

## Section 6 Domestic Abuse Prosecutions

This section focuses primarily on the prosecution of perpetrators, which is a key aim of the VAWG strategy. The section does not discuss in detail that victims are likely to have to attend court for a number of different reasons, including the family court on divorce proceeding and settlements (for those who are married) and for custody and child access cases for victims who have children and are separated. Some of the forthcoming legal changes aim to protect victims during the prosecution of the perpetrator and also in family court cases which may include divorce settlements, childcare and custody arrangements.

### VAWG actions

There last seven actions in the VAWG strategy focus on improving the prosecution process of VAWG cases, including sharing best practice, reviewing data, policies and procedures and increasing the use of video evidence gathered by police. One action is specific to victim support and protection. The following actions are listed below:-

89	Review the guidance to forces to make sure that it is clear to officers the expectation about using body-worn video to gather evidence including to support investigations of domestic abuse incidents.	COP	Review progress March 2017
<b>CPS RESPONSE</b>			
90	Review policies, guidance, training and best practice across VAWG strands emphasising the need to ensure an offender-centric approach and to demonstrate an appropriate understanding of the needs of vulnerable victims.	CPS	Ongoing to 2020
91	Provide regular oversight, including bi-annually from the Director of Public Prosecutions, of VAWG prosecutions through regular performance reviews of CPS casework.	CPS	Bi-annual
92	Ensure transparency and accountability of VAWG prosecutions by the annual publication of a CPS VAWG Crime Report.	CPS	Annual
93	Continue to focus on harmful traditional practices including forced marriage, honour-based violence and female genital mutilation.	CPS	Ongoing to 2020
94	Address ways with others in the Criminal Justice System to improve the level of support provided to victims of VAWG crimes throughout the criminal justice process including through Specialist Domestic Violence Courts and the work of Victim Liaison Units.	CPS	Ongoing to 2020
95	Engage with stakeholders to inform the work of the CPS on VAWG including through quarterly meetings of the VAWG External Consultation Group, the Community Accountability Forum and, locally, through the work of the Equality, Diversity and Community Engagement Managers.	CPS	Ongoing to 2020

### Changes to domestic abuse and the law

The Government announced in February 2016 they would introduce a Domestic Violence and Abuse Act. The aim is to *'create consistency in the use of laws effectiveness of the various law enforcement measures across the country'*<sup>1</sup> with a view of increasing the number of successful convictions by better supporting victims and improving legal procedures *'making it much easier for law enforcement bodies to find and use more consistently the measures at their disposal'*.

Other points to note:-

- The Prime Minister<sup>2</sup> will consider potential 'quick wins' in the intervening period
- The Prime Minister will directly oversee the work,
- The process will be cross-governmental but coordinated by the Home Office and the Ministry of Justice'.

<sup>1</sup> Press release: Prime Minister's plans to transform the way we tackle domestic violence and abuse  
<https://www.gov.uk/government/news/prime-ministers-plans-to-transform-the-way-we-tackle-domestic-violence-and-abuse>

<sup>2</sup> Theresa May

## Legal Aid changes for victims of domestic abuse<sup>3, 4</sup>

The government has changed the legal aid grant requirements for victims of domestic abuse. There is now no time limit on the evidence required to prove abuse has taken place and the types of evidence that will be accepted has broadened.

This will make it easier for victims to prove their right to legal aid representation in court. Eligibility for legal aid had included a five year timeframe for evidence and strict limitations on the type of evidence required.

The change is beneficial for victims, removing potential barriers to seeking supporting evidence (e.g. if the GP was unaware of the abuse, but the GP evidence was required). This means in future legal aid grants can be applied for using specialist domestic abuse evidence. This may have some impact on the support services.

**Action – The changes to legal aid are likely to have a capacity impact on the support services, as they may become one of the main resources for victims when providing evidence for their legal aid grants. Commissioners need to review the impact this has on services over the next couple of years.**

## The vulnerable and the use of pre-recorded evidence in Court by the end of 2017<sup>5, 6</sup>

By the end of 2017 a legal change will introduce using pre-recorded victim evidence (including pre-recorded cross evidence) removing the need for vulnerable victims to stand face to face with the perpetrator in court to provide their testimony. The decision was made following successful pilots in Liverpool, Leeds and Kingston-upon-Thames. Two thirds of the victims in the pilots were victims of sexual abuse offences. This addresses an issue raised by a number of local experts as it causes the victim to relive the incident, to face the perpetrator and detail in a court setting very personal information.

## Sheffield legal process for domestic abuse court cases

Sheffield runs a 'fast track' service for domestic abuse cases as part of Transforming Summary Justice<sup>7</sup>. This means the case is listed within 14 days unless the perpetrator is already in custody. There has been no specific Specialist Domestic Violence Court in Sheffield, holding all domestic abuse cases. This means that multiple domestic abuse cases can be heard in different courts simultaneously. However a trial cluster court is starting in Spring 2017.

Derbyshire currently use a 'Cluster model' which is used to describe the clustering of cases of domestic violence in a particular court room at a specific time slot, whilst other areas have one specifically allocated SDVC court. Previous research into SDVCs have suggested some have a higher successful rate of prosecutions (e.g. the average for SDVC successful outcomes was 66% compared with their corresponding CPS Area average of 64%<sup>8</sup> but some SDVC areas achieved over 70% in research undertaken of 23 SDVC in 2008 by the Home Office).

The SDVC is governed by the Local Criminal Justice Board and chaired by the OPCC, with operational co-ordination between the LCJB, the Police, the CPS, Her Majesties Court and Tribunal Service (HMCTS), local authority leads, Victim Support, Witness Support and IDVA services.

<sup>3</sup> The Law Gazette 'Domestic violence evidence requirement removed', Monidipa Fouzder, 27 February 2017 <https://www.lawgazette.co.uk/law/domestic-violence-evidence-requirement-removed/5059965.article#.WLRXVTTX400.facebook>

<sup>4</sup> 'Legal aid shakeup hands lifeline to domestic violence victim's', The Guardian, 23 February 2017, [https://www.theguardian.com/law/2017/feb/23/legal-aid-domestic-violence-law-courts?CMP=Share\\_iOSApp\\_Other](https://www.theguardian.com/law/2017/feb/23/legal-aid-domestic-violence-law-courts?CMP=Share_iOSApp_Other)

<sup>5</sup> 'Vulnerable witnesses to be spared court', BBC News, 15 September 2016, <http://www.bbc.co.uk/news/uk-37365710>

<sup>6</sup> 'Legal aid shakeup hands lifeline to domestic violence victim's', The Guardian, 23 February 2017, [https://www.theguardian.com/law/2017/feb/23/legal-aid-domestic-violence-law-courts?CMP=Share\\_iOSApp\\_Other](https://www.theguardian.com/law/2017/feb/23/legal-aid-domestic-violence-law-courts?CMP=Share_iOSApp_Other)

<sup>7</sup> Annex B1 Specialist domestic violence court (SDVC0 programme – self assessment for existing SDVCs - Sheffield

<sup>8</sup> Home Office *Specialist Domestic Violence Courts Review 2007-08 JUSTICE WITH SAFETY MARCH 2008*

The SDVC holds to account four MARACs; one operates in each of the four South Yorkshire areas. See Section 15 for full details and discussion on the Sheffield MARAC.

There is currently a national review of the Specialist Domestic Violence Courts (SDVC) framework being undertaken, this will include review of the governance structures for SDVCs. As part of this review all four South Yorkshire Areas provided information to HMCTS.

A summary of the legislation in relation to Domestic and Sexual abuse can be found in the Violence against Women and Girls Crime Report, CPS 2014/15<sup>9</sup>.

## Prosecution data 2015/16<sup>10</sup>

In 2015/16 the Crown Prosecution Service had 117,882 domestic abuse referrals and 82,157 charges were made (69.7% of all referrals resulted in a charge). A total of 100,930 perpetrators were prosecuted and 75,235 perpetrators were successfully convicted<sup>11</sup>. All three figures (referrals, charges and prosecutions) were lower than the previous 12 month period, although the proportion successfully prosecuted remained within 1 percentage point between the two years (68.9 in 2014/15 compared with 69.7% in 2015/16).

Crown Prosecution Service data 2015/16								
Regions:	CPS: Domestic abuse-related referrals	CPS: Domestic abuse-related charges	CPS: Domestic abuse-related charges as a % of referrals	CPS: Domestic abuse-related prosecutions	CPS: Domestic abuse-related convictions	CPS: Domestic abuse-related convictions as a % of prosecutions	CPS: Number of non-domestic abuse-related prosecutions	CPS: Domestic abuse-related prosecutions as a % of all prosecutions
England and Wales	117,882	82,157	69.69	100,930	75,235	74.54	521,860	16.21
Yorkshire and the Humber	11,591	8,817	76.07	9,760	7,542	77.27	49,995	16.33
South Yorkshire Police Force Area	3,081	2,138	69.39	2,297	1,734	75.49	13,325	14.70
Data Source - Government data Tool <a href="http://www.ons.gov.uk">www.ons.gov.uk</a>								
CPS data are not classified as National Statistics or Official Statistics.								
CPS domestic abuse data are dependent upon lawyers and administrative staff identifying and flagging applicable cases. These data are accurate only to the Data on referrals, prosecutions and convictions do not necessarily follow on from each other and caution should be taken when making comparisons.								
Figures for Metropolitan Police and City of London have been combined.								

The ONS data tool shown in the table above and published in December 2016 reported that South Yorkshire had a total of **3,081** domestic abuse related referrals to the CPS in the year ending March 2016, of which 2,138 (69%) resulted in a charge being made. This is a 5% reduction since 2013/14.

The South Yorkshire figure of 69% of cases being charged following a referral to CPS is similar to the overall England and Wales figure of 70%. South Yorkshire is the 11<sup>th</sup> lowest force area for conversion to charges from referrals, with Nottinghamshire, Greater Manchester and the Metropolitan police force areas being lower still. Leicestershire with around 83% has the highest conversion rate.

South Yorkshire had a total of **2,297** domestic abuse-related prosecutions in the year ending March 2016, which accounted for 14.7 % of all prosecutions. Across England and Wales the figure is 16.2%. South Yorkshire is the 11<sup>th</sup> lowest force area for this measure (out of 43). Comparisons to the most similar force areas show similar rates in Northumbria (15.1%) and Nottinghamshire (16.7%) whilst West Yorkshire has higher percentage at 20.9%.

<sup>9</sup> Crime Prosecution Service (CPS), *Violence Against Women and Girls Crime reports 2014/15*  
<http://www.cps.gov.uk/publications/equality/vaw/>

<sup>10</sup> *Domestic abuse in England and Wales: year ending March 2016*,  
<https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/bulletins/domesticabuseinenglandandwales/yearendingmarch2016>, Published December 2016

<sup>11</sup> Crime Prosecution Service (CPS), *Violence Against Women and Girls Crime reports 2014/15*  
<http://www.cps.gov.uk/publications/equality/vaw/>

## Successful prosecutions

There were a total of **1,734** domestic abuse-related successful prosecutions in 2015/16, meaning that **75.5% of all prosecutions resulted in a successful conviction**. This is a figure that has remained relatively constant the last seven years (between 74% and 77%). Across England and Wales the figure is 74.5% so South Yorkshire performance marginally better here.

South Yorkshire is 'mid table', the 20<sup>th</sup> lowest force area for this measure (out of 43). The 75.5% successful conviction rate is similar to West Yorkshire (75.7%), Nottinghamshire (74.6%) and higher than Northumbria (70.9%).

Details from the national 2015/16 CPS prosecution data

- There was an average of 4.31 days to charge following the referral.
- Following conviction 28% of those convicted (19,410) had a restraining orders made (and 2,062 on acquittal),
- 92% of successful convictions had a guilty plea
- One fifth (19.3% of cases were discontinued) and with victim retractions accounted for 28% of these cases.
- 92.4% of those charged were men, 78.8% were categorised as of white ethnicity, of which 74% were White British. 5.5% were Black and 5.5% were Asian. 73% of all defendants were aged between 25 and 59 years old.

The South Yorkshire SDVC report produced in March 2016<sup>12</sup> adds further detail to the reasons for a successful conviction. 10% had a post-trial conviction<sup>13</sup> and 95% of those convicted gave a guilty plea.

## Unsuccessful convictions for Domestic abuse in South Yorkshire

The SDVC report focuses on the reasons behind an unsuccessful conviction. A total of 554 cases (or 33%) were unsuccessful in 2015/16. The main reasons were due to Victim Issues, which accounted for a total of 57% or 332 unsuccessful outcomes. This means that in a total of 177 or 30% of unsuccessful cases the victim retracted their statement and in 155 or 26% of unsuccessful cases the victim did not attend court for the hearing.

The proportion of victim issues was lower for the financial year than for the 12 month period January to December 2015<sup>14</sup>, amounting to 63% of all unsuccessful cases compared with the 57% in the financial year; with 34% victim retractions and 29% victim non-attendance.

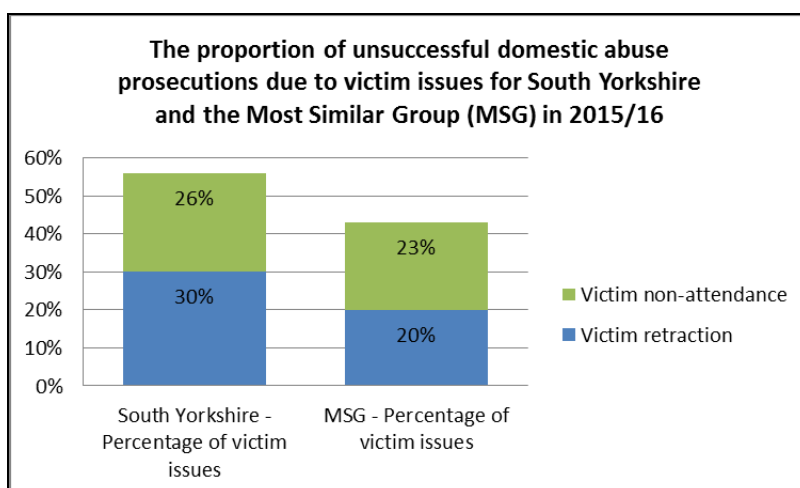
The South Yorkshire victim issues percentages are significantly higher than the Most Similar Groups of police force areas, with the 57% of South Yorkshire comparing to the 43% of un-successful cases in 2015/16. See the Graph below.

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<sup>12</sup> Q3 performance Report, SDVC Steering Group Report, Oliver Murphy, 04/03/2016

<sup>13</sup> The data reviewed by SDVC is marginally different, and observed 1,706 successful convictions at the end of the trial and an additional 72 post trial.

<sup>14</sup> Q3 Performance Report, SDVC Steering Group Report, Oliver Murphy, 04/03/2016



The most significant reason for the difference is victim retraction, with South Yorkshire's 30% higher than the MSG's 20% average. This is a significant number of victims who decide to change their minds and do not go ahead with giving evidence at the trial of their perpetrator.

A report completed by the Office of the Police and Crime Commissioner (OPCC) aims to understand why domestic abuse cases accounted for between 65 to 71% of all unsuccessful South Yorkshire magistrate courts cases and with particular reference to victim attrition<sup>15</sup>. The most frequent observations made that may have impacted on attrition were:

1. The relative was a close member and the victim did not want to criminalise them
2. Victim initially wanted to prosecute but then changed their mind due to anxiety, stress or changes in personal situation i.e. resumed the relationship with the individual (connected to time taken to prosecute)
3. The majority were not supported by an IDVA.
4. The majority were not in contact with other domestic abuse support services

The report suggests that victims report incidents to the police at a point of crisis but then the incident goes down the route of prosecution when this may not be what the victim is seeking. Instead the victim has a greater need of domestic abuse support provision and safeguarding interventions. The report suggests there needs to be alternative options available, particularly for repeat victims where there is a history of retraction, to ensure that the support the victim needs is offered is what they need at that time.

### **Victim support provided during the court process in Sheffield**

The OPCC report finds that the majority of the victims were not supported by an IDVA nor were in receipt of other domestic abuse support. Evidence has found that victim retractions reduce when the victim is supported by an IDVA<sup>16</sup>.

In Sheffield, DACT commissions support for victims during the criminal justice process in both the High and the Medium & Standard contracts. The contracts specifically state *'the service will offer support to victims attending both civil and criminal court proceeding, offer support and information regarding the options available (e.g. injunctions, pursuing criminal charges)*<sup>17</sup>.

At present the IDVAs explain the court process to victims; they contact Witness Care on behalf of the victim which ensures the witness is kept up to date with proceedings. The IDVA can contact the court for outcomes of cases when victims cannot get to the court directly.

<sup>15</sup> Jamie Smith, Office of the police and crime commissioner, Review of domestic violence witness attrition case files, September 2016

<sup>16</sup> Crime Prosecution Service (CPS), Violence Against Women and Girls Crime reports 2014/15

<http://www.cps.gov.uk/publications/equality/vaw/>

<sup>17</sup> High risk service specification, 2015/16

The IDVA service in 2015/16 had a total of 648 service users who engaged with the service, of these a total of 307<sup>18</sup> (47%) victims received support with the criminal justice process. Information on the number of retractions for service users during the same period was 56 or 18% of those supported by an IDVA in the criminal justice process, which is higher than the 12% reported in 2014/15<sup>19</sup>.

DACT does not collect information on the outcomes of court cases based on those victims who were supported by an IDVA and those who were not.

The issues raised by those consulted are -

- At present the offer does not mean the IDVA attends court with the victim or accompanies the victim to court. This also applies to the Standard and Medium risk service.
- The IDVA support is time limited for up to three months and for cases that go to court after the support has ended, the IDVA support ends. There is no current process between the High Risk Service to transfer the support for the criminal justice proceedings to the Medium and Standard risk service and to continue to support the victim in the court process.

**Action – Pilot the offer of the IDVA / other DA services attending court with the victim to understand the impact this has on victim attendance and victim retraction at Court.**

**Action – Determine the process for referring service users who remain in the criminal justice system at the end of their time with IDVAs to the Medium and Standard risk service.**

**Action – Review the Medium and Standard contract offer on how they should support victims in the criminal justice process as part of the cluster court pilot.**

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<sup>18</sup> High Risk PMF 2015/16

<sup>19</sup> High Risk PMF 2014/15