’ve said, ‘he has pleaded guilty; these charges are being dropped, are you happy with that?’

They were sexual offences, he had sent videos to me of himself masturbating, talking about a whole lot of disgusting things, so those videos were there, the police had those videos, he couldn’t have denied them. So, no consultation with me. I found out when the letter came, and those offences weren’t on it.

Apparently, he wanted those off because he potentially could’ve ended up on the sexual offenders register. So he pleaded guilty to the other charges to get rid of that but I think ‘well I was there, I could’ve been asked’. They were the two charges that he absolutely couldn’t have talked his way out of.”

This decision impacted not only a lack of sentencing in this case, but also sentencing that would go on to happen at a later date:

“...his next victim, there was an attempted rape charge, but he had no existing sexual offenses.”

With the purpose of the PPS being the prioritisation of public interest, Women’s Aid believe that the prosecutors involved with this particular case, as with many others, overlooked the interest of ‘could be’ victims by failing to recognise that perpetrators of domestic abuse are statistically likely to go on reoffend and abuse further women.

Furthermore, the removal of domestic and sexual abuse charges has huge implications on the information that the PSNI can share if/when applications are made to the Domestic Violence and Abuse Disclosure Scheme (DVADS).

Noted.

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This case evidences the following point made by a survivor:

“The human rights of the perpetrator trump the human rights of the victim.”

By prioritising the wants of an accused perpetrator and offering an arrangement to lessen the charges against him; the safety of victims and future victims alike is undermined.

For many of the women we spoke to, they noted a potential link between PPS financial controls and this issue of accepting lesser charges to avoid trial.

As noted previously, women have said that they feel the financial restraints on the PPS are unfairly impacting them and how they are treated in court.

4.2.1

On the issue of sentencing, victims and survivors of domestic abuse can often feel that the sentence given by the judge is perceived as being too lenient, especially in

Noted.

cases where victims have endured abuse for decades for example, because the perpetrator was seen as showing 'good behaviour'.

Whilst the sentencing is ultimately up to the Judge presiding over this case, it's important that again clear communication is provided to the victim, so they understand what is happening throughout the proceedings, having realistic conversations with them around sentencing in order to better manage expectations around sentencing, and information on their rights when wanting to appeal a sentence.

4.2.4

Whilst we understand it's not in the PPS' remit nor powers to stop good character references being submitted on behalf of the defendant, we wish to take this opportunity via this submission to express the manipulative behaviours many perpetrators of domestic abuse use to attempt to present a persona of a 'pillar of the community'.

Good character references are never a reflection of the true face of a perpetrator, especially since the vast majority of the time domestic abuse is perpetrated behind closed doors, where many people don't see their true behaviour. We will continue to highlight and campaign on this issue for the removal of the practice of 'good character' references be banned from domestic abuse and sexual offences cases.

4.2.7

As mentioned previously, to effectively be trauma aware and effectively support victims during court proceedings, it's lifesaving to understand how the status of the perpetrator is something that victims of domestic abuse are constantly risk-assessing themselves, and as such, the Court must put effective and adequate protections in place to ensure victims are kept safe. We therefore encourage the applying of Ancillary Orders to further protect the victim once the perpetrator is released into the public and also for the public's protection in case the perpetrator commits offences against another victim in their future. It is also important to note that this section should be updated when Stalking Protection Orders, introduced through the Protection From Stalking (Northern Ireland) Act 2022, comes into force in

Noted.

Information on Stalking Protection Orders will be included in our Policy for Prosecuting cases of Stalking which will be released in Spring 2024 for public consultation. This policy will also be updated when Domestic Abuse Protection Notices and Orders come into force.

<p>2023. Stalking behaviors is something that victims of domestic abuse often experience when they try to leave abusive relationship, and it's incredibly important that the court take such terrifying behaviors seriously and provide adequate protections for victim and the wider general public.</p> <p>All breaches of Orders including Non – Molestation Orders must be taken extremely seriously by the Justice system and victims must be taken seriously criminal justice agencies and never minimised. A perpetrator breaking a court ancillary order needs to result in the immediate action of authorities, however 'small' it is deemed by some.</p>	<p>Noted.</p>
<p>Question 5</p> <p>This policy document should outline the challenges that individuals face when giving evidence. To say it can be particularly traumatic is not acknowledging what victims experience adequately. Ultimately if the criminal justice agencies want more people to come forward and get to court and give evidence. It is imperative that victims are made to feel safe and know that the court is aware of the risks they face during this process as well as the provision of specialist support to engage with all justice agencies including PPS.</p> <p>An introduction to giving evidence in court and making this part more user friendly, person-centred and trauma informed is essential. It is important to introduce Special Measures – what are they and what are they for?</p> <p>This is useful within the CPS document with a section:</p> <ul style="list-style-type: none"> • What are Special Measures • Who is entitled to Special Measures? <p>This would give clear guidance to victims.</p> <p>Also the issue of special measures are very limited unless they are accompanied by a package of support including familiarisation visit, ensuring the complainant can enter and exit court away from the defendant, can wait in a separate waiting areas which is safe and can be accompanied into court with a supporter of her choice.</p>	<p>Our information leaflets on special measures, which go out with our letters to victims and witnesses, are being revised. This will include links to useful information and sources of support.</p> <p>The role of Victim Support and Young Witness Service will be highlighted in our revised information leaflet on special measures.</p> <p>Section 5.1 now includes information on special measures and confirms that PPS apply for these measures.</p>

On the use of special measures, Survivors expressed to us that “It is the police not the PPS who apply for special measures. And the police actually said to me ‘there’s a bit at the end of the form about special measures but that wouldn’t really apply to you, that would be for victims of serious crime like if someone has been raped by a stranger’. So, I felt like I couldn’t ask even though the thought of seeing him I couldn’t handle.”

5.1.2

Domestic abuse is a crime in which the victim and the witness are very often the same person in the context of proceedings. There needs to be stronger distinction procedurally to protect the emotional and psychological wellbeing of those who are entering the criminal justice system as both the victim and the witness simultaneously. It’s also of vital importance to take into account the incredibly high-risk nature of domestic abuse victims and survivors in relation to coming forward to report what’s happening to them to the police, and then the trauma they experience when having to give evidence. When Women’s Aid speak to victims and survivors they tell us that their needs to be stronger distinction procedurally to protect the emotional and psychological wellbeing of those who are entering the criminal court as both the victim and the witness simultaneously. It’s also of vital important to take into account the incredible amount of women we support are still terrified for their personal safety, so for them taking the risk of going through the criminal justice process and the chance their abuser may not be found guilty or face a prison sentence is extremely distressing for them and is in their thoughts during the whole process.

In relation to Special Measures “arrangements to pilot pre-recorded cross examination and re-examination in appropriate cases” as muted previously as by the Department of Justice within the consultation on improving the experiences of victims and witnesses in the criminal justice system, July 2021

Victims and survivors of domestic abuse can be retraumatised when facing their abuser in court. This action is so vital for protecting the wellbeing of victims : Article 56 of the Istanbul Convention which calls for member states to “enable victims to testify, according to the rules provided by their internal law, in the courtroom without being present or at least without the presence of the alleged perpetrator,

Noted.

Noted.

notably through the use of appropriate communication technologies.”

For many of the women we support, the cycle of abuse they experienced lasted years, even decades. For these women, breaking free from their abuser and facing them in court can be an emotionally and physiologically daunting experience, so we would welcome pre-recorded cross examinations and the automatic application of special measures to best protect the needs and wellbeing of victims who are called in domestic abuse cases.

5.1.3

5.1.3 states that the “judge makes the decision about whether special measures are allowed”. This is a broad statement and contradictory; they are either allowed or not. In the sentence before it states that “victims of offences involving domestic abuse are automatically presumed to be eligible for special measures”. This does not guarantee anything and will automatically put off a victim coming forward if they are not an automatic right. For this to be taken away is one of the worst things that can happen. It would be much easier if there was an automatic right to this not a presumed one!

5.1.4

In relation to special measures in this clause there is a reference to “early decisions should be taken” in relation to assist victims and witnesses. There is no clarity around this, how early? Again it would be good to seek clarity on this issue and be clear from the outset within the policy what exactly this means? Many women who have sought support from Women’s Aid services have had difficult issues and challenges with Special Measures within different court settings which is not good enough. If they are required they should be an automatic right and if they have been previously arranged they should be in place. Victims and survivors should not have to jump through hoops in order to get Special Measures and this again is a challenge we have in relation to the re-victimisation within the court process.

5.2.6

Women’s Aid would welcome the introduction of specialised criminal justice support workers within the court. At present there is a pilot project being undertaken within the Belfast Court setting by Belfast & Lisburn

Noted.

The legislation provides that the victim is eligible to apply for special measures. It is for the court to decide whether special measures will be granted.

Internal guidance is being drafted to provide further information to prosecutors and VWCU on special measures. Police are also reviewing their guidance in this area.

Noted.

Women's Aid (please see below for further information on this project).

Criminal Justice Worker Pilot – Belfast & Lisburn Women's Aid

To provide a high-quality, pro-active support service, responsive to the individual needs of victims of domestic abuse who are engaging with the Criminal Justice System. This involves working alongside the PSNI, Multi-Agency Risk Assessment Conference (MARAC) and the Public Prosecution Service (PPS). The unique part of this role and why it is successful to date, is that it is providing intense, consistent and trauma informed support to victims and witnesses. It is essential that they are treated with the respect they deserve as someone who is crucial to the trial because they are the person hurt and harmed within the prosecution process, but they are also a witness in the case.

5.2.8

There is mixed responses to the VWCU and it is agreed that they need to improve the experience of victims and witnesses. The following experiences inform that there is much work needed to keep people communicated, included and of course that they matter. If we want to engage people in the criminal justice system and keep them in the system, this needs to improve dramatically. The experiences are different and not consistent. We would call on mandatory training for all staff in relation to domestic and sexual abuse together with listening skills and counselling skills transferable to the phone work they are undertaking.

5.3

Women's Aid as detailed within this response would call on a dedicated Domestic Abuse Court to be implemented in Northern Ireland within different areas to directly tackle this issue.

Court Listing Practices are key using specialist staff to cluster together or fast track to first hearing/pre-trial review as quick as possible. Cases can also be listed at a fixed time and date and not going back and changing. Also if practical, the court should sit in the morning only to accommodate childcare and school issues. This is something that is paramount to court attendance.

We acknowledge the important role of the Criminal Justice Worker and are committed to working with her to support victims.

Noted.

A Domestic Abuse Contest Court will be piloted in Belfast.

<p>Victims need to know what the timeframes look like, it is simply unfair to have people waiting for cases with no idea of what to expect. Victims have to put their lives on hold and there is also more time for victims to experience intimidation, bullying and threatening behaviour from defendants and family members in order for them to withdraw their statement. This impacts so much on the victims and needs to be taken into consideration.</p> <p>Evidence: Use of Witnesses</p> <p>This is something Women’s Aid would welcome PPS considering together with PSNI in building cases and believe this could help in producing better evidence especially in cases of coercive control, where evidence gathering is difficult and challenging. We have an issue with low rates of prosecution in relation to physical abuse so this will be of concern.</p> <p>Many witnesses to intimate partner violence want to intervene but often do not know how, and numerous factors discourage them from doing so. Providing guidance on how to assist victims, strengthening protection for witnesses, and including the option to report anonymously may help encourage witnesses to help.</p>	<p>Noted.</p> <p>Noted.</p>
<p>Question 6</p> <p>Women’s Aid welcome this specific Annex dedicated to identifying the different ways in which domestic abuse can manifest and present to different sections of our society. It’s vital for victims and survivors of domestic abuse that the abuse they’ve experienced is viewed in conjunction with the additional obstacles they may face due to societal factors when trying to break free from the cycle of abuse. It’s also incredibly important for the PPS to reference that for a lot of these groups, the abuse they experience can be intersection, for example women who have a disability.</p> <p>When reviewing this section, we wish to present several suggest amendments in order to give the reader of the document further contextual understanding of how domestic abuse presents in these groups.</p>	<p>Noted.</p>
<p>Question 7</p> <p>We think it would be beneficial to have a short outline at the back of the document to explain legal terms, acronyms etc. in order for a lay person to be able to read the document</p>	<p>We have simplified the language used throughout the document and</p>

<p>and have ease to be able to look at the back of the document as to what that reference means.</p>	<p>incorporated explanations of legal terms used at the relevant sections.</p>
<p>Question 8</p> <p>We do not feel that it is user friendly at this time given the legal terminology and different sections not explaining fully what is meant or intended by statements. This is why it is imperative that the document is in lay person's terms, that people have links to appropriate documents including the legislation available, what that legislation means and what legal remedies are available.</p> <p>Women's Aid wants more women to use the criminal justice system, to get a prosecution, to feel that they were right in coming forward in the first place. At this moment in time, too many women regret ever coming forward and that is not where we want to be.</p>	<p>Please see above.</p>
<p>Question 9</p> <p>Northern Ireland needs to deliver a better environment for people to feel able to come forward and be a more willing participant as part of the criminal justice system. Enhancing engagement, appropriate and specialised advocacy support, and introducing an improved complaints process are all important steps, but it is the more personalised support that is key to a more trauma informed approach. Funding needs to be allocated as a priority for an equivalent service to Independent Sexual and Domestic Advisers to provide impartial information to victims and survivors of such domestic and sexual abuse. Support for victims and survivors should always be the priority, but we do need to look at and understand perpetrators behaviour and we call on not just PPS but all criminal justice agencies together with the Executive Office to implement a Perpetrators Strategy.</p> <p>Domestic and sexual abuse are increasing and are a gendered crime, these crimes have no place in our society, but the wider challenge for the criminal justice system is to enhance confidence that when victims come forward, they can feel reassured that they will follow a process that guarantees, as much as possible, that their voice will be heard, and that they will receive the support needed to take their case forward. This is not happening within Northern Ireland as we can see from our current rates of</p>	<p>Noted.</p> <p>Noted.</p>

prosecutions we need a change, investment and brave decision making moving forward if we are going to make this system work and ultimately reduce offending.	
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Women's Platform

Comment

PPS Response

Question 1

The information in the document is sufficient as an introduction, but as noted above, all PPS staff and prosecutors should have access to further detailed information and capacity building to ensure the full complexity of domestic abuse can be taken into account when assessing files and subsequently when deciding on or pursuing prosecutions.

Prosecutors have detailed internal guidance to support them in taking decisions in cases involving domestic abuse and the Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021.

With regard to the definition of sexual abuse, the definition does not tally with the following sentence referencing 'forced sex'. It would be important to specify this to clearly state that 'forced sex' is not limited to sex involving physical threat or force, but can include psychological or social threat or coercion, such as threatening harm to children if the victim refuses, public humiliation or forcing the victim to engage in sexual activity with a third party. An appropriate definition would be 'any situation where a person is forced ed (without consent) to participate in unwanted, unsafe or degrading sexual activity.

We have removed references to 'forced sex' and provided further information in the section on Sexual Abuse within Annex A.

It is helpful that this section clearly defines that forced sex can occur in relationships where sex at other times is consensual; these lines are frequently blurred and are a deterrent to victims reporting such abuse, as they fear not being believed. Significant detail on this is set out in the findings of a survey undertaken by Women's Policy Group on the experiences of violence among women and girls in Northern Ireland.

Noted with thanks.

Question 2

Both sections 2.3 and 2.4 set out a basic picture of how the offence will be applied by prosecutors. As noted above, the Test for Prosecution remains problematic, but it is understood the Test is not currently under review, and as such the procedure is clear.

Noted.

<p>However, it is important to note that this outline is unlikely to be sufficient for many victims/survivors, who for a wide range of reasons are not familiar with either the Act or principles of prosecution. Additional support, such as easy read guides and vitally outreach at community level is required to ensure the provisions are sufficiently well known so that those affected feel confident to report abuse.</p>	
<p>Specific care must be taken when dealing with cases involving individuals with insecure immigration status. As the draft policy notes, there are major barriers to reporting among migrant, asylum seeking and refugee communities due to fear about deportation or migration detention, and this is often used by perpetrators as a specific form of abuse, which often fundamentally silences victims / survivors. It would be helpful if the PPS would engage with relevant organisations to enable appropriate assurance to be provided to migrant communities and ensure people from all backgrounds are aware of the support and protections available, including immigration extension.</p>	<p>Noted.</p>
<p>The issue of the 'reasonable defence' remains controversial and was expanded on at length by the women's sector at Bill scrutiny stage. It would be helpful to more clearly set out when this defence can be applied, and how prosecutors may deal with it. This is important as domestic abuse can lead to mental health issues for some victims/survivors, and therefore what is presented as 'reasonable' may in fact form part of the pattern of abuse. It is also important to show what is not 'reasonable', to reassure victims/survivors, as perpetrators can otherwise easily utilise this provision to further gaslight, threaten and abuse their victims. Mental health issues are in themselves a major barrier to reporting abuse, as victims/survivors often fear losing children as a result of issues that directly relate to their experience of abuse, and perpetrators</p>	<p>Further information on the operation of the Act and the defence has been included in Chapter 2.</p>

use this as a major mechanism to control victims.	
Question 3	
It is helpful that this chapter sets out an understanding of how domestic abuse disempowers victims, from the outset. This indicates a basic understanding of a victim's experience and provides an important starting point for building trust with victims/survivors, many of whom lack any sense of agency and control over their own actions, and as noted in the draft policy, may be reluctant to go ahead with a complaint due to factors arising from this experience.	Noted with thanks.
It would be important to work with relevant organisations, such as Women's Aid, to ensure clear information in easy read formats is available at community level on the processes and procedures, in particular protections available for victims/survivors who either have experienced or are worried about intimidation or further abuse. However, it is essential that proceedings do not completely rely on victim/survivor active participation, as this would in effect encourage intimidation as a mechanism for preventing prosecution.	Noted.
While the list of acceptable evidence is entirely in line with current legislation, it is important to note that many victims do not tell anyone about their experiences, for many reasons including fear and shame, and therefore witness accounts may be difficult to obtain. Similarly, police reports will not always be available, particularly if a victim/survivor reports at a late stage or when no longer in the family home. Options for alternative evidence would be helpful, including where relevant and with consent from with the victim/survivor, medical records and/or work attendance records over a period of time.	Noted.
Question 4	
The points above under Q2 apply also to this question. It is important that victims/survivors,	Noted.

<p>and in particular victims involved in a court process, have full clarity on what to expect and are supported to engage with the process. The Assist NI service is mentioned in the document, but further emphasis could be placed on this to ensure the support available is better known at community level. Training to officials and prosecutors, as well as PSNI officers, should include information on the advocacy service to ensure frontline staff are able to signpost and refer victims/survivors to such services, where appropriate and relevant.</p>	
<p>Question 5</p>	
<p>The overview given in this chapter is brief and fairly general in nature. While it is sufficient as a broad overview, a more detailed breakdown of each step, with support available at each point, would need to be available to victims whose cases are going to court. The Assist NI advocacy service could further be outlined in more detail.</p>	<p>Further information on the roles of Victim Support NI, NSPCC and Assist NI has been included in Chapter 5.</p>
<p>Question 6</p>	
<p>The Annex is a very helpful resource and it is very welcome that it is included, as it demonstrates an understanding of the dynamics and complexities of domestic abuse. However, it is important that language is neutral and clear, to avoid any potential for confusion or victim blaming. This applies in particular to the section on LGBTQIA+ victims, where references to threats about removing children should take account of specific circumstances, in particular the current position where non biological parents in a same sex relationship do not always have the same parental rights as biological parents.</p>	<p>Noted.</p>
<p>The section on women would benefit from an expansion on what constitutes coercive control and/or controlling behaviour, as this is a new provision and may be difficult to understand without greater explanation. This applies in particular to communities and groups where hierarchical or controlling</p>	<p>Noted.</p>

<p>relationships are viewed as normal, including among older people, who may have adopted social norms where men control women.</p>	
<p>The section on teenagers is very helpful, as this age group has often been overlooked, which contributed to situations such as the abuse scandals in England. Teenagers in care are often particularly vulnerable, and significant care must be taken to build trust and engage sensitively with victims/survivors, who may have major difficulties in trusting authorities.</p>	<p>Noted with thanks.</p>
<p>Question 7</p>	
<p>As noted above under Q2, this information is helpful for professionals, and people with some understanding of legal processes and frameworks. Additional, easy read resources for distribution at community level would be needed to ensure awareness is raised among all population groups. Community and voluntary sector organisations would be well placed to advise on developing such resources and would also enable engagement with communities at grassroots level to ensure appropriate language and formats are used. For example, brief social media resources may be very relevant to a wide range of population groups.</p>	<p>Noted.</p>
<p>It is also vital to ensure that translations to main languages now used in Northern Ireland are available, to build trust and confidence with migrant, asylum seeker and refugee communities. In addition, outreach through relevant organisations working with these communities is vital to ensure communities are aware of provisions and protections. Concern about deportation and asylum detention is very real, and the consultation document clearly sets out the information sharing with the Home Office that is the source of fears, and this must be addressed as sensitively as possible to protect people who often arrive in Northern Ireland with trauma</p>	<p>Noted.</p>

<p>and are at increased risk due to their precarious situation.</p>	
<p>Question 8</p>	
<p>This policy sets out a framework helpful as a starting point, but further training for PPS officials and prosecutors is required to ensure the complexities of domestic abuse are fully understood, while additional resources for specific target groups are required to ensure all victims/survivors can have confidence in reporting abuse and engaging with potential prosecutions.</p>	<p>Noted.</p>
<p>Question 9</p>	
<p>Women’s Platform welcomes this consultation as an important and timely initiative to develop a rights based approach to prosecuting domestic abuse cases in Northern Ireland and implementing the Domestic Abuse (Family Proceedings) Act 2021. Women’s Platform also welcomes the opportunity to contribute evidence, which focuses on support for the proposal in international law.</p>	<p>Noted with thanks.</p>
<p>Access to justice, including prosecution of perpetrators of domestic abuse, is a core pillar of international human rights instruments. This policy is a welcome update and a core strand of effective implementation of the Domestic Abuse (Family Proceedings) Act 2021, which in itself enacts vital updates to legislation in Northern Ireland, in particular in relation to criminalising coercive control and court proceedings. These updates follow long campaigning from civil society and concern from international human rights experts, including the CEDAW Committee.</p>	<p>Noted with thanks.</p>
<p>It is important that this guidance is underpinned by a comprehensive training programme for PPS case officers and prosecutors, to ensure a clear and shared understanding of the dynamics of domestic abuse. In particular, it is vital to integrate victims/survivors and their lived experience in training and capacity building, considering the</p>	<p>Noted.</p>

<p>extremely complex impacts of domestic abuse on victims/survivors. While the consultation document sets out some of this, direct engagement with concrete examples is essential to enable professionals to meaningfully understand the phenomenon of domestic abuse and how pervasive impacts are on all aspects of the victim/survivor's life and identity.</p>	
<p>This policy is a helpful start to increasing awareness of how domestic abuse cases are prosecuted under the new Act, and for building capacity among professionals involved in investigating, assessing and prosecuting cases. It demonstrates a core understanding of the complexities of domestic abuse, but the following key amendments would be useful:</p> <ol style="list-style-type: none"> 1. Referring to international human rights law as the overarching mandate. 2. Building capacity of professionals involved in investigating, assessing and prosecuting cases to fully understand the complexities of domestic abuse, in particular through and gaining an insight into the lived experiences of victims / survivors. 3. Working with organisations such as Women's Aid and migrant groups to reach out to communities for building trust and relationships, and ensuring the information is accessible to all communities. 	<p>Noted.</p>

Women's Policy Group NI

Comment

PPS Response

Introduction

For context, it is important to note that international human rights standards, in particular the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Council of Europe Istanbul Convention on taking action against violence against women, which is based on the European Convention on Human Rights, commit States Parties including the UK to take rigorous and effective action on domestic abuse and violence against women and girls. Both are binding on the UK as a State Party to each Convention⁸, and therefore provide a strong mandate for improved prosecution of domestic abuse.

Further information has been included at section 1.1.10.

Importantly, these Conventions set out a rights-based framework, which differs significantly from the current Test of Prosecution in Northern Ireland. It would be timely and welcome to further review this Test as, in many cases, it does not adequately relate to domestic abuse offences, creating situations where perpetrators of serious offences are not meaningfully dealt with.

Noted.

Question 1

Clarity is urgently needed at 2.1.2 on sexual abuse. The phrasing used of a "situation when a person is forced (without consent) to participate in unwanted, unsafe or degrading sexual activity" and then "forced sex" is enormously problematic as it gives the impression that physical force must be used to meet the legal threshold for sexual abuse. Sexual abuse can be perpetrated by grooming, by deceit, by manipulation, while the person is asleep, and a myriad of other possibilities. While this is true in the law, the choice of language here implies that physical force is a necessity for a charge of sexual

Further information has now been included under the title 'Sexual Abuse' in Annex A.

<p>abuse. This should be urgently amended to “situation where a person experiences unwanted unsafe or degrading sexual activity without their consent” and “non-consensual sex” respectively.</p>	
<p>Question 2</p>	
<p>Further detail would be beneficial at 2.3.16 on different courts and their powers in terms of sentencing. From the point of view of a victim or survivor, it is important that they understand why a case might be heard in one or another court, and this lack of clarity may lead to a perception that a decision has been made pre-trial as to the seriousness of the case or the impact of the harm done to the survivor. A few sentences explaining the ways in which these decisions are made or indeed referring the reader to a different policy paper where this is accounted for would be valuable.</p>	<p>This information is included in our Code for Prosecutors. A link to our Code has been included in this policy.</p>
<p>Expand on 2.3.17 regarding the defence to the domestic abuse offence, where the defendant can show that the “course of behaviour was reasonable”. In this section, two examples are used to illustrate where that defence may be used, but it would be helpful to include some examples of things that do not meet the threshold of “reasonable”. This is not just for the purposes of clarification and setting out clearly the purposes of this defence, it is also for the benefit of survivors who - due to the psychological nature of domestic abuse, may be convinced by their abuser that they are indeed not reasonable and that any abuse they experience may be intended as being “for their own good”. Any account of this defence therefore needs to acknowledge the common reality of abusers gaslighting their victim to believe their abuser is in fact their protector, and the extraordinary efforts that need to be made by survivors to overcome that conditioning and report the abuse.</p>	<p>Further information on the operation of the Act is now included at Chapter 2.</p>
<p>In the Women’s Policy Group’s evidence submission to the Justice Committee on the Domestic Abuse and Civil Proceedings Act</p>	<p>Noted.</p>

<p>(then Bill), we articulated our concerns re this defence¹⁰: “The WPG NI supports the complete removal of the caveat of “reasonable defence”, as we are deeply concerned with such measures being used as a justification of abuse by defendants. In creating such a provision, we are concerned that perpetrators can justify their abusive behaviour through portraying victims of abuse as mentally unstable, unable to make decisions for themselves, having a history of addiction that can be used against them and so on. Further, victims may suffer from mental health issues caused by abuse and disabled women, who are already more likely to be victims of domestic abuse, could find themselves being disproportionately impacted by the implications of a “reasonable defence.”</p>	
<p>We also outlined, in that evidence submission, our concerns about the abuse of older people being explained away in this way, echoing the concerns of the Commissioner for Older People as articulated by then MLA Rachel Woods: “My main concern is around those who are in care or in caring relationships, and those who have disabilities with their physical health and mental health. The concern has also been raised by 24 Eddie Lynch, the Commissioner for Older People, who has noted the phrasing in clause 12(2)(a) that the evidence: “is enough to raise an issue as to whether the course of behaviour is as described in subsection (1)”. The phrase “enough to raise an issue” seems sufficiently loose as to conceivably allow for victim-blaming as a means of defence. It cannot be the case that the dominant person in a relationship needs only raise a query over the victim’s behaviour in order to rationalise abuse, as such formulation may allow.”</p>	<p>Noted.</p>
<p>This issue is also relevant to victims/survivors who face mental ill health, and Chapter 3 acknowledges at 3.2.6 that on occasion an offender will attempt to use their victim’s mental health issues - alleged or real - to deny</p>	<p>Noted.</p>

<p>that the alleged events occurred. The draft policy is clear that this must not be accepted outright but assessed on its own merits. This awareness should also be extended to the kinds of claims alleged above; an offender may exaggerate the alleged unreliability of their victim's memory, exaggerate their victim's alleged dependence and more. If we can understand that this caveat applies in the case of mental health issues, we should acknowledge it also in terms of other disabilities or alleged addictions; offenders often lie, downplay and exaggerate to their own ends.</p>	
<p>Acknowledging that this defence does exist despite our serious misgivings and concerns, at the least the PPS should provide as much clarity as possible to avoid the fear of the potential use of this defence resulting in the victim blaming of survivors and excluding them from seeking or accessing justice.</p>	<p>Noted.</p>
<p>Question 3</p>	
<p>Overall, this section accurately outlines the issues considered by prosecutors in domestic abuse cases. With that said, this is the stage of the process at which the most sensitive decisions are taken and the greatest risk of upsetting outcomes – at least from the PPS – arises. For this reason it would be valuable to take extra care in the use of language and to ensure that some details are expanded to provide reassurance for victims.</p>	<p>Noted.</p>
<p>We recommend a rephrasing of harmful language at 3.1.6 with regard to offenders having “a lot to lose if prosecution leads to a permanent separation” and that a decision to prosecute may “result in some offenders embarking on conduct to maintain a relationship, or alternatively witness intimidation/harassment”. The issue here goes beyond the choice of words; the implication is that the prosecution may cause undue stress – as opposed to entirely deserved consequences – on offenders and that the</p>	<p>Noted.</p>

<p>outcomes of that stress may impact the victim. In reality the victim is already harmed in the case of domestic abuse, regardless of PPS action, and the language must not excuse the offender's chosen actions regardless of what allegedly precipitated them. Similarly, any suggestion of victim blaming must be expunged, bearing in mind that prosecution most often flows from the victim's complaint, and if this is the case it is the responsibility of the justice system in all its parts to protect the victim from further harm, not to give succour to the offender.</p>	
<p>Clarity is recommended with regards to risk assessments at 3.3.4 – footnote 5 says that these “usually” take place and that they “should” address any risks around children. Mindful that these are police risk assessments and not the work of the PPS, it would be helpful to clarify how often these do not happen, under what circumstances they may not be done, and under what circumstances they will not include any risks around children.</p>	<p>Further information on risk assessments has been included at section 3.11.</p>
<p>3.3.5 covers special measures at courts, including screens and giving evidence via video link. The WPG takes the view that this should be standard practice when dealing with extremely traumatising and intimate harm such as domestic abuse. Given that it is not, at present, we would suggest that this section should require the prosecutor to offer this to the victim, rather than it being at the prosecutor's discretion. A prosecutor is not necessarily best placed to assess the needs of a survivor. We are mindful that this is covered in more detail in Chapter 5, and it would be helpful to signpost this fact at this point in the document.</p>	<p>Noted.</p>
<p>At 3.4.2 a helpful list of reasons a victim might withdraw their support for prosecution is given, but we feel it would benefit from the addition of a consideration of paramilitary intimidation. WRDA research¹¹ and work by Women's Aid NI has demonstrated that this is a real</p>	<p>Noted.</p>

<p>phenomenon in the lives of women seeking to escape domestic abuse and, because of the nature of paramilitary control of entire communities, survivors may fear consequences from their abuser's associates even if their abuser is themselves imprisoned for a lengthy period of time.</p>	
<p>In the same list, the mention of a fear of coming face to face with one's abuser in court is another reason to make changes to the provision of special measures as standard, while the fear of their abuser's associates adds credence to arguments to limit the use of the public gallery in these cases.</p>	<p>Noted.</p>
<p>In terms of worrying language, it is brought into stark relief when, while listing factors that are useful when considering the public interest, this policy lists "the culpability of the defendant" at section 3.4.7. This is rather baffling at best, as their guilt or otherwise has yet to be decided by the court, so it seems to suggest that there are some kinds of alleged domestic abuse for which the abuser may not be responsible. We would urge immediate clarification of this point or removal of it entirely as in its current form it is very harmful and victim blaming language to use.</p>	<p>This information is consistent with our Guidelines for Diversion.</p>
<p>Finally, Section 3.8 on Alternatives to Prosecution is overall unclear and unhelpful. WPG agrees with Women's Aid NI on this; diversionary disposal is not appropriate in these cases because of the nature of the harm caused and the nature of the offence itself. While 3.8.1 says it is "rarely" appropriate, this is unhelpfully vague and something so sensitive and important needs to be spelled out clearly; when do the PPS consider it appropriate and why? Further questions are raised at 3.8.3 which implies that this course of action may be taken even when the complainant has expressed the desire that this not proceed. Urgent clarification is needed at least, and ideally a rethink of diversionary</p>	<p>Noted.</p>

disposal for these crimes should be considered.	
Question 4	
Overall, this section is excellent, although there are a few instances where some clarification would be welcome	Noted with thanks.
At 4.1.6 which covers inappropriate cross-examination, it would be welcome both to include the circumstances in which Judges may allow some questioning of the victim, so that they may be prepared to face it and understand why it is allowed. It would also be valuable to include (perhaps in a footnote) what a victim ought to do if they believe the prosecutor did not proactively object to a line of questioning that they believed was inappropriate or damaging to either their case or to their reputation or health.	Further information has now been included at section 4.4.
At 4.1.9, the Policy outlines that the acceptance of alternative pleas will be transparent except in the “most exceptional circumstances”. Any clarification as to what these circumstances may be, would be welcome.	Noted.
At 4.2.4 there is an outline of the mitigating pleas that the defendant can enter before sentencing. Given that this is a very contested issue, and the fact that the prosecutor is empowered to object only when it is disparaging to a prosecuting witness rather than to question its truthfulness or relevance, this is something we urge urgent reform on. The WPG believe that this kind of evidence should not be admitted in either domestic abuse cases or sexual offences cases, it is harmful to the ends of justice.	Noted.
Question 5	
Firstly, at 5.1.1 we appeal again for special measures to be standardised. The PPS seems to recognise throughout this policy that this kind of crime can be extremely traumatising for survivors. Given this is the case, and given	Noted. Work is ongoing internally within PPS to improve our delivery in respect of Special Measures.

<p>that many cases take place with special measures in place, it would seem both simpler, faster, and more mindful of the duty of care to survivors to include these measures as standard, with an option for the victim to “opt-out” if they wish. With regards to the possibility of clearing the court of the public and mindful of the new approach to this issue in cases of serious sexual offences following the Gillen Review recommendations, we would recommend that a similar approach should be taken as standard in cases of domestic abuse.</p>	
<p>On a related issue, it is again mentioned at 5.1.3 that a judge makes a decision with regards to allowing or disallowing special measures. An outline of the information the judge uses to make such a decision would be helpful.</p>	<p>Noted.</p>
<p>Again, we recommend a change of approach to the Victim and Witness Care Unit (VWCU's) approach to contacting survivors with key information on the progress of their case, any appeals or release of the offender and related matters. While this document does say that these matters “may” be notified to the victim, we recommend a standardised approach and a duty to notify victims and survivors, and to do so in a timely manner. It is not an area of the PPS's work that has a great deal of positive feedback from survivors, with many saying they had to proactively make contact for updates on their case, and lived in fear of encountering the offender before they were told about changes to bail conditions or adjusted release dates. Given the trauma and fear, as well as the palpable danger, arising from these cases we urge a review of how this service operates at present and every effort be made to improve the service.</p>	<p>Noted.</p>
<p>Question 6</p>	
<p>The WPG welcome the inclusion of this Annex and the consideration of issues relevant to more marginalised and impacted groups. We also welcome a recognition that a person's</p>	<p>Noted with thanks.</p>

<p>intersecting identities mean that they experience many of these marginalising factors at once, and that this presents challenges for those survivors that the PPS need to be cognisant of in their work.</p>	
<p>In the subsection on men, the following line is included: “Some women may use children within the relationship to manipulate a male victim, by for example threatening to take away contact rights.” The PPS will be aware that these contact arrangements are, when contested, the purview of the family courts and not a right that a woman may bestow or deny to a child’s father. In addition, concerns about child contact following family breakdown can apply equally to either partner in any relationship, and including it here, and with this specific phrasing, implies it is a unique concern of men in heterosexual relationships – something women, specifically, do to men, specifically.</p>	<p>Noted and amended.</p>
<p>Repeating this argument in this language strays close to repeating the debunked and dangerous ideas known as “parental alienation”, so often used against women who have left abusive relationships and so ignorant of a child’s rights and needs. This document is elsewhere extremely careful to stress that domestic abuse can happen to anyone and be perpetrated by anyone – even in this same section on men who experience abuse – and this sentence takes a markedly different approach. To suggest that “us(ing) children within a relationship to manipulate” is a gendered phenomenon is wrong and dangerous; it repeats misogynist propaganda and its acceptance by authorities like the PPS has a real impact on real families going through the family courts. This sentence needs to be at least rephrased and ideally used verbatim in the section on women also, as follows: “Some parents may fear loss of contact with their children should they report domestic abuse, and their partner may</p>	<p>Noted and amended.</p>

<p>threaten to withhold contact should the victim report to police.”</p>	
<p>In the sub-section on same sex, bisexual and transgender (LGBT) relationships, we recommend expanding on the sentence that mentions “there may be threats of removal of children by Social Services” – this is not incorrect, but this is worth clarifying in terms that apply specifically to LGBT relationships but not to other kinds of relationships, for example the issues faced by a partner who may not be biologically related to a child but is their parent, such as through the use of IVF, in a way that would make this a particular challenge.</p>	<p>Noted.</p>
<p>In the sub-section on older people, we urge a rephrasing of the sentence “where the victim is physically impaired or experiencing ill health, abuse may begin as a result of ‘care giver’ stress or anxiety”. This is a really worrying phrasing to use as it implies that abuse is something that happens almost as a natural consequence of stress, as opposed to something that an individual perpetrator holds full responsibility for. There have been real cases where this has formed the substance of the defendant’s case, and while the phenomenon of carers abusing the person they care for is very real the PPS must take care not to suggest that this is an unfortunate chain reaction set off by the victim’s illness or incapacity. The responsibility lies always with the perpetrator. See also our response to Q3 where we query the use of the term “the culpability of the offender” at section 3.4.7, as though some kinds of circumstances justify domestic abuse. It is a victim blaming trope and the PPS needs to amend this.</p>	<p>Noted.</p>
<p>In the sub-section on disability, we have no concerns about the content, but we would urge the PPS to ensure they include more detail, specifically on the disproportionate rates of domestic abuse experienced by disabled women and the particular barriers they face in</p>	<p>Noted.</p>

<p>reporting that abuse, which may include abuse from their caregivers. This is covered in detail in our research on VAWG outlined in section 2. In research that showed 83% of respondents had been impacted by men's violence against women, that figure rose to 92.4% for disabled women.</p>	
<p>In the sub-section on minority ethnic communities, we have no major concerns, but we note that it rightly mentions honour-based abuse and forced marriage. The WPG believes that these two items should be listed separately as they are separate (if often linked) forms of abuse.</p>	<p>Noted.</p>
<p>We also argue that the phenomenon of honour-based abuse exists in communities that are not minority ethnic communities, most commonly carried out by paramilitary organisations. Our views on this are informed by Coumilah Manjoo, an expert on honour-based abuse who worked with us on our Feminist Recovery Plan¹⁵. Our position, therefore, is that this belongs here, but that paramilitarism as a phenomenon needs to be considered and integrated into this plan, as it is such a prevalent force in Northern Ireland and in domestic abuse cases here.</p>	<p>Noted and referenced under the section titled 'Honour-based' abuse in Annex A.</p>
<p>In the sub-section on individuals involved in prostitution, the WPG urges the PPS to replace the word "prostitution" with "sex work". This has two major arguments in its favour; it both reduces the stigma and the negative connotations associated with the word "prostitution", and it encompasses other kinds of sex work, for example online sex work that is not technically 'prostitution' as defined here but it is increasing in prevalence and subject to the same kinds of concerns outlined here. It is also in line with the language used in the Gillen Review to describe this line of work.</p>	<p>Noted and amended.</p>
<p>In the sub-section on immigrants, refugees and asylum seekers, the circumstances in which a person wishes to settle permanently</p>	<p>Noted.</p>

<p>in the UK as a victim of domestic abuse are laid out. While the list of things that they need to prove is clearly laid out, it is not clear how the victim may prove that – a guide regarding the kinds of things that would qualify as proof would be valuable. If the standard of proof is a conviction from a UK court, that must be made clear. If they have fled another country because of domestic abuse and come to the UK to seek refuge, it ought to be clear what kind of proof they need to present to have their claim accepted. If the PPS or Home Office have policies relating to these matters, they ought to be linked, summarised or both.</p>	
<p>Question 7</p>	
<p>Overall, the language is clear and free from excessively technical jargon, although the PPS may consider a glossary with technical and legal terms to be included as an annex.</p>	<p>Noted.</p>
<p>Our main concerns in terms of clear and easy to understand information is that the Policy is occasionally too vague and non-committal when describing things, mentioning for example that a decision is for a judge to make but not clarifying on what grounds, or saying that something “may” be considered or done, but not on what grounds this may happen.</p>	<p>Noted.</p>
<p>In addition, we have concerns about use of victim blaming language on more than one occasion, however non-intentional, and the perpetuation of harmful stereotypes. We have outlined these in detail above, but they include the suggestion that a decision to prosecute may cause a perpetrator’s behaviour to escalate, rather than an unequivocal statement that they choose this course of action themselves, and the incredibly dangerous statement covered in response to Q6 where it is implied that women 132weaponize children against men to keep them in abusive relationships, fuelling dangerous myths around family courts and misogynist tropes about women.</p>	<p>Noted.</p>

Question 8	
<p>Overall, yes, although as outlined above, we have concerns that could be amended before publication. These fall approximately into 3 categories: 1. Clarifying with specific details 2. Avoiding victim blaming implications in phrasing and avoiding the repetition of harmful tropes 3. Policy changes to how things are done by the PPS, for example the provision of special measures as standard It would be helpful to ensure that easily accessible resources, where key facts are presented in as straightforward language as possible, are available to local communities, so that people of all backgrounds can access them. This includes translations into main languages used in Northern Ireland, and outreach to relevant organisations, who can assist with the correct language and phrasing and support in outreach to communities.</p>	Noted.
Question 9	
<p>In addition to the above, and mentioned briefly at Q3 and Q6, please consider the relevance of the Northern Ireland context. The presence of active paramilitary organisations that continue to wield control and are justifiably feared in many communities presents a barrier, not just to the reporting of these crimes and the willingness of a complainant to continue to support a prosecution, but also to the machinations of justice itself. We realise it is outwith the scope of this document to address the scourge of paramilitarism but recognising it as an ever-present reality would be helpful as it is a significant factor in willingness to report and likelihood of withdrawal of support for prosecution.</p>	Noted and referenced.
Conclusion	
<p>To conclude, the NI Women's Policy Group support the introduction of measures to improve the prosecution of domestic abuse cases. However, there are several issues with the proposed PPS Policy on Prosecuting Cases of Domestic Abuse which we have identified and explained in this response. We</p>	Noted with thanks.

would like to see these issues addressed before such a policy is implemented and are keen to engage further with the PPS on this work.	
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