

SPECIALIST DOMESTIC ABUSE COURTS (SDAC)

How special were they in 2022?



Soroptimist International Great Britain and Ireland (SIGBI) is one of five Federations of Soroptimist International, a global volunteer women's organisation working together to transform the lives of women and girls. We work at a local, national and international level to provide educational, empowerment and enabling opportunities for women and girls, and have consultative status at the Economic and Social Council (ECOSOC) at the United Nations (UN).

In the UK we have a UK Programme Action Committee (UKPAC) at which all Regions and Clubs are represented. They work on projects specifically based in the UK, such as the Specialist Domestic Abuse Courts observation project.

In 2017 Dame Vera Baird, then the Police and Crime Commissioner for the area, initiated a unique partnership between SIGBI and criminal justice partners in Northumbria. She engaged local Soroptimists in an observation project in which they watched over 220 sessions of the Specialist Domestic Violence Courts (SDVCs), answering a range of questions in particular about how the largely female victims were treated. The results were then analysed to produce a report in 2018 asking: "Specialist Domestic Violence Courts: How Special Are They?". That work provided the foundation to replicate the same initiative in Wiltshire in 2018 and in the Midlands in 2020.

This report comments on the extension of this observation project throughout England. The project was delayed by the effects of the COVID -19 pandemic and restarted in 2022 when the courts reopened.

In total, around 160 Soroptimist volunteers have taken part in these observations over a five-year period. These women formed a diverse group, coming from different areas of the country and with a range of backgrounds. They received training on court processes and procedures prior to the commencement of the observations, obtained buy-in from Criminal Justice Personnel and the Police, attended courts in pairs to ensure that observations were accurately recorded and completed standard online questionnaires for all observations.

Soroptimists have devoted around 4,000 hours to this project and in excess of 1,000 questionnaires have been submitted in relation to observations made at over 30 courts.

Contributors

This report was commissioned by UKPAC. The Introduction and Context sections were compiled by Dame Vera Baird KC with the analysis of the observations and the comments thereon written by Jess Rose. Further input was provided by a small group of Soroptimists.

Christine Corless
Project Lead and Vice Chair UKPAC.

Contents

Page

Executive Summary	3
Introduction	7
Context	9
Domestic Abuse	9
How the Courts – now called Special Domestic Abuse Courts – work	10
Sentencing for domestic abuse offences	11
Restraining Orders	12
Domestic Violence Protection Notices (DVPN) and Orders (DVPO)	12
Domestic Abuse Protection Notices and Orders	13
Key Components of the Special Domestic Abuse Courts System	13
Domestic Abuse law	15
Other Developments	16
Scope of the report	19
Methodology	21
Overview of the observations	22
Data Analysis	22
Cases which proceeded on the basis of a guilty/not guilty plea	25
Charges	26
Evidence of good or bad character, mitigating factors and references to victim's behaviour	32
Other aggravating factors highlighted by the CPS	34
Comparison with previous data – aggravating and mitigating factors	34
Victim Personal Statement	36
Special Measures	37
Independent Domestic Violence Advisors	38
Sentencing	39
Prior Convictions	41
Restraining Orders	41
Considering the needs of victims and children in the proceedings	42
Police Evidence	43
Commentary	44
Conclusion	49
Appendix A - Questionnaire	51

Abbreviations

ABH	Actual Bodily Harm
BBR	Building Better Relationships
CC	Coercive Control
CCB	Coercive and Controlling Behaviour
CJS	Criminal Justice System
CPS	Crown Prosecution Service
CRC	Community Rehabilitation Company
CSA	Child Sexual Abuse
CSEW	Crime Survey for England & Wales
CWJ	Centre for Women's Jus
DA	Domestic Abuse
DAPN	Domestic Abuse Protection Notice
DAPO	Domestic Abuse Protection Order
DVCVA	Domestic Violence, Crime and Victims Act 2004
DVPN	Domestic Violence Protection Notice
DVPO	Domestic Violence Protection Order
FGM	Female Genital Mutilation
FM	Forced Marriage
HBV	Honour Based Violence
HMCTS	His Majesty's Court and Tribunal Service
HMIC	His Majesty's Inspectorate of Constabulary
HMICFRS	His Majesty's Inspectorate of Constabulary and Fire & Rescue Services
IDVA	Independent Domestic Violence Adviser
IDAC	Integrated Domestic Abuse Court
IOPC	Independent Office for Police Conduct
IoT	Internet of Things
LSCB	Local Safeguarding Children's Board
MAPPA	Multi- agency Public Protection Arrangement
MARAC	Multi Agency Risk Assessment Conference
NMO	Non Molestation Order
PCC	Police and Crime Commissioner
RA	Rehabilitation Activity
RO	Restraining Order
SA	Sexual Assault
SDAC	Specialist Domestic Abuse Court
SDVC	Specialist Domestic Violence Court
UKPAC	UK Programme Action Committee (of Soroptimist International of Great Britain & Ireland)
VAWG	Violence Against Women & Girls
VPS	Victim Personal Statement

Executive Summary

This report describes partnership working between a number of Regions within Soroptimist International of Great Britain & Ireland and the criminal justice partners to explore the question “Specialist Domestic Abuse Courts (SDAC), How special were they in 2022?”

The process replicates a pilot 2017 initiative led by Dame Vera Baird KC. She first involved Soroptimist in observing the Specialist Domestic Violence Courts (SDVCs), producing a report asking “Specialist Domestic Violence Courts: How Special Are They?”¹.

In 2018, the initiative was repeated at two courts in Wiltshire by Soroptimist volunteers. In 2020 it was rolled out in the Midlands by Soroptimists, who spent over 800 hours at courts and completed more than 200 online questionnaires as they observed the practices of Specialist Domestic Violence Courts.

The previous initiatives made several recommendations which included:

- additional training for court personnel
- greater use of Victim Personal Statements
- greater recognition of defendants playing the system (gaming)
- remedying the absence of Independent Domestic Violence Advisors
- appropriate use of sentencing guidelines and, in particular, the suggested mitigating and aggravating factors
- fully engaging with victims about their options regarding special measures

Despite the goodwill of individuals and changes throughout the criminal justice system at a national, regional and local level, there are still systemic flaws that create additional vulnerabilities for victims and families.

Recommendations arising from the observations carried out in 2022 are:

Recommendation 1

Police and Crime Commissioners (PCCs) and criminal justice partners to work with specialist agencies to review the availability of Independent Domestic Abuse Advisors (IDVAs) to ensure that they are present in person or by video link at all SDAC court hearings.

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

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

¹ ‘Specialist Domestic Violence Courts: How special are they?’ https://vhsfletchers.co.uk/wpcontent/uploads/2018/08/OPCC_037_Specialist-domestic-violence-courts-Court-Observers-Panel-A4-booklet-2018-V2.pdf

IDVA services have been weakened by underfunding. Better partnership working and an improved understanding of the role of IDVAs is essential to create synergy with criminal justice partners. The fundamental weakness of poor information sharing should be addressed as a priority as well as the inconsistent allocation of IDVAs to courts.

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

Recommendation 2

Criminal justice partners to assess and make recommendations on how technology can be used to enable the virtual presence in Court and, where appropriate the virtual participation, of victims, IDVAs and other relevant personnel. Criminal justice partners to make recommendations on how a good understanding of technology facilitated abuse can be developed in all Court personnel.

Hearing the CPS was difficult because she read her statements out from a computer- a laptop which meant her voice was not directed at those present. Finding the documents required on the computer takes time and solicitor seemed to struggle with this (Case 4)

Judge and solicitors do not have microphones on, must be hard for all involved in this case to hear clearly (Case 163)

There are various ways in which technology can be better used in court, for example, effective microphone systems, use of video conferencing and other technology to allow remote participation of victims and IDVAs. In addition, all court personnel need a good understanding of how technology can be used to perpetrate abuse.

Recommendation 3

Training on dealing with domestic abuse cases is now part of the essential training for all Magistrates, Judges and Crown Prosecutors. Given some of the comments from Magistrates and Judges which were recorded by observers, it seems that consideration needs to be given as to how the effective implementation of this training is ensured in the court setting.

There is no way this judge should be near any DV case!! Comments like "why didn't she leave then if she was being abused?" No understanding of the fear or control being used or the danger of leaving. No thought that it was the victim's home and she had every right to be there, etc, etc Just awful - only good thing was [the defendant was] kept in custody till next hearing...(Case 547)

The court observations provide limited empirical evidence that poorly-informed views such as in the case above, were widespread across the SDACs observed. There were however many implicit indications within the data that the dynamics of DA were not always fully considered by judges and magistrates; Information which indicated that CCB was a feature of the relationship between offender and victim was infrequently referred to; defendants were charged with 'isolated offences' and victim retraction led to case dismissal.

Recommendation 4

Criminal justice partners to work together to review the format, function, and services provided by Specialist Domestic Abuse Courts (SDACs) and to ensure that all courts adopt

the good practice already exemplified in some areas. Government data on the availability and components of SDACs should be made available to support this process.

There is limited data available on the quantity of SDACs currently in operation in the United Kingdom. The SDACs must be responsive to the changing judicial environment and the increasing demands of domestic abuse cases. The insights provided by the volunteers indicate there is great unevenness about the management and delivery of justice in these courts. A review of the entire system should seek to ensure that the good practice which exists in some Courts becomes the norm in all areas and that this includes the use of the latest appropriate technology.

Recommendation 5

Criminal justice partners to work with police and develop an effective training programme, supervision and monitoring framework for Domestic Violence Protection Notices (DVPNs) and Domestic Violence Protection Orders (DVPOs). Ensure resources are available so that perpetrators who are in breach of orders are promptly brought to court.

It is clear from the data presented here and in previous studies² that DVPOs have not deterred perpetrators from reoffending, in effect producing a 'revolving door' scenario whereby they are back in court for DA related crimes, and for breaches to the orders that had been imposed on them. Based on these findings, the report on the 2020 court observations in the Midlands³ recommended that an effective training programme including the supervision and monitoring framework for Domestic Violence Protection Notices (DVPNs) and Domestic Violence Protection Orders (DVPOs) be developed. Since the observations carried out in 2020, the government have introduced, 'a new civil Domestic Abuse Protection Notice (DAPN) to provide immediate protection following a domestic abuse incident, and a new civil Domestic Abuse Protection Order (DAPO) to provide flexible, longer-term protection for victims'⁴. Breaches of these orders will be a criminal offence, carrying a maximum penalty of up to five years' imprisonment, or a fine, or both. The Act repeals existing Domestic Violence Protection Orders, promising to, 'bring together the strongest elements of existing protective orders into a single comprehensive, flexible order'. The accessibility of these new provisions is promising, but the government must ensure that they are enforced more effectively than the existing protective orders, 'Domestic Violence Protection Orders are obtained on average in only 1% of domestic abuse crimes'⁵ (CWJ).

Recommendation 6

Criminal justice partners and police to instigate a review of the Victim Personal Statement (VPS) process from first contact with the police to finalising a case and provide an analysis of the strengths and deficiencies in the system with recommendations for improvement.

Court proceedings must represent the voice of the victim appropriately and court and police practices should be amended to ensure that every opportunity is taken to ensure that this happens. Instigating a review of the VPS process from first contact with the police to finalising a case at court will reveal the strengths and deficiencies in the system.

Recommendation 7

Criminal justice partners and HMCTS and partners to ensure that victims are fully informed about their options regarding special measures, and to review court facilities to ensure the safety and security of victims and witnesses including separate entrances and access to private areas for victims, good sound systems in courts, and appropriate evacuation plans.

Special measures components exist but were inadequately understood/applied in many cases observed, and where special measures were made available, our observers commented that these were often inadequate and/or unsafe.

²Her Majesty's Inspectorate of Constabulary (HMIC), 2015. Increasingly everyone's business: A progress report on the police response to domestic abuse. London: HMIC, Her Majesty's Inspectorate of Constabulary, Fire and Rescue Services (HMIC-FRS), 2017. A progress report on the police response to domestic abuse. London: HMICFRS.

³Hannon, Catherine (2022) 'Specialist Domestic Violence Courts (SDVC) How special were they in 2020?' Available at:<https://www.westmidlands-pcc.gov.uk/soroptomists-report-into-specialist-domestic-violence-court/>

⁴ Domestic Abuse Protection Notices / Orders factsheet Available at: <https://www.gov.uk/government/publications/domestic-abuse-bill-2020-factsheets/-domestic-abuse-protection-ntices-ordersfactsheet>

⁵'Centre for Women's Justice Super-complaint Police failure to use protective measures in cases involving violence against women and girls' Available at: <https://www.centreforwomensjustice.org.uk/news/2021/8/23/police-super-complaint-report-shines-a-light-on-police-failure-to-protect-domestic-abuse-victims-as-prosecutions-collapse-by-50-in-just-three-years>

Introduction

This report is about the Special Domestic Abuse Courts in England and Wales (SDACs). These unique courts exist so that victims of domestic abuse can get justice.

Generally, the justice system does not understand that a perpetrator of abuse controls their victim; police do not respond in a positive way; prosecutors rarely press charges and the pressures to withdraw a case and let life return to 'normal' puts abuse victims into greater danger. These courts, with special working practices to help them hurdle those barriers and training for every participant, were a brilliant idea. They achieved their aim of better support for victims and fair trial processes for those accused. But, at a time when there have been huge cuts to police, the courts in general are hamstrung by huge backlogs and prosecutions have fallen through the floor, are these expert courts working as well as they can?

From time to time, there have been 'deep dives' into particular courts, especially into the acknowledged best SDAC, at Westminster. With their focus always on the wellbeing of women, who are the main victims of abuse, the Soroptimists of Great Britain and Ireland decided to find out how these courts are working, on a national basis. Over the last five years, Soroptimists have observed, area by area, the SDACs in England and Wales. This is the fruit of what they have found and the recommendations that follow.

Although there are Inspectorates to scrutinise and make recommendations on the performance of the Police, of the Crown Prosecution Service and of HM Prison and Probation Service, there is no inspectorate to oversee the Courts. Nobody would suggest that these observations are a substitute for a professional inspectorate. However, they represent a rare example of members of the public taking responsibility for scrutinising a vital public agency which is intended to serve them, Citizen action of this kind is surely to be encouraged. What the 200 plus Soroptimists who took part, saw and what they recorded on a pro-forma questionnaire, now fully analysed and set out in this and previous reports, is vital information which is not available in any other way. It is important for the authorities in charge of the criminal justice system and it is important for the public who may need to use it,

Soroptimists are ready to discuss the findings and they intend, club by local club, to take on the task of lobbying if issues have been found with the functioning of their local SDAC. Day to day, those local courts welcomed the observers in to fulfil their role and we hope and anticipate that they will equally welcome the outcome,

This process began in July 2017 when Dame Vera Baird KC, then Northumbria Police & Crime Commissioner initiated the first observations by local Soroptimists of the two SDACs then functioning in Northumbria. The findings were analysed by Northumbria Police and published in a report called 'Specialist Domestic Violence Courts: How special are they?', The report set out some areas in which best practice had faded over time. It recommended renewal and urged updating of sentencing to match new guidelines. Almost all the recommendations were accepted and actioned through the Local Criminal Justice Board. This was good service delivery from the authorities and for the Soroptimists, it gave validity to their working methods by acknowledging the accuracy of their findings.

Following that and the similar exercise carried out contemporaneously in Wiltshire, there was a further project carried out in the West Midlands, Staffordshire and West Mercia, during 2020. The report into those observations was produced by Dr Catherine Hannon, then a senior member of

the West Midlands Police and Crime Commissioner's office. 'Specialist Domestic Violence Courts: How special were they in 2020?' was published in 2022, following some delay, principally from the pandemic. The report, similar to those from Northumbria and Wiltshire, identified gaps in some courts' proper functioning, but it additionally made wider recommendations beyond the four corners of the court experience.

Data from the 2017-18 observations, and the 2020 qualitative and quantitative material, combined to identify achievements and shortcomings which were widespread whilst nonetheless noting both positive and negative differences in practice. UKPAC, which leads the Soroptimist project work in the UK, took the decision to recruit Soroptimists nationwide to observe their local courts in an attempt to provide evidence not only from an area/regional perspective but from a national one. This report covers much of England not already covered by the earlier reports and is complementary to them. The collective reports together show something very close to a comprehensive report on the way in which the Special Domestic Abuse Courts are working on a national basis.

Context

Domestic Abuse

There were a record 845,734 domestic abuse-related crimes reported to police in 2020. Domestic abuse-related crime accounts for 1 in 6 (15%) of all crime recorded by the police in England and Wales and over a third (35%) of all recorded crimes of violence against the person. Women are far more likely than men to be the victims of domestic abuse.

The Crime Survey for England and Wales estimates that there are 2.3 million victims of domestic abuse each year of which two thirds are women. Between 2 and 3 women a week are killed by a current or former partner.

Fewer than 20% of victims of domestic abuse ever engage with the criminal justice system. The vast difference between the CSEW estimates of the incidence of DA and the number of cases reported to the police makes that abundantly clear. It is hard to report something as intimate as being abused by a partner but, it seems, additionally, that there are thousands of victims who just do not see the justice process as a practical answer to what is happening. Many of those will seek the help of our wonderful domestic abuse charities. They welcome any victim, are fully traumainformed, understand the dynamics of coercive control and have endless experience of supporting victims safely out of an apparently inescapable cycle of abuse, The sheer numbers not being dealt with by the criminal justice system, yet suffering from domestic abuse, points up the need for substantially better funding for those charities who currently struggle with huge waiting lists for help.

However, criminalising domestic abuse is an important part of recognising that perpetrators cause profound physical and psychological harm. The justice system needs to demonstrate that domestic abuse is no less an offence against the state because it is inflicted in the private sphere. As the Sentencing Council has recognised (in Guidelines May 2018) the breach of trust involved in domestic abuse is more serious and more damaging than the equivalent abuse in other aspects of life.

Historically, domestic abuse has been widespread in England and Wales, little acknowledged and, until 1976 when Jo Richardson MP introduced a Bill about it into Parliament, not regarded as a public matter. Her Bill allowed applications to the family courts for protective orders, in an attempt to make up for the criminal justice system's failure to tackle the harm done by perpetrators. It was almost 20 years until there was further legislation, but domestic abuse moved seriously nearer to the centre of the stage only after the election of over 100 women MPs in the 1997 General Election.

That was the time when public criticism was unleashed, from Domestic Abuse practitioners, academics, and from survivors, about the poor police response, tiny number of prosecutions, even fewer convictions and magistrates who imposed over-lenient sentences. Complainants were discouraged by these failures and, it is fair to say that the criminal justice agencies felt thwarted by the failure of complainants to support police action or to attend court to testify.

There are clearly special circumstances where the complainant and the defendant are involved in an intimate relationship which can make prosecution harder and witnesses less willing to testify. Courts too, were used to dealing with individual incidents of criminality and not with the pattern of psychological and emotional abuse as well as violence which are the hallmarks of coercively controlling domestic abuse. The impact of such abuse, which is profound, is also complex so that

training was imperative for the justice practitioners and expert supporters needed to manage the risks for victims to allow them to feel safe.

The Labour government piloted problem-solving courts to confront these issues, following the practice in USA, Canada and Australia. The Specialist Domestic Violence Court (SDVC) model started in two sites in 1999 together with its accompanying victim-befriender role, the Independent Domestic Violence Advocate (IDVA) and with the addition of the Multi-Agency Risk Assessment Conference (MARAC) meetings where multiple agencies shared the management of high-risk victims of abuse.

Evaluations showed that, together, these changes improved both the participation and the outcomes for victims and led to greater accountability for perpetrators and increasing public confidence in the justice system. SDVCs, IDVAs and MARACs were rolled out nationally in 2005-6 and these important working practices became the twelve key components of the SDVC system, set out in detail in the SDVC Programme Resource Manual. The first 23 courts were reviewed in 2007-8. By 2013 there were 138 courts accredited as SDVCs and, in 2015, the CPS did a 'deep dive' to produce best practice guidance. There have been many independent research initiatives in addition, but there has been no shift from the original position that the SDVC system is effective and successful in proportion to the presence of the twelve key components – which are set out later in this report.

How the Courts – now called Special Domestic Abuse Courts – work

The SDAC is a special form of the Magistrates Court and can be presided over either by a Bench of Lay Justices of the Peace, who usually sit in threes, or by a legally qualified District Judge (Crime) who usually sits alone. They deal with adult criminal cases only. Their sentencing powers are limited but they can commit a defendant to the Crown Court for a heavier sentence if they believe their powers to be insufficient.

If there is a not guilty plea to a domestic abuse offence which is more serious, the magistrates can send it, or, in some cases, the defendant can elect to be sent to the Crown Court where it will be tried by a Judge and Jury. Domestic abuse cases start with a First Hearing at the SDAC at which the defendant will be expected to indicate, or preferably to tender, a plea to the charge(s). No witnesses, including the complainant, are required to attend a First Hearing. If there is an indication or guilty plea, at that stage, there will be no need for the attendance of the complainant or other witnesses at any stage of the proceedings.

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

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

In every case in which there is a finding of guilty or a plea of guilty, there will have to be a sentencing hearing. Sentencing hearings may be heard immediately after the plea or verdict but on some occasions are adjourned for the bench to receive reports from the probation service or

elsewhere, to provide them with a fuller context for the sentencing exercise. Where there has been a finding of guilt in a case which has been adjourned out of the SDAC for trial, the court may similarly sentence immediately or adjourn for reports and in some cases the trial court will adjourn the entire sentencing exercise back to the SDAC in deference to its 'special' understanding of domestic abuse issues.

All of this means that most hearings, in the SDAC itself, are either to receive guilty or not guilty pleas and/ or to prepare cases for trial and, therefore, in very few cases, is the complainant's presence required. However, decisions are made at SDAC hearings which, particularly because of the closeness of the parties, are likely to have significant impact on the complainant's wellbeing. They include the decision to accept a guilty plea to a lesser charge; the grant or refusal of bail and any bail conditions (often including arrangements for child contact) and when, where and with what special measures s/he is to appear in a contested hearing. In the complainant's absence, the IDVA is intended to represent the complainant's interests, preferably by attending court but otherwise by passing on information to the CPS representative as to their wishes and needs. The information will come from the IDVA's role as a permanent supporter for the complainant until the latter is safely re-settled.

From their implementation, SDACs were found to have lower rates of attrition and produce higher numbers of successful convictions, as well as safer outcomes for victims⁶. Recent reports show that the SDAC model results in improvement in victim-survivor engagement and the management of their risks inside and outside of court⁷. An in-depth study into variations between six SDACs, five years into their implementation, highlighted strong MARACs, safe facilities, and the involvement of IDVAs as key components which produced a system which best served victim needs (Home Office 2008).

A report commissioned by the Domestic Abuse Commissioner in 2021⁸, 'Understanding court support for victims of domestic abuse' also emphasised the role of IDVAs as the key factor which most commonly improved survivors' experiences of the CJS. However, it reported that due to under-resourcing, the majority of survivors do not receive dedicated court support from an IDVA or any other professional support.

Sentencing for domestic abuse offences

Sometimes, after the ordinary Magistrates Court has heard a trial or a guilty plea, they may send the matter for sentence back to the SDAC, though this is unusual. So sentencing, whilst sometimes done by the SDAC, is also often done by non-specialist courts. The same sentencing guidelines apply to both.

The Sentencing Council, made up of judiciary, lawyers and academics, consults the public to draw up guidelines within which the courts are expected to sentence defendants, except in exceptional cases. The current sentencing guidelines assert the principle that offences committed in a domestic context should be regarded more seriously than similar ones in a non-domestic context, primarily because they involve a breach of trust. This is described as:

⁶ <https://www.treebeardtrust.org/portfolio/standing-together-against-domestic-abuse>

⁷ https://justiceinnovation.org/sites/default/files/media/document/2022/cji_sdac_wip.pdf p.31

⁸ 'Understanding court support for victims of domestic abuse' Available at <https://domesticabusecommissioner.uk/wpcontent/uploads/2021/06/Court-Support-Mapping-Report-DAC-Office-and-SafeLives.pdf>

'where the defendant has been in a trusting relationship with the victim but has abused it by seeking to control them.'

Aggravating factors include: - 'any vulnerability which the victim has which, for one of a number of reasons, may have made it almost impossible for the victim to leave. • Exposure of children to an offence (either directly or indirectly). • A proven history of domestic violence or threats, recognising that there is a cumulative effect of a series of violent incidents or threats over a prolonged period.'

Considerations which may mitigate sentence: 'Evidence of genuine recognition of the need for change, and evidence of obtaining help or treatment to effect that change'

Referring to positive 'good character' the guideline sets out:

'Special conditions around the consideration of good character in domestic abuse cases... are that domestic violence and abuse can continue unnoticed for lengthy periods because most perpetrators have two personae, one for their life in the outside world and the abusive persona responsible for their domestic abuse. So, an offender's good character in relation to matters outside the home is not mitigation for offences committed during a pattern of domestic abuse,

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

There are Perpetrator Programmes, tailored to domestic abuse offenders, encouraging insight into their behaviour and providing guidance on how to change have been shown by some research to help to rehabilitate domestic abuse perpetrators. At court these are provided by the probation service and the defendant is sent on a course called 'Building Better Relationships' (BBR).

In addition to sentencing the defendant, the courts can use a range of orders for the protection of complainants and children. Like the sentencing guidelines, these are not specific to the SDACs.

Restraining Orders

The court may make restraining orders on conviction, under section 360 of the Sentencing Act 2020⁹, or on acquittal, under section 5A of the Protection from Harassment Act 1997¹⁰. A restraining order on conviction is made for the purpose of protecting the victim, or victims of the offence, or any other person named in the order, from conduct amounting to harassment or which will cause a fear of violence. A restraining order on acquittal may be made if it is considered necessary to protect a person from harassment.

Domestic Violence Protection Notices (DVPN) and Orders (DVPO)

A DVPN is served by the police on perpetrators of domestic abuse and provides emergency protection for victims but it must be approved by a Magistrates' Court (which need not be a SDAC) within 48 hours when the restrictions it imposes continue for between 14 and 28 days in the form

⁹ Sentencing Act 2020 available at <https://www.legislation.gov.uk/ukpga/2020/17/contents/enacted>

¹⁰ Protection from Harassment Act 1997 available at <https://www.legislation.gov.uk/ukpga/1997/40/contents>

of a DVPO. It can impose any reasonable conditions on an alleged perpetrator to protect the complainant. A breach is arrestable, imprisonable or punishable with a fine.

Domestic Abuse Protection Notices and Orders

The Domestic Abuse Act 2021¹¹ introduced Domestic Abuse Protection Orders (DAPOs) and Domestic Abuse Protection Notices (DAPNs) which, if the current pilots are successful, will replace DVPNs and DVPOs and are similar but can also include positive requirements on perpetrators.

Key components of the Specialist Domestic Abuse Courts System

Models of the SDAC vary in their design, organisation and in the allocation of caseloads and funding but there are 12 components which evaluations of the SDAC system have determined must be in place to ensure good practice;

Independent Domestic Violence Advisors (IDVAs)

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

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

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

Multi-Agency Risk Assessment Conferences (MARACs)

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

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

¹¹ The Domestic Abuse Act 2021, Available at: <https://www.legislation.gov.uk/ukpga/2021/17/contents/enacted>

Identification of cases

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

Trained and dedicated criminal justice staff

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

Court listing practice

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

Court facilities

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

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

Children's services

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

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

Community based perpetrator programmes

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

These programmes were provided by the Community Rehabilitation Companies (CRC) that delivered a national course called Building Better Relationships (BBR). Courts may order

defendants to attend such a course as a part, or the whole, of their sentence. Usually this would follow a report from the National Probation Service as to the defendant's suitability for BBR. In 2021 the CRCs were subsumed into the Probation Service which is currently implementing a new organisational structure.

Many Local Authorities and Police and Crime Commissioners fund perpetrator programmes which are voluntary for the perpetrator. Most programmes incorporate support and safeguarding for the victim but not all, even though it is required practice under the guidance from RESPECT¹², the charity most involved in dealing with perpetrators directly and in accrediting programmes. Their guidance requires perpetrator programmes to have integrated support services for victims and children.

Data collection and monitoring

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

Equality and diversity

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

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

Multi-Agency Partnerships

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

Other services

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

Domestic Abuse law

There have been a number of references to domestic abuse in statutes over the past two decades.

¹² <https://www.respect.uk.net/>

By way of example, the Domestic Violence, Crime and Victims Act 2004 introduced some new court orders and required the Secretary of State to draw up a Code of Practice for victims (of all crimes including domestic abuse) now called the Victims' Code (see later).

The Forced Marriage (Civil Protection) Act 2007 allowed an intended victim to seek an injunction to stop a forced marriage, when many victims were unable to report their parents, usually responsible for the proposed marriage, to the police, The Domestic Violence Disclosure Scheme (known as Clare's Law) 2014 - allowed an individual to ask for information about a new partner to make informed choices.

The most important was the Section 76 Serious Crime Act 2015 – which recognised controlling or coercive behaviour. It aimed to change the whole concept of domestic abuse from one where random acts of violence were occurring in a relationship to an understanding, through the advent of the offence of coercive and controlling behaviour, that there is a deliberate course of conduct by the perpetrator to control the victim. This was not particularly targeted at the SDAC procedures: the offence is triable either way which means it will sometimes be tried in the Crown Court. The domestic abuse charities have understood for many years that domestic abuse is not about violence but about control. Clearly, that is sometimes secured by using violence or threats but psychological, emotional, economic and sexual abuse can also be mechanisms for exercising control.

The most recent legislation is the Domestic Abuse Act 2021 which is intended to:-

- Raise awareness and understanding of the devastating impact of domestic abuse on victims and their families
- Improve the effectiveness of the justice system in providing protection for victims of domestic abuse and bringing perpetrators to account
- Strengthen the support for victims of abuse by statutory agencies
- Create the role of Domestic Abuse Commissioner responsible for raising public awareness and holding both agencies and government to account in tackling domestic abuse
- Introduce a new definition of Domestic Abuse
- Define children who see, hear or experience the effect of abuse, and are related to the perpetrator as victims of domestic abuse, in their own right.

The definition of Domestic Abuse in the Act is useful so that police, CPS and the courts all share the same definition. However, it does not make behaviour within the definition into a crime called 'Domestic Abuse'. There is no crime of 'Domestic Abuse'. Since the definition of DA follows the definition of the offence of coercive and controlling behaviour (CCB) from Section 76 of the 2015 Act, it seems odd not to change the name of the offence to 'Domestic Abuse' which would exclude the constant need to reiterate that domestic abuse is coercive and controlling behaviour.

Other Developments

There are proposed changes to legislation in the offing which will mean that offenders with a conviction of CCB will, be added to the violent and sex offenders register and be eligible to be managed by the police, prison and probation services under multi-agency public protection arrangements (MAPPA).

The most promising new announcement is the addition of Violence Against Women and Girls to the Strategic Policing Requirement, categorising it for the first time as a national threat for policing

purposes. This ought to add to its priority and perhaps to the status of domestic abuse and other VAWG offences so that they are pursued more effectively.

Victim and Witness Support

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

Special Measures

Special Measures have been available, since legislation in 1999, to help vulnerable or intimidated witnesses to give their best evidence in court. They are available in all criminal courts, not limited to the SDACs. In fact, the Magistrates Court has been slower to take them up than the Crown Court, perhaps because they try lower-level cases than the Crown Court.

However, domestic abuse victims have been eligible for special measures as they can be assessed, in many cases, as vulnerable or intimidated witnesses, but the Domestic Abuse Act 2021 makes them automatically so entitled. Hence the SDACs will have to do more to provide them.

The precise measures are at the discretion of the court and are applied for by the CPS. There should be discussion between police, CPS and the victim. An early application is important since there is a limited availability of these measures which include: giving evidence from behind a screen or from another room or building via a television link, having the assistance of an intermediary if there is a communications difficulty and, increasingly in the last two years, recording testimony and cross examination prior to the trial, to allow a vulnerable victim to move on and not wait the long time often necessary due to the lengthy court backlogs.

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

The Victims' Code and Victim Personal Statement (VPS)

The Victims' Code¹³ is not specific to the SDACs but applies to every victim of every type of crime and its history is of being almost completely disregarded by the criminal justice agencies. This is because the core 'rights' are not rights since they are unenforceable and there is no effective complaints mechanism if they are not supplied.

Victims are nobody's priority in the adversarial system where the focus is on trying the defendant. The rights are not ever set out as rights. For instance, a 'right' sets out that if there is to be a change of charge, the CPS must consult the victim but if they cannot/do not then the victim has the right to be told why not. Another 'right' includes that a victim shall come to court through a separate entrance from the defendant and have separate waiting facilities. The 'right' continues

¹³ <https://www.gov.uk/government/publications/the-code-of-practice-for-victims-of-crime>

that if there is no separate entrance or waiting area, the Courts Service will do its best. Clearly if these were statutory rights, they would have to be complied with and no criminal justice agency would be enabled to fail to consult a victim on a change of charge or allow a victim and defendant to be in the same waiting area. Research done by the Victims Commissioner for England and Wales in 2020 showed that only 18% of victims who had been right through a court case as a witness had ever heard of the Victims' Code.

According to the Code, every victim is entitled to make a Victim Personal Statement (VPS) setting out in their own words the impact that the offence has had on them and their family and expressing any concerns they have. The VPS is usually taken down by the police shortly after the offence, although occasionally it may be supplemented with new material as the impact of the offence on a victim or family member changes or develops. There is a related entitlement for the victim to say whether they wish to read the VPS personally to the court, or to play it if it is recorded or to have it read aloud to the court by someone else such as a family member or the CPS.

Crime Survey data 2015/2016 indicated only 15% of victims of all crime types said they were given the opportunity by the police to make a Victim Personal Statement, despite it being one of the Code's key entitlements.

Notes in Conclusion

His Majesty's Inspectorate of Constabulary reported, in June 2021, that threequarters of domestic abuse-related crimes reported to the police were dropped by the criminal justice agencies, during that year. Some 55% were discontinued because the victim felt 'unable to support the prosecution' and a further 20% because the police thought that there were evidential issues. HMICFRS saw this as totally unacceptable.

Coercive and controlling behaviour, the offence intended to change the concept of domestic abuse from random acts of violence to systematic assertion of control, has been prosecuted very few times. It clearly will take time from coming into force in 2016 before the authorities grasp it with confidence. By March 2021, there were 33,954 prosecutions, a tiny number compared to the 845,734 domestic abuse offences recorded in total. A government review in 2021 found that a staggering 93.4% of CCB victims are women. This suggests that the offence is capturing the essence of male-to-female domestic abuse so perhaps a template for its investigation could be developed by the College of Policing to drive its use. However, at present no fewer than 86% of CCB charges are discontinued through 'evidential difficulties' and it is relatively rare that CCB is charged on its own. In more than half of the cases it accompanies a charge of physical violence, the facts of which could easily be rolled up into the charge of CCB itself.

The VAWG charitable sector says that CCB is charged with a violent offence ostensibly to boost the overall seriousness of the behaviour but is dropped if a plea deal can be cut around the violence offence. It is also far easier to prosecute a single act of violence than to collect evidence about a course of conduct, yet this approach undermines the very purpose of the offence to shift the concept of domestic abuse from individual acts of violence to its reality as a course of conduct.

The lack of a new offence of Domestic Abuse and this thin take-up of CCB mean that incidents of behaviour within the statutory definition of domestic abuse will continue to be charged as individual incidents of violence such as common assault or causing grievous bodily harm and criminal damage is also frequently charged. Plus ça change. But this is outside the control of the SDACs to whose performance this report now turns.

Scope of the report

This initiative was based on a similar project format to those carried out in 2017 in Northumbria, 2018 in Wiltshire and 2020 in the Midlands.

The question “Specialist Domestic Violence Courts “How Special Were They in 2022?”” provided a framework to make a comparison with the previous initiatives.

Volunteers from various Regions of Soroptimist International of Great Britain & Ireland attended a training session with the police to familiarise them with the processes and personnel in the SADCs, the issues involved and the data collection methodology to be used. Given the potentially distressing nature of the hearings, they had access to welfare support if they wished. Observers used a form with a standard set of questions to collect data on each case observed. They were asked to complete an online semi-structured questionnaire after each court observation.

Over the course of 2022, a total of 626 court observations were made by Soroptimists, during visits to 23 courts. Across all courts attended for observation, volunteers reported that they were welcomed by court clerks and other members of staff, who were supportive of the Soroptimists’ purpose once this had been explained to them. Court observers were able to sit at the back of the court and take notes and there were minimal issues with access. The majority¹⁴ reported building a good rapport with court officials. Some courts were more welcoming than others but generally they were happy to have the Soroptimists involved. However, participants flagged that, in some courts, there were difficulties in communicating with the courts to find out where and when DA cases would be heard, as not all of the courts hold regular days which are dedicated to these cases. These findings further evidence the issue of poor sharing of information, as flagged in the report on the Midlands observations¹⁵:

‘There was a clear disconnect about the information sharing practices between court staff and other professionals such as police officers and IDVAs. The art of listing cases for hearing at a court was described as ‘cloak and dagger’, even the police officers were not aware of when cases were to be listed [...] IDVAs found it difficult to access the information they needed to support victims’ (p.9)

Similar concerns are raised in the 2021 report by the Domestic Abuse Commissioner and SafeLives¹⁶, which found that communication breakdowns commonly resulted in failed trials and a lack of applied special measures.

Issues with court listings were noted by our court observers. However, it was noted that communication between the observers themselves and the court personnel notably improved once a relationship had been formed. Court observers recorded a high incidence of adjournments and delays, including one case which was adjourned 3 times, and one case reportedly delayed by 3 years. These delays were due, in part, to difficulties relating to information sharing and the

¹⁴ Observations from a structured debriefing with participants who attended the following courts: Guildford, Westminster, Bromley, Stratford, Croydon, Reading, High Wycombe, Milton Keynes, St Albans, Stevenage, Luton, Basingstoke, Portsmouth.

¹⁵ Hannon, Catherine (2020) ‘Specialist Domestic Violence Courts (SDVC) How special were they in 2020?’ Available at: <https://www.westmidlands-pcc.gov.uk/soroptimists-report-into-specialist-domestic-violence-court/>

¹⁶ ‘Understanding court support for victims of domestic abuse’ Available at: <https://safelives.org.uk/understanding-court-support/June-2021>

listing of DA cases. In terms of the management of cases, observers frequently referred to a lack of preparation, particularly from the CPS, and noted that the defence tended to be better prepared. The combination of data from the 2017 and 2018 studies and the 2020 qualitative and quantitative data combined to provide a rich source of information, strengthening the validity of the data, offering greater insight regarding the key issues and identifying convergence, complementarity, and divergence between the sets.

Following the court observations, volunteers took part in a structured debriefing process with police representatives. The aim of the process was to record the qualitative observations from the Soroptimists and identify areas of good practice.

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

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

The impact of Covid and austerity measures

Challenges including lack of Government funding leading to the closure of court buildings, fewer HMCTS staff, delays in updates to court IT systems and changes to the legal aid system have been exacerbated by the effects of the pandemic resulting in an extraordinary backlog of cases. The 'Standing Together Against Domestic Abuse Mentor Court Project' found that Covid restrictions also impacted negatively on partnership working (p.30). Austerity measures have impacted on the availability of IDVA services.

Methodology

This study has applied both quantitative and qualitative methods, using a semi-structured survey to gather responses from volunteers, alongside structured debriefings. These structured debriefings provided a space for the volunteers to communicate their impressions of the SDAC court processes, beyond the limitations of the survey questions. The areas addressed in these debriefings included court protocols, case management, and the treatment of defendants and victims.

1.1 Survey

The design of the semi-structured questionnaire was based on the previous iteration, with minor adaptations which were based on recommendations suggested by participants during the structured debriefings for the Midlands report published in 2022. For the present study, the following suggestions for additional questions were incorporated into the semi-structured questionnaire:

- Application of restraining orders, as these featured quite often in the observed cases
- Add a 'no indication' option to the questionnaire in the 'guilty/not guilty' plea section
- Add more options to break down the case categories

1.2 Structured Debriefings

The structured debrief process took place over Zoom. Observers were asked in turn to describe their experiences within an agreed framework.

The structured debrief identified:

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

Areas covered included:

Court protocols

- Understanding Soroptimist purpose
- Access for Soroptimists

Case management

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

Treatment of defendants and victims

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

Overview of the observations

The initiative incorporated a sample of Magistrates' Courts in various towns and cities in England covering a number of criminal justice and police boundaries.

The following table identifies the courts which allowed access to their hearings and is divided into total observations, identifying guilty and not guilty pleas in each court and relevant key features of the courts.

Data Analysis

There is limited data on the availability and operations of SDACs within England and Wales¹⁷. This section provides a summary of the key features of each of these courts based on the information available and the feedback provided by court observers.

Court	Number of observations (Note 1)	Key Features	Cases which proceeded on the basis of a guilty plea	Cases which proceeded on the basis of a not guilty plea
Basingstoke Magistrates	5	<ul style="list-style-type: none"> No IDVAs, comment from court usher that he had 'never heard of them' Local church pastor attended to provide support for victims 	0	5
City Magistrates	1	<ul style="list-style-type: none"> Not known 	1	0
Croydon Magistrates	9	<ul style="list-style-type: none"> IT issues 	7	2
Derby Magistrates	11	<ul style="list-style-type: none"> IDVAs available Cases all heard in specialist court where magistrates have received specialist training 	5	7
Guildford Magistrates	30	<ul style="list-style-type: none"> IDVAs available 	10	15
Leicester Magistrates	70	<ul style="list-style-type: none"> No IDVAs Inadequate video facility 	32	35
High Wycombe Magistrates	24	<ul style="list-style-type: none"> IDVAs available 	10	11

¹⁷ 'Domestic Violence Courts in England and Wales in 2022' Available at: <https://www.ons.gov.uk/aboutus/transparencyandgovernance/freedomofinformationfoi/domesticviolencecourtsinenglandandwalesin2022>

Liverpool Crown Courts	5	<ul style="list-style-type: none"> • Not known 	1	3
Liverpool Queen Elizabeth Law Courts	49	<ul style="list-style-type: none"> • No IDVAs present, but reference to IDVAs available • No screens available 	8	31
Luton Magistrates	3	<ul style="list-style-type: none"> • IDVAs available 	3	0
Manchester Magistrates	121	<ul style="list-style-type: none"> • Witness suite with volunteer support, video linked to court • In/Out process governing movement of witnesses • Screens available • Victim Support Officer available • Womens' Problem Solving Court set up by former Senior Probation Officer, aimed at female defendants. It is a confidential court with no Usher, and it is a round-table environment. Only female Probation Officers may deal with women (Observation from court observer, structured debrief, 5th October 2022: Manchester) 	54	62
Milton Keynes Magistrates	5	<ul style="list-style-type: none"> • Separate waiting rooms • Access to special measures such as screens and video links and also ability to use rooms in the adjoining County Court building if necessary • SDAC should sit on alternate Wednesdays but observers did not see evidence of this 	3	2
Nottingham Magistrates	105	<ul style="list-style-type: none"> • DA cases are heard in the specialist courts held every Wednesday. A small number of specialist Prosecutors deal with these cases. • All Magistrates, District Judges and Legal Advisers have received domestic abuse training. • IDVAs are always present, either in person or virtually. • Special measures direction is always made when necessary - screens and video link. 	47	57
Poole Magistrates	65	<ul style="list-style-type: none"> • Victim suite • The court building does not have a separate entrance for victims but the arrangement is that they are met at 	18	38

		<p>the security entrance and taken to the victim suite</p> <ul style="list-style-type: none"> • Microphones are used by all speakers • No IDVAs. Adult Safeguarding Officers present. 		
Portsmouth Magistrates	24	<ul style="list-style-type: none"> • SDAC held regularly on Wednesdays • Screening of victims, child care and areas in the courthouse separating victims from defendants • No IDVAs 	8	15
Reading Magistrates	12	<ul style="list-style-type: none"> • IDVA availability and involvement unclear • SDAC hearings regularly held on Tuesdays 	10	2
Romford Magistrates	2	<ul style="list-style-type: none"> • Not known 	2	0
St. Albans Magistrates	8	<ul style="list-style-type: none"> • Not known 	2	6
Stevenage Magistrates	14	<ul style="list-style-type: none"> • No IDVAs • One waiting area but defendants/victims kept apart • In theory, DA cases heard on alternate Tuesdays 	3	11
Stratford Magistrates	12	<ul style="list-style-type: none"> • Not known 	12	0
Westminster Magistrates	34	<ul style="list-style-type: none"> • Dedicated court coordinator • Regular multi-agency steering and operational groups • IDVAs • Clustering ie DA cases held on same day 	19	12
Weymouth Magistrates	9	<ul style="list-style-type: none"> • Not known 	4	4

Note 1 - Where the sum of guilty pleas and non guilty pleas does not total the number of observations, this is due to cases where no plea was heard, there was an application for variance, the defendant did not attend or other reasons.

Gender of the victim	Female	Male	Non-binary	Other/not known
	561	58	1	11

Gender of the defendant	Female	Male	Non-binary	Other/not known
	51	577	1	2

91.4% of defendants were male, 8.1% were female and 0.3% were marked as 'not known'. 88.9% of victims were female, 9.2% were male and 1.7% were marked as 'not known'. In the cases involving male victims, a total of five defendants were male. In the cases involving female defendants, 4 of these involved male victims, and 1 involved a female victim. The majority of these same-gender cases involved parent-child or child-parent abuse, with just 2 cases relating to abuse within the context of an intimate relationship (male-male perpetrated abuse). There were no cases observed which involved female-female perpetrated abuse within the context of an intimate relationship. These figures are in line with statistics which evidence that DA disproportionately affects women, and that the majority of perpetrators of DA are male.¹⁸

Cases which proceeded on the basis of a guilty/not guilty plea

Cases which proceeded on the basis of a guilty plea

Defendants are required to give a guilty or not guilty plea during the first hearing at the SDAC. A guilty plea results in an effort to handle the case during this first hearing, whilst a not guilty plea results in a preliminary hearing at the SDAC. Of the 596 responses where a plea was observed in court, a total of 56.2% of defendants plead guilty and 43.8% plead not guilty. Some defendants faced multiple charges, with some not pleading guilty to each charge. Where a plea was not recorded in the observations, reasons included that the defendant was absent, that the defendant made no plea, that the offence was indictable so the case was committed to Crown Court, that applications of variance or revocation were made by the victim or defendant, and that charges were withdrawn by the victim.

Guilty plea submitted	335
Sentencing adjourned	107
Sentence imposed	276
Case dismissed/ no sentence imposed	12

Cases which proceeded on the basis of a not guilty plea

¹⁸ Women's Aid, Hester, M., Walker, S-J., and Williamson, E. (2021) Gendered experiences of justice and domestic abuse. Evidence for policy and practice. Bristol: Women's Aid

Of the not-guilty pleas, almost all of the basic descriptions of the case as presented by the CPS detail physical violence, harassment and technology-facilitated abuse. The data analysis in this report primarily follows up the 'guilty' pleas, but will highlight in the commentary and recommendations a number of cases where a 'not guilty' plea was heard, looking at these in relation to whether observers noted that references to CCB were made, and whether court orders were imposed.

Charges

Defendants were charged with a variety of offences, which can be categorised into five primary groups; assault (physical violence including sexual violence), harassment and stalking, criminal damage, controlling and coercive behaviour threatening behaviour and breach of restraining orders or terms of bail. The table below shows the number of total cases, and the number of guilty/not guilty pleas heard in relation to these cases. Where a plea was not heard, reasons include; the defendant was absent, the case was adjourned, the case was sent to crown court.

The Charge	Cases	Guilty	Not Guilty	Examples
Assault offences	Non-fatal strangulation (8)	2	4	<ul style="list-style-type: none"> Over a period of 3 months controlling behaviour, violence including trying to strangle her Tried to suffocate by strangulation
	Other Assault (327) ABH (25) Rape/Sexual Assault (25) Kidnap/False imprisonment (2)	Other Assault 165) ABH (10) Rape/Sexual Assault (5) Kidnap (1)	Other Assault (162) ABH (15) Rape (12)	<ul style="list-style-type: none"> 'Violence against partner. 2 rape allegations and 1 sexual assault' '10 allegations of rape between 2015 and 2020' 'Digital penetrative sexual intercourse without consent' Unlawful & Malicious Wounding Assault x 2 (one was partner and one police officer in course of duty)
Harassment and stalking	81 (39 Stalking, 42 Harassment)	49 (19 Stalking, 30 Harassment)	32 (20 Stalking, 12 Harassment)	<ul style="list-style-type: none"> 'Setting up and shutting down approx 10-15 social media accounts in victim's name and contacted her friends pretending to be her. Sharing details about her life' 'Communication of offensive & indecent message, common assault, voyeurism; recording of personal images taken over 8 year period without victim's knowledge for defendant's sexual gratification' 'Showing a photo of a sexual nature without consent; ringing, emailing and turning up at victim's workplace unannounced'
Criminal Damage	62	39	23	<ul style="list-style-type: none"> The defendant was accused of criminal damage: He pulled apart the power cord to a security

				<p>camera. A second charge of criminal damage to a dishwasher was dropped as he had originally paid for the dishwasher</p> <ul style="list-style-type: none"> • He attended the victim's address, criminal damage to front door and assaulted her - pinned her on the settee and slapped her
Controlling and Coercive Behaviour / Threatening Behaviour	15	4	11	<ul style="list-style-type: none"> • 'Used towards another threatening, abusive or insulting words or behaviour with intent to cause that person to believe that immediate, unlawful violence would be used against her by any person, or to provoke the immediate use of violence by her, whereby that person was likely to believe that such violence would be used or provoked'
Reference to Court Orders	145	83	32	<ul style="list-style-type: none"> • Broke terms of bail agreement issued after assault charge. The conditions were non-molestation and non-communication orders relating to his wife. Three weeks later he phoned her, though forbidden contact. • Two breaches of non-molestation order within one month of being put in place. • He head butted her and dragged her round the room by her hair as she would not stop using her phone. Restraining order was in place and this was a breach of the order.

(i) Assault offences

Violent crimes were the most common criminal charges brought against the defendants during the court observation period, with common assault, assault by beating and ABH recorded in 329 of the 626 cases observed. Sexual violence was recorded in a total of 9 cases. This figure includes 1 historical case of CSA, 1 historical case of rape, and 2 cases of technology-facilitated sexual abuse. In the basic descriptions of the cases as presented by the CPS, the details of these offences are outlined in greater detail, providing context for these acts of physical violence, and in many cases revealing a pattern of repeat behaviour, indicative of CCB:

First assault, victim was pregnant, defendant punched her in the eye, pushed her with his hand. Second assault (9 Jan 2022), victim was 7 months pregnant, defendant punched her 3 times in the head. Victim called the police and told the police about what had happened in Oct 2021.

Court observers recorded 8 cases involving charges for non-fatal strangulation, and an additional 2 cases where non-fatal strangulation was mentioned in court proceedings, but the defendants were not charged on these grounds. Of these, only 2 cases heard a guilty plea.

- He was given unconditional bail till crown court 19/8 and no RO. I felt she may not be protected enough by that. However, the crimes are from last year so it may be he has done nothing wrong since. Nothing was mentioned with regard to that (Case 498)
- Domestic dispute where excessive self-defence led to injury to victim. Case withdrawn by Victim as she said she had lied in her statement because of concern about the children and that she now accepted that she was the aggressor (Case 307)
- Assault following argument over children involving attempted strangulation and punching of victim (Case 316)

These cases were all heard prior to the introduction of the offences of non-fatal strangulation and non-fatal suffocation, which came into force 2 June 2022. It is deeply concerning that the highly dangerous nature of these assaults and the indication of a risk of homicide¹⁹ were seemingly not reflected in the sentences imposed, and that victims were not sufficiently protected. In each of these three cases it would appear that CCB was a feature of the relationship between the victim and the defendant, indicated respectively by the VPS, the retraction of her statement and a history of previous disputes.

(ii) Harassment and Stalking

Charges of stalking and harassment accounted for 81 of the 626 cases observed, with a number of these including examples of technology-facilitated harassment, such as 'Sending indecent and menacing messages via public communication network or via telephone' and 'multiple unwanted phone calls or messages'. Many of these involved technology-facilitated abuse conducted over long periods of time and through multiple channels.

Internet of Things (IoT) facilitated abuse was observed in some cases, with one example including the installation of a tracking device to the alleged victim's car, and a camera disguised as a clock in the victim's workplace (Case 76), meaning that the perpetrator had total surveillance over the alleged victim's movements at almost all times.

Observers have noted the positive impact that the presence of a Specialist DV Prosecutor and IDVA had on a case of stalking and harassment which involved the sharing of explicit photos of the victim without her consent, as well as abuse through social media channels. In this case, the defendant was sentenced with an RO of 5 years, an 18 month Community Order and 20 RA days to focus on DA as well as substance misuse. The majority of cases involving stalking and harassment resulted in the imposition of a court order, and the majority of these were ROs of 5 years. There were issues recorded of the CPS not accepting police evidence of stalking (3), the reasons weren't specified, but perhaps suggest a lack of common understanding about which actions can be counted as stalking²⁰.

¹⁹ Glass, Nancy & Laughon, Kathryn & Campbell, Jacquelyn & Block, Carolyn & Hanson, Ginger & Sharps, Phyllis & Taliaferro, Ellen. (2007). Non-fatal Strangulation is an Important Risk Factor for Homicide of Women. The Journal of emergency medicine. 35.329-35

²⁰ 'Living in fear – the police and CPS response to harassment and stalking' <https://www.justiceinspectorates.gov.uk/hmicfrs/wpcontent/uploads/living-in-fear-the-police-and-cps-response-to-harassment-and-stalking.pdf>

(iii) Criminal Damage

62 charges of criminal damage were heard in court. The majority of the charges of criminal damage were brought against the defendants alongside other charges, including assault, stalking and harassment. The basic descriptions of these criminal damage charges indicate the presence of CCB, whereby damage to property, cars and mobile phones was used as another means of exerting control over the alleged victim. In some cases, criminal damage was caused as a consequence of the defendant's violent attempts to reach the alleged victim/enter her home, 'he attended the victim's address, criminal damage to [the] front door and assaulted her - pinned her on the settee and slapped her' (Case 519); 'ex husband, broke window, entered home, threatened to take children, assaulted ex partner, grabbed by throat, pushed against wall, etc also assault against the eldest 11 year old boy who tried to interfere to protect mother' (Case 546). In other cases criminal damage was used as a tool to incite fear in the victim (D slammed door glass broke. D had previously been in a relationship with receptionist at Dentist's surgery where offence took place' (Case 433), or featured alongside serious offences involving escalated violence, including two cases of non-fatal strangulation:

- She stayed with one child and returned home later and found him pretending to be asleep on the sofa. He jumped up, shouting, screaming, hitting her and grabbed her mobile. He bit it and bent it. He had been talking to someone and was leaving her, they argued. He grabbed her by the throat and [she] could not breathe (Case 128)
- '26/06:s70 intentional suffocation and strangulation; 28/06: s39 assault by beating & criminal damage to a mobile phone' (Case 406)

The criminal damage of mobile phones belonging to alleged victims is referred to several times, which, within the context of DA, is reflective of a course of behaviour that aims to isolate the victim from her support networks and to control who she is in communication with:

- '27 Feb 2021: Victim agreed to meet defendant to exchange belongings after end of relationship. An argument about mobile phone messages/content ensued. In trying to get her phone, defendant grabbed victim's wrist, twisted it, pushed her, bruised her leg, broke her bag and ripped her jogger bottoms.
- 24 Nov 2021: Victim again agreed to meet defendant to discuss their relationship. Argument about phone again took place. Defendant twisted her hand to get the phone' (Case 45).

Of the cases observed, criminal damage was rarely brought as a single charge, more commonly appearing alongside charges of assault or malicious communication. In the cases involving criminal damage as a single charge, evidence of CCB and/or harassment featured in the basic description of the case. In the majority of cases the Magistrates and/or Judge appeared to take these factors into consideration in sentencing, and ROs were commonly issued alongside fines.

(iv) Coercive and Controlling Behaviour

The offence of CCB is only brought as a charge against the defendant in 15 of 626 observations. In addition to recording the charges, the semi-structured questionnaire asked observers to record whether, during the court proceedings, any information was shared which indicated that coercive or controlling behaviour was a feature of the relationship between offender and victim. Of the total 594 responses, including both guilty and not-guilty pleas, only 16% recorded that such information

was shared. Of the 264 cases involving not-guilty pleas, 79.5% of respondents recorded that such information was shared. This does not align with the charges brought against the defendant, which predominantly detail offences such as assault, stalking, and technology-facilitated harassment, all of which are examples of coercive and controlling behaviour. In 4 cases, DA or DV was mentioned as an all-encompassing issue when specific charges were not known to court observers.

Case Number	Description of CCB
20	He checks her phone and breaks it. He isolates her from her friends.
41	Defendant kept stalking and following victim and would prevent her from being in contact with friends/family.
45	Defendant asked to see victim's phone messages; asked to her to "unfriend" her friends on social media; tried to stop victim from leaving the car; prevented her from going to the police by dropping her home; constant verbal abuse (slag, dickhead, get the fuck out of my car) and threats; hides victim's phone by leaving it under a car, yanked her headphones off her head, pulled her hair and hair extensions causing the victim a lot of pain, twisted her arms causing swelling and bruises, bruised her leg when pushing her violently to the ground.
97	Revenge porn - threatening to send intimate photos to Social Services to endanger her care of children
161	It was said that he used threats to kill himself as a way of getting what he wanted

One case involved a charge of assault, to which the defendant pleaded not guilty. Our court observer stated that information was shared which indicated CCB was a feature of the relationship, highlighting that the victim said she was 'constantly being watched' by the defendant, and that signs of economic abuse (loans of money followed by demands for repayment) were features. In this case, the alleged victim was not asked to read her VPS, no IDVA was present and charges were dropped:

The charges were dropped because the victim's evidence was unreliable, her recollection of some events was confused and did not agree with what she had said in her VPS (Case 559)

(v) Reference to Court Orders

109 charges of breaching restraining orders, non-molestation orders or the terms of bail conditions were heard in court. In many cases, multiple charges of this nature were brought against the defendant. The sentences imposed for the breaches of these orders ranged from fines (between £50 and £1000), community orders, imprisonment (between one day and 14 weeks) and, most commonly, extensions of the court orders already in place.

In some of these cases, Magistrates issued a warning that this was the defendant's 'last chance' or in other cases 'second chance' to comply with the orders that had been imposed. In some of these, support was offered to aid the perpetrator in changing his behaviour through rehabilitation

including BBR courses. Others, however, were issued only with fines and/or an extended RO/NMO despite there being evidence of patterns in their behaviour which indicated the likelihood of reoffence. In one case involving an elderly victim, there appears to be evidence of the court minimising the DA she had experienced over a period of time. In this case, the breach of an RO resulted in a fine, and the defendant was permitted to return home with the victim's consent, despite her stating that she was 'scared to death' of speaking to the defendant and had been 'walking on eggs shells [...] had been putting up with his behaviour for many years'. It is debatable whether the issuing of a fine would deter a perpetrator with a history of coercive and controlling behaviour. That he was permitted to return to the same address as the victim is a matter of concern.

Analysis shows that requests for DVPOs were only referred to in six cases out of 145 cases. This was a poor use of the legislation and indicative of inadequate understanding and application by the police and also Magistrates who can ask for one to be put in place where it seems that it might be appropriate.

There were however a small number of cases (three) which saw the defendant served with a DVPO despite his absence from court. Of these, two applications were at the request of the police without the consent of the alleged victim. In one case a statement by the victim was heard, which revealed a long history of DA, previous offences and convictions,

In the defendant's absence the hearing proceeded. The defendant punched the victim when they were in a caravan together. Threatened her with a rock in his hand as she was sleeping, adult daughter witnessed. Has been abusive in the past, has used a wooden bat to beat the victim and stabbed her in the leg. Victim is afraid of further escalation of the violence which is fuelled by alcohol abuse (Case 568).

In this example, a DVPO was granted as a last resort measure. Opportunities for early intervention were missed during the victim's repeated visits to hospital in search of medical assistance for the injuries she sustained.

In one case an allegation of a breach of a NMO was withdrawn by the victim, resulting in the dismissal of the case. This is at odds with legislation which says that the consent of the victim is not required to impose a DVPO. Research from Victim Support has shown that there is often confusion amongst Magistrates and clerks as to whether victim consent is required. They have made the recommendation that guidance and training on the new DAPOs must challenge this to ensure that the broadening of the possibilities of applying for a protection order (by victims and selected third parties) does not further entrench any confusion within the courts²¹. The table below shows the number of references to court orders, and the number of guilty/not guilty pleas heard in relation to these cases. Where a plea was not heard, reasons include; the defendant was absent, the case was adjourned, the case was sent to crown court.

Reference to Court Orders, of which:	Cases	Guilty	Not Guilty
Breach of restraining order	51	27	14
Breach of Non-Molestation Order	47	38	9

²¹ Moroz, Ania and Mayes, Alex (2019) 'Learnings from the London Domestic Violence Protection Order Caseworker Project' Available at: <https://www.victimsupport.org.uk/wp-content/uploads/2021/04/VS-London-DVPO-Report.pdf>

Breach of Domestic Violence Protection Order (DVPO)	11	8	3
Apply to remove/vary order	5	2	3
Request for DVPO	6		
Breach of bail conditions	10	7	3
Breach of Sexual Harm Prevention Order	1	1	0

Court observations showed a high number of cases involving the breach of existing ROs, NMOs and DVPOs, in total 109 cases of 626 (17.4%). The data aligns with the findings of the report on the court observations in the Midlands in 2020, which indicated the development of a 'revolving door process' regarding court orders. There are references to previous convictions for breaching orders, for which the sentence was an additional restraining order:

The Defendant is subject to a conditional discharge for 2 breaches of Non Molestation order. The order was not to contact his ex-partner or the two children. On his daughter's birthday he rang on a withheld number to wish her Happy birthday. He had tried to make contact with his ex-partner's solicitor but they no longer represent her, he did not go through his own solicitor. Victim requested restraining order so do not need to return to family court. He had breached the 2 previous orders. (previous conviction in 1998 excess alcohol) (Case 115)

Magistrates and police seem to lack a clear understanding and expectation of how the orders are utilised to protect victims and families. The court observations show a mixed response to applications for ROs and for variations of existing bail conditions and court orders. Applications to vary or remove an order primarily related to changes in bail conditions. In the majority of these cases (24), the court issued a no-contact order. In 17 cases unconditional bail was set. There were 14 references to existing ROs, and 48 references to no contact orders. There were 4 instances where a victim's request for an RO had not been granted.

Evidence of good or bad character, mitigating factors and references to victim's behaviour

The Sentencing Council Guidelines (2018) highlight a range of aggravating and mitigating factors that can affect sentencing in domestic abuse cases, and which can be highlighted by the prosecution and defence advocates. Aggravating circumstances refer to factors that increase the severity or culpability of a criminal act. A mitigating factor is the opposite as it provides reasons why the severity or culpability of the act may be reduced.

Of the 264 responses recorded, in the majority of cases (74.5%), prosecution did not seek to rely on evidence of the defendant's bad character in the trial, nor did the defence refer to the defendant's good character and its relevance to sentencing, with 69.4% of 382 observations recording that this was not mentioned.

Is the prosecution seeking to rely on evidence of the defendant's bad character in the trial?	All	Not-guilty pleas
Yes	67	61
No	197	188

Is the prosecution seeking to rely on evidence of the defendant's good character in the trial?	All	Not-guilty pleas
Yes	117	17
No	265	41

In the cases where reference was made to the defendant's good character, Magistrates and Judges gave credit where guilty pleas and commitments to rehabilitation were made and remorse shown.

Across the data set there are examples of manipulative behaviour where defendants sought to excuse their behaviour by referring to the actions of the victim, in some cases disputing aspects of the case. It is not clear whether these comments had an impact on sentencing. Of 299 cases involving a not-guilty plea, references to the behaviour of the victim were heard in 31.6% of cases. The majority of these reiterated some of the most commonly heard victim-blaming statements, including that the victim was drunk, that she goaded the defendant, that there was mutual abuse, or that the defendant simply 'saw red'.

References to the victim's behaviour	Examples
In 19 of the 94 cases in which reference was made to the victim's behaviour, court observers provided details on how and whether these comments were addressed.	<ul style="list-style-type: none"> • Victim had not brought all of his belongings on the day of the meeting. These were of sentimental value to him and not seeing those items frustrated him. He disagrees with the allegation of arm twisting and that victim was "cagey with her phone". Victim had slept with his friend. Victim had headphones on rather than engage in conversation and listening to him, which frustrated him. Victim held his wrist (Case 46) • The defendant alleged that the victim cheated on him, he was in love and it caused him pain (Case 71) • Defence said the defendant accepted he caused injuries but that the victim is elderly and is on blood thinners and bruises easily (Case 78) • The accused repeatedly tried to explain his behaviour as being 'goaded' (Case 295) • The defendant tried to introduce historical information about the behaviour of the victim and also tried to provide social media evidence of her contacting him after the incident (Case 601)

Other aggravating factors highlighted by the CPS

The CPS prosecutor represents the public interest and should draw the court’s attention to any Victim Personal Statement or other information available to the prosecution advocate as to the impact of the offence on the victim; where appropriate, to any evidence of the impact of the offending on a community; any statutory provisions relevant to the offender and the offences under consideration; any relevant sentencing guidelines and guideline cases; the aggravating and mitigating factors of the offence under consideration.

Of the 260 cases which heard a guilty plea, aggravating factors were highlighted in 140 cases. In line with the previous two reports, the most common aggravating factor was alcohol abuse (42 cases), followed by the defendant's history of DA (10 cases) and vulnerable victims (7 cases). Vulnerable or intimidated victims are defined as victims who are:

- under 18 years of age at the time of the offence, or
- the quality of their evidence is likely to be affected because they:
 - suffer from mental disorder within the meaning of the Mental Health Act 1983;
 - otherwise have a significant impairment of intelligence and social functioning; or
 - have a physical disability or are suffering from a physical disorder²².

Comparison with previous data – aggravating and mitigating factors

The following data is an account of issues highlighted in cases where the offender tendered a guilty plea. In many of the cases more than one mitigating or aggravating factor was referred to. A comparison was made with data from the 2017 and 2020 initiatives:

	2017	2020	2022	2022
Guilty Pleas	62	117	260	Factors
CPS advocates set out aggravating factors associated to the defendant prior to sentencing	28 (45%) The most common aggravating factor was alcohol or drugs misuse	35 (30%) The most common aggravating factor was alcohol or drugs misuse	140 (54%) The most common aggravating factor was alcohol misuse	Alcohol Abuse (42) Vulnerable victim (7) History of DA (10) Previous convictions (9) Breach of orders (5) Child access (5) Use of weapon (4) CCB (3) Pregnant victim (2) Jealousy (1)

²² Code of Practice for Victims of Crime in England and Wales November 2020

Mitigating factors highlighted by defence advocates about the defendant prior to sentencing	50 (81%) Alcohol abuse (24%) Mental health (12%) Challenge victim's behaviour (15%)	76 (65%) Alcohol abuse (20%) Mental health (16%)	277 (43%) Alcohol abuse (13%) Mental health (12%)	Alcohol abuse (35) Mental health (32) Health issues (23) Embarrassed/ ashamed/remorseful (22) Turn life around (22) Cooperated (21) Early guilty plea (12) Child access (12) Housing issues (10) Drug abuse (10) Stayed out of trouble/no repeat (10) Difficulty accepting the end of the relationship/now accepts the relationship is over (10) Has dependents (children and/or is carer for elderly parents) (9) Did not have/no longer has drink, drugs, or mental health issues (9) Medicated (8) Confused re court orders. Didn't understand terms of bail/order (due to language barrier or other) (8) PTSD (8) ADHD/Autism/Other Neurodivergence (7) Victim complicit in offence (6) No memory of incident (6) Grief (loss of close friend or family member) (6) Previous good character (6) Challenged victim version of events (5) In rehabilitation (5) Jealousy/allegations of partner cheating (4) Immature (2) Lonely (1)
Defence disputed an aspect of prosecution case		21 (18%)		<ul style="list-style-type: none"> - Suggestion that Defendant's gestures were misunderstood by Victim in the lead up to the argument i.e. that no intention to cause trouble (Case 251) - Defence stated that Victim was the one who tried to initiate sex with Defendant on the night in question and that she hit him first. Defence also questioned Victim's account of having been chased downstairs by the Defendant (Case 316) - Defendant claimed that he did not assault Complainant and that damage to media system was caused by Complainant herself (Case 331)
Children mentioned	13 (21%)	29 (25%)	25 (4%)	<ul style="list-style-type: none"> - Child access - Defendant ashamed about the significant amount of harm/distress caused to child

What is not clear from the observations is how these factors, presented by either the prosecution or the defence, influenced the sentencing decision of the court.

Victim Personal Statement

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

	All	Cases which proceeded on the basis of a not-guilty plea
Yes	134	15
No	253	44

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

	All	Cases which proceeded on the basis of a not-guilty plea
Yes	15	3
No	361	52

77.6% of 268 responses recorded that, in open court, there was no mention of the alleged victim having been consulted on trial arrangements. Victim personal statements (VPS) were referred to by the CPS in 34.6% of 387 responses, and in only 4.2% (15 of 375) cases a reference was made to the victim wanting to attend court to read her VPS in person. In the majority of cases, victims were not present in court, or otherwise declined to speak or had statements read on their behalf. Some observers commented that this indicated that the victim's needs had been met by ensuring they would not have to face the defendant nor be cross-examined in the proceedings. Our observations have highlighted some examples of good practice in this area, where adjustments were made to ensure that the victim's voice was heard, such as:

- Screens for the victim automatically granted; no ground rules for questions (Case 529)
- The court usher briefed the Judge and Court Clerk as to the nervous state of the witness. Whilst no IDVA or Witness Service personnel were present, the CPS supported the victim well. The witness was allowed to sit to give evidence and was given adequate drinking water (Case 485)

Court observers for 209 cases provided a summary of the issues raised in relation to victims who were unwilling to deliver their VPS, which primarily make reference to emotional states of the victim including fear, paranoia, stress and terror, as in the examples here;

- Victim did not want to come to court to read VPS due to fear and distress. She was afraid he would send images around social media (Case 618)
- Victim was afraid to attend court due to defendant's unpredictable behaviour (Case 621)
- Victim had intended to read her own VPS but was sent home for her own safety (Case 100)

Special Measures

As noted above, the purpose of special measures is to enable a witness to give the best evidence to the court that they can give.

Special measures requested	
Yes	130
No	146

Of 276 responses which recorded whether special measures had been requested to support the alleged victim, 52.9% answered no, and 47.1% answered yes. Responses commonly cited the absence of the victim or the victim not being in support of the hearing as the reason as to why no special measures had been requested. A total of 150 responses provided further details regarding special measures which had been put in place to facilitate the attendance of the victims. These referred primarily to the use of screens (88), video links (9) and interpreters (8). In some cases, reference is made to adjustments offered to victims who did not support the proceedings and/or refused to cooperate:

As well as providing screens, Witness Services, etc., the CPS and Chair of Magistrates very gently tried to encourage the alleged victim to give her account of the events of 25 January. She was unable to do this and CPS asked for her to be excused. As she was unwilling to give evidence but had attended Court, CPS had taken instruction from a review lawyer and concluded that the Crown could offer no evidence to the charge and the defendant was free to go. In addition, the alleged victim had been asked if she wanted a restraining order but had not wanted it (Case 514)

In the structured debriefings, court observers commented that in many cases the screens provided were insufficient for the purpose of creating a barrier between the alleged victim and the defendant. They also drew attention to the inadequacy of the video link technology, which failed in a number of cases, causing unnecessary stress for the alleged victim, and delaying court processes: Initially the court set up a video link facility from another room in the court building, but this failed to work properly. A screen was then set up in the court; this was a rather an ad-hoc arrangement and did take time to undertake. It seemed obvious that using a screen was not a facility that was offered frequently or even required frequently (Observation from court observer, structured debrief: Leicester)

The handling of this particular case (case 552) made an impression on the court observers who were in attendance who expressed that they felt the victim had been let down by both the insufficiency of the special measures put in place, and by the attitudes of the magistrates.

Independent Domestic Violence Advisors

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

Yes	No (all)	No; Pretrial Hearing/Victim Not Present	No; None available	No; Not known
158	451	20	14	417

In the majority of cases heard during the period of the court observations (451 of 609 responses), IDVAs were not present for the proceedings. Where an IDVA was not present during the cases observed, a small number of respondents noted that although an IDVA was not present, the victim was aided by: members of the police safeguarding team (5 cases), Police Domestic Violence Champions (3) and child safeguarding officers (1). Many respondents expressed concern that an IDVA was not present during the cases they observed, commenting that in their view this had a negative impact on the victim's experience,

'Victim was extremely tense when giving evidence and being cross-examined - the presence and support of an IDVA might have reduced this anxiety' (Case 511)

IDVAs were present during 158 cases, 25.9% of the total recorded responses. Court observers were also asked whether the presence of an IDVA had any impact on proceedings. A number of the 158 observers who recorded that an IDVA had been present commented on the positive effect that their presence had for the victims in terms of improving their understanding of court processes and providing counselling and comfort to them:

'They were very supportive to the victim in court ensuring she couldn't see the reflection of the defendant and had water, tissues etc.' (Case 591)

Impact on Proceedings	
None observed	50
Magistrates/bench aware	23
Acted as intermediary	7
No comment from court observer	78

Sentencing

Sentencing on the day

There were a total of 276 cases which involved the imposition of a sentence on the day that the court was observed, and a further 107 cases for which sentencing was adjourned until a later date or referred to Crown Court. Of these, 25 were adjourned awaiting probation reports. The table below provides an outline of the sentences which were imposed on the day of observation, with some defendants receiving sentences for multiple offences during the same court appearance.

Sentence Imposed	Total
Fines	81
Unpaid work	39
Rehabilitation activity	59
Victim compensation	45
Court costs	120
Surcharge	65
Community order	79
Custodial sentence	28
Conditional discharge	10
Suspended Sentence	38

Comparison with previous data

The following data notes the sentencing usages in 2022 and compares this with the same information for the 2018 and 2020 initiatives:

Sentencing	2017	2020	2022
Costs	36	41	120
Fines	24	35	81
Community Orders	32	42	79
Victim surcharge	37	25	65
Rehabilitation activities	35	29	59
Compensation	33	13	45
Restraining Orders	Not known	71	42
Unpaid work	11	21	39
Suspended Sentence	10	14	38
Alcohol Orders	Not known	10	21
Conditional discharge	Not known	21	10

The primary sentences ordered by the courts were financial penalties while rehabilitation activities were imposed far less frequently. Many of the defendants who received financial penalties were on benefits, and we saw examples of where costs would be deducted from universal credit payments. In one case, a court observer noted that the defendant and victim had reconciled, commenting that, I wondered about the point of a fine given that they are together again and on Universal Credit. However, the Bench probably had little choice (Case 308)

In this case the sentence was a £120 fine, £85 costs and £50 victim surcharge. It seems inappropriate that these financial penalties would impact on the victim as well as the defendant, and that she would essentially be paying the price for her own assault.

Adjourned sentencing

There were a total of 107 cases where the defendant had pleaded guilty which were adjourned. Of these, 31.7% were referred to Crown Court where sentencing powers exceed those of Magistrates. In a further 31 cases (28.9%) adjournments were due to the court requiring probation reports or further evidence to proceed with sentencing. In a small number of cases (2), sentencing could not proceed and a warrant was issued as the defendant had failed to attend court.

Prior Convictions

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

Yes	191 (50.4%)
No	188 (49.6%)

The 379 cases accounted for here shows a lower rate of prior convictions than the 2020 report, which evidenced 117 guilty pleas with 68 (61%) defendants having previous relevant convictions for violence, breach of orders or previous domestic abuse.

Offence	Cases with previous convictions
Violence	34
Breach of Court Orders	20
Other Offences	55
Previous domestic abuse	66
Other	16

Restraining Orders

Was a restraining order sought/imposed?

	All	Cases which proceeded on the basis of a not guilty plea
Yes	198 (52.9%)	22 (7.3%)
No	176 (47.1%)	34 (11.4%)

Court observers were asked to record whether a restraining order (RO) was sought and/or imposed. 52.9% answered 'yes' and 47.1% of 374 answered 'no'. Restraining orders were sought/imposed at a lower rate in cases which proceeded on the basis of a not guilty plea. In many cases an RO was already in place, and in a high number of cases the charges brought against the defendants related to breaches of these orders. Court observers at Manchester and Salford Magistrates heard details of a particularly harrowing case involving non-fatal strangulation, in which a restraining order had not been in place to protect the victim from previous DA related offences:

Very serious offences committed whilst on licence; on 28/06 neighbours called police - heard banging and shouting; Victim is fearful, scared, "been here before, it gets very serious" and thinks Defendant (D) is going to murder her. Victim visibly shaken and upset, had been punched in the face and kicked - had bruising to arms and legs and a swollen cheek. On 26/06 D had gripped the victim by the throat and put a pillow over the victim's face but incident had not been reported. Victim is reluctant to talk to police or give name of assailant but has provided a full account (no statement). Victim has moved to a new place, D not supposed to be near her. Police officer did some checks and found D's name - the victim confirmed D was the assailant but said 'Police can't be here all the time' (Case 406)

Considering the needs of victims and children in the proceedings

The Domestic Abuse Act (2021) identifies children in domestic abuse settings as victims and as such they should receive the protection and support they need in childhood which can enhance their ability to thrive in adulthood. Across the cases observed, there are many examples of children bearing witness to - and thereby being victims of - serious acts of violence and threats of violence including non-fatal strangulation and stabbings. One case involving violence against a mother and her 10 year-old son by the child's father resulted in a restraining order with terms allowing the defendant to remain in residence at the family home, The judge was at pains to ensure that the victim and the family needed to be protected and set out the terms of the restraining order. The defendant will continue to live at the family home and provide for them financially, but any breach of the restraining order including shouting at his wife would be regarded as a breach of the order and therefore the custodial sentence would be activated (Case 254)

In this example of an overlap between domestic abuse and direct harm of children the alleged (adult) victim made no complaint, but the details of the case were confirmed by the child, who said that he had been slapped in the face after stepping in to try and 'stop his Dad'. This heartbreaking detail is an example of a familiar narrative involving a child's efforts to intervene in order to protect himself and his mother from violence. It is difficult to understand why the court did not take further measures to ensure their protection and to safeguard them against future violence. No IDVA was present during this case, and the fact that the (adult) victim was unwilling to make a complaint may indicate that CCB is a feature of the relationship but this was not referred to in court. This case was handled as an isolated incident.

Court observers were asked to comment on whether they felt that the needs of the alleged victim (and any children) were fully considered during the course of the proceedings. 176 (79%) of a total 223 responses where there was a not guilty plea answered 'yes', and 47 (21%) answered 'no'. 193 observers provided further details of how these needs were or were not considered, drawing attention to how the bail conditions set and ROs imposed offered protection to the alleged victim and any children. Responses also refer to the use of special measures, including in a small number of cases how these were used to aid children in giving evidence in court as witnesses.

Children are most commonly mentioned in the context of child contact matters. Among these was one case involving multiple breaches of a NMO, wherein the victim had expressed that she was 'petrified of defendant and frightened he will turn up to take the children [...] frightened for the children's well-being if they see the father' (Case 133). The court advised that the defendant should arrange child contact through solicitors, and to take the issue to the family courts should the alleged victim still not reply.

Police Evidence

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

Yes	No	Examples
38 (6.4%)	559 (93.6%)	Body worn video not supplied to court Delay in preparing forms Editing evidence video

In 93.6% cases there were no recorded issues relating to the acquisition of evidence or documentation from the police. However, observers did make reference to cases of stalking where police evidence had been deemed insufficient by the CPS:

The police maintain that he has been to the victim's house, constantly calling at her door. Seven incidents listed. They have evidence on camera but as he has not been served with a notice from the CPS the evidence cannot be used and the police cannot prove he is stalking and his behaviour poses a risk to the victim (Case 85)

Observers also noted during structured debriefings that court processes had at times been delayed where police had failed to produce reports in a timely manner, and in some cases this led to adjourned sentencing, 'A lack of reports from the Police and Social Services meant that the judge had to adjourn the case for 3 weeks' (Case 130).

Commentary

Special Measures

The Domestic Abuse Act pledged to provide automatic eligibility for special measures, for all victims of DA. However, individual courts still held the jurisdiction to determine on a case by case basis whether the implementation of these measures would improve the quality of evidence provided by the victim.

Our court observations show failings to identify vulnerability and intimidation, evidenced where an absence of special measures seemed at odds with the charges brought against the defendant and the basic descriptions of the cases. This is consistent with recent inspectorate data which suggested vulnerable and intimidated witnesses may still be falling through the net²³. We estimate from our observations that, in 52.9% of cases, special measures were not requested for witnesses/victims, including instances where no witness/victim was present. The data does not identify the number of cases where special measures were not provided to victims who were in attendance. An additional hidden issue to be noted is the number of absent witnesses/victims who may have attended had there been assurance that special measures would be put in place.

Further research on how information about special measures is communicated to victims and how this influences their decision making around court attendance would be beneficial, as it would appear from the case observations that opportunities for victims to be consulted regarding special measures are not always taken. Our court observations recorded that special measures had been requested to support the victim in 21.7% of cases. There were minimal references in the court observations of victims wanting to attend court to deliver their VPS in person, and it is not clear from the data which provisions were offered in order to facilitate this. In total there were only 15 references to victims wanting to attend court in person and only 134 references to VPSs across all of the cases observed.

The court observations show examples of victims who were in attendance in court without the provision of special measures. As an example, the observers of case 164 in Nottingham heard accounts of technology-facilitated abuse, stalking and intimidation, but no special measures were put in place to protect the victim. In some cases, the victim herself declared that she was frightened of or intimidated by the defendant, but special measures were still not applied. These examples evidence failures to identify vulnerable victims and to effectively implement special measures to ensure their protection.

The most common example in the court observations on the provision of special measures is the use of screens to create physical distance between the defence and the prosecution, referred to in 62 cases. During 2018/19 HM Courts and Tribunals Service invested £150k to provide an additional 295 privacy screens across 110 criminal courts in England and Wales;²⁴ these are designed to screen victims from the accused. One court observer described the use of a 'thinly veiled curtain' which acted as a screen between the defendant and the victim. The thin material of the screen meant that the defendant was able to make his presence felt, the screen thereby

²³ 'Next steps for special measures A review of the provision of special measures to vulnerable and intimidated witnesses' Available at: https://s3-eu-west-2.amazonaws.com/jotwpublic-prod-storage-1cxo1dnrmkg14/uploads/sites/6/2021/12/2021-05-18_Specialmeasures_FINAL.pdf (p.19)

²⁴ 'Special Measures in the criminal court fact sheet' Available at: <https://www.gov.uk/government/publications/domestic-abuse-bill-2020-factsheets/special-measures-in-the-criminal-courts-factsheet>

failing to function as a barrier or protection for the victim. The observer recounted the subtle actions of the defendant in court which demonstrated his control over the victim:

She was standing close to the defendant who could be heard tutting, sniffing and coughing when she was giving evidence - with no attempt by anyone in the court to ask him to be quiet. We felt this was intimidating towards her and she should have been using a video link. She was constantly asked to stop and repeat evidence so her words could be written down - sometimes this seemed to interrupt her train of thought.

It is clear from this and other examples in the court observations that the privacy screens do not necessarily provide sufficient protection for victims. Although ensuring they were protected against visibility has been identified as a strong theme in the stated needs of victims²⁵, these screens do not provide protection from invisible forms of coercion and control. Screens can, as in the example above, create an opportunity for the behaviour of defendants to impact on the victim's experience and her ability to deliver evidence. Further training for Magistrates and Judges about their role in preventing inappropriate behaviour by defendants (such as that recorded above) may be helpful.

Live links are the second most commonly mentioned special measure, but this figure is very low. We estimate that live links were referred to in just 2.5% of the total number of cases, and in 12.3% of cases where special measures had been requested. This low figure suggests that there are barriers preventing the use of live links by vulnerable victims within SDACs. Research prior to the Covid pandemic explored the reasons for the under-provision of live links, finding that barriers include an awareness deficit, failure to identify vulnerable victims and an uncertainty regarding the benefits of this technology.²⁶ It would be hoped that a positive effect of the Covid pandemic would be digital court reforms consisting of the improvement and widened availability of live link technology. Our data from 2022 shows no increase in the use of live link technology in the SDACs from that of the data gathered in 2018 and 2020. There are references within the court observations to practical issues with the technology, including cases where the live link failed to work and others where the audio-visual quality was of a poor standard. Additionally, respondents referred frequently to the under-use of microphones within the courts. The 2022 report called for, 'better use of remote evidence centres so that victims can give their evidence without the fear of being waylaid on the way to court by their adversary'. Remote evidence centres are not referred to in the 2022 court observations, and it is not clear from the data where video evidence was delivered, aside from one reference to a victim giving evidence from her home address and there were two cases which involved pre-recorded evidence by child witnesses.

In summary, our data shows that applications of special measures are underemployed in SDAC proceedings, that measures are not always sufficient, and that opportunities for victims to be consulted regarding these special measures were limited. Criticisms of special measures highlight that it is critical that victims are provided with adequate information regarding which special measures are available to them, in order to ensure that the application of these special measures is not counterproductive²⁷. It is positive to note that where special measures were requested, these were consistently approved by both Magistrates and District Judges. However, the low figure of instances in which special measures were provided indicates that there is room for

²⁵ Rabiya Majeed-Ariss, Alice Brockway, Kate Cook, and Catherine White, "Could do better": Report on the use of special measures in sexual offences cases' *Criminology & Criminal Justice* 2019 21:1, 89-106

²⁶ Fairclough, S. (2017). 'It doesn't happen ... and I've never thought it was necessary for it to happen': Barriers to vulnerable defendants giving evidence by live link in Crown Court trials. *The International Journal of Evidence & Proof*, 21(3), 209-229.

²⁷ Matthew Hall (2007) *The Use and Abuse of Special Measures: Giving Victims the Choice?*, *Journal of Scandinavian Studies in Criminology and Crime Prevention*, 8:sup1, 33-53

improvement in terms of empowering victims to make informed decisions regarding the choice of special measures which are available to them. It may also be useful to enhance the training given to Magistrates and Judges who sit in DA cases, to remind them that during case management hearings, they should always ask whether special measures are needed. This may prompt the CPS and Defence solicitors to pay attention to this possibility.

The Victim Experience

Our court observations show mixed reports on how court buildings accommodate the needs of vulnerable and intimidated witnesses. Many of the courts observed do not have separate entries/exits for victims, nor do they provide waiting rooms for the victims: Whilst the victim was allowed to leave the court ahead of the defendant to avoid contact, when the victim arrived at court and was sitting in the waiting area, she was sitting within 3-4 metres of the defendant. Perhaps there should be clearer instructions to the witness that when they arrive at the entrance to the court they should ask for the witness service, in order to avoid close proximity to the defendant.

Some observers reported that despite the absence of two separate waiting areas, defendants and victims 'appeared to be kept apart', and others remarked positively on the in/out process governing the movement of witnesses in and out of the court building. A review of the SDAC court facilities, as recommended in the report on the 2020 observations, would help to ensure the safety and security of all victims and witnesses. This review should include the availability of separate entrances, access to private areas, the acoustics, and the evacuation plans.

Treatment of defendants

Overall, court observers found that the communication of court processes and decisions was clear, noting that defendants in particular seemed to be well prepared and briefed:

Exemplary, both District Judges slowed down proceedings to explain to the defendants, clearly and in lay terms, what was happening and the implications of bail conditions, remand in custody or the sentence (as relevant) (Comment from observer, structured debrief: Manchester)

This impression from observers at Manchester Magistrates Court is echoed across the majority of the courts observed. In terms of sentencing, 59 included rehabilitation orders, including 22 for BBR, but overall it is questionable as to whether the sentences that were imposed would be likely to help facilitate perpetrators in changing their behaviour. One observer highlighted the adverse experiences of the defendants, commenting that,

It was depressing to note the role of inadequate upbringing, alcohol use and drug-taking in the anti-social and violent behaviour of the defendants – mostly young men. Some victims actually expressed sympathy for [the] condition of the defendants. There was hope that some defendants had begun to rehabilitate themselves through steady work and accessing addiction support and might prove to be useful members of society in future but, at least one, seemed to be embedded in a cycle of dangerously violent behaviour (Court observer, structured debrief: Poole)

Mental health issues, post-traumatic stress disorder and neurodivergence among defendants was referred to in a high number of the cases observed. Recent research into BBR programmes has called for adequate long-term funding for the DA sector, which should include a responsiveness to the range of emotional difficulties presented by abusive men²⁸

²⁸ 'Building better relationships? Interrogating the 'black box' of a statutory domestic violence perpetrator programme' Available at: https://pure.manchester.ac.uk/ws/portalfiles/portal/195990742/Building_Better_Relationships_Programme_Report_final.pdf

IDVAs

It was established that in 451 of 626 cases an IDVA was not involved or not present in court. From the 335 guilty cases the IDVAs had no influence or contact with 72.5% of cases. In some cases, when an IDVA was available in court, they sat in the public gallery and did not contribute to the court proceedings but acted as intermediaries in 7 cases. In 50 cases respondents recorded that the bench was aware of their presence. The impact that this had on sentencing overall is not clear, but there is one notable example from the qualitative data wherein an IDVA played a crucial role in ensuring an RO was not lifted against the victim's wishes:

There had been no recent contact with the victim by IDVA or Police and the Magistrates were concerned to check that the victim saw things as the defence said and would be happy for restraining order to be lifted. They adjourned while the IDVA rang her. She did not agree and was in a panic that order might be lifted. It was not lifted. She felt he was still trying to control her (Case 91)

It should be noted that, in some courts, there are some good practice exceptions to the overall picture noted above about IDVAs. For example, In Nottingham, there are two IDVAs present in SDACs – one in the body of the court and one via video link. This is in order to have the appropriate IDVA present for cases across the whole of the city and county.

What is made clear from the qualitative data is that, where an IDVA was present, observers were impressed by the level of support they provided to the victim:

[IDVA] discussed alternatives with victim in a side room, on return for sentencing victim much calmer and no longer tearful when restraining order not varied (Case 98)

Where IDVAs had not been present, observers expressed that, in their view, the victims in question would have benefited from their support:

Victim was extremely tense when giving evidence and being cross-examined - the presence and support of an IDVA might have reduced this anxiety (Case 551)

There is substantial research, statistics and information available about the role of IDVAs and their value to victims, their families and the criminal justice system. Their value is not just the ability to contact victims directly but to provide support, coordinate other agencies, and offer professional commentary about the cases and the people involved. IDVAs have been described as the 'pivotal point of the system'²⁹. The under availability of IDVAs across the SDACs observed is therefore a cause for concern, as is the evidence of poor information sharing:

After the case, I spoke to the IDVA who said that sometimes the victims did not know their case was coming to court until the day before (Case 55)

²⁹ Bettinson, Vanessa. (2016). Criminalising Coercive Control in Domestic Violence Cases: Should Scotland Follow the Path of England and Wales?. Criminal law review (London, England). 2016. 165 (p.100)

There seems to be an anomaly regarding presence of IDVAs between the different clerk of the court. I have been informed on two occasions that there are no IDVAs at Leicester but the clerk sitting on the cases being heard at a later date informed me that an IDVA had been present at Court (Case 208)

The findings of this report are consistent with those in the 2022 report, which also showed a low rate of IDVA allocation within the SDACs, and recommended that this should be addressed as a priority alongside better partnership working and an improved understanding of the role of IDVAs.

Coercive and Controlling Behaviour

CCB was referred to in 16% of all cases, and in 13.8% of cases where a guilty plea was heard. The findings of this report align with the latest research on the efficacy of the legislation on coercive control, which shows that key opportunities to identify coercive and controlling behaviour (CCB) are frequently missed by officers and neglected by court professionals³⁰. Explanations as to why these key opportunities are missed primarily relate to the nature of CCB as a 'course of conduct offence', rather than an 'incident', which leads to difficulties in obtaining evidence, high rates of attrition and victim withdrawal³¹.

There are clear examples in the qualitative data which demonstrate a poor understanding of CCB by Magistrates and Judges:

One of the magistrates asked a court official if stalking or harassment came under the umbrella of domestic abuse. This is something that magistrates need to be made aware of.

*There is no way this judge should be near any DV case!! Comments like "why didn't she leave then if she was being abused?" No understanding of the fear or control being used or the danger of leaving. No thought that it was victim's home & she had every right to be there, etc, etc"
Just awful - only good thing was kept in custody till next hearing*

These examples show a poor understanding of the complex dynamics of DA among some Magistrates and Judges, which in some cases appeared to have an impact on sentencing. There were however examples from within the court observations where Judges 'saw through' the defence and demonstrated exemplary concern for the welfare of victims of CCB. Again, this suggests that the specialist training available for those sitting in SDACs may not be sufficiently effective.

Restraining Orders, Non-Molestation Orders, Domestic Violence Protection Notices or Domestic Violence Protection Orders

In the 2021 report by Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services (HMICFRS), the College of Policing and the Independent Office for Police Conduct (IOPC) it was highlighted that the police and courts were not adequately utilising restraining orders, nonmolestation orders, Domestic Violence Protection Notices or Domestic Violence Protection Orders. There was minimal reference to these orders in the data which correlates with the negative commentary by the 2022 report. It is clear from the data that current orders are not deterring perpetrators from reoffending and are not serving to keep victims safe. There were multiple cases of repeated breaches to ROs and NMOs, the sentence for which was in many cases an extension of an existing order.

³⁰ Robinson, A. L., Myhill, A., & Wire, J. (2018). Practitioner (mis)understandings of coercive control in England and Wales. *Criminology & Criminal Justice*, 18(1), 29–49

³¹ D. McPhee, M. Hester, L. Bates, S. J. Lilley-Walker & D. Patsios (2022) Criminal justice responses to domestic violence and abuse in England: an analysis of case attrition and inequalities using police data, *Policing and Society*, 32:8

Conclusion

Key findings

1. **Lack of IDVA availability.** Looking at the key features of the 23 courts observed, it is clear that access to IDVA support is not available to all victim-survivors within the SDAC system. Our findings estimate that IDVAs were present in 158 of 626 cases, 25.9% of the total observed. IDVAs are identified as a critical feature of SDACs, yet in the 2018 and 2020 initiatives, it was assessed that the absence of IDVAs was a significant failure which undermined the ability of the court to make decisions as information was seriously limited and/or provided a prejudiced view of the material presented to the court.
2. **Frequent breaches of DVPOs and NMOs and a high number of repeat offences for DA related crimes.** Our findings show a high number of cases involving the breach of existing ROs, NMOs and DVPOs, in 109 cases of 626 (17.4%). The sentences imposed for the breaches of these orders were, most commonly, extensions of the court orders already in place.
3. **Insufficient facilities and the underuse of special measures** Court observers drew attention to spatial challenges including a lack of separate entry/exits for victims and defendants. Our findings also show that there were issues with the functionality of privacy screens and live-link technology. These were found to be in a poor condition and in some cases not available/not working. Of 276 responses which recorded whether special measures had been requested to support the alleged victim, 52.9% answered no, and 47.1% answered yes
4. **Victim retractions and non-attendance.** Victim non attendance was highlighted by court observers as a significant challenge, in particular where this led to cases being dropped. Victims retracted their statements in 5 of the cases observed. 77.6% of 268 responses recorded that, in open court, there was no mention of the alleged victim having been consulted on trial arrangements. A VPS was referred to in 134 of 626 cases.
5. **Low charge rates for CCB** Coercive and controlling behaviour was directly referred to in a small number of cases, but was a clear feature in the majority of the cases observed when looking at the basic descriptions and circumstances of the cases. CCB was brought as a charge in just 15 of 626 cases.

The qualitative and quantitative data presented here provides a clear indication that the components required to deliver a Specialist Domestic Abuse Court are not always present. Features including the under availability of IDVAs, the under application of special measures and the poorly equipped court facilities must be addressed to ensure that victims are protected and supported by the SDAC system. Over the five years of the court observation initiative there have been notable changes to external factors which appear to have had limited impact on the challenges that victims face in seeking justice. The data gathered over this five year period reflects a disconnect between strategic and operational management, wherein changes to policy have made little difference in practice.

Domestic Abuse has been categorised as a national threat under the new strategic policing requirement. The government has laid out promising plans to prioritise the prevention of VAWG and to introduce tougher legislation on perpetrators who are convicted of CCB, which for the first

time will be put on a par with physical violence. However, our data provides further evidence of a pronounced gap between reported offences of coercive control and successful convictions.

Proposed measures include new civil orders, digital tools for the early identification of dangerous perpetrators, and additional funding for both specialist victim support programmes and perpetrator behavioural interventions. The government has pledged that the latter will receive up to £36 million over the next two years. Our data shows that of the cases observed, the majority of sentences imposed were financial, and that perpetrator interventions were ordered in just 56 of 626 cases observed. Despite government spending of £79 million since 2020 for domestic abuse perpetrator interventions, it is clear from our findings that these pathways to changing behaviour are not consistently enforced. These findings align with research which has shown less than 1% of perpetrators receive a specialist intervention to challenge or change their behaviour³². Reasons for this include patchy service provision as well as an overall low rate of conviction for DA related crimes and a lack of identification of CCB in the courts.

There is limited data available on the quantity and quality of the SDACs currently in operation in England and Wales. We know that models differ depending on a postcode lottery of service provision. The successful components of courts such as Westminster SDAC³³ and Nottingham Magistrates Court which employ a multi-agency approach to provide a more effective response to processing domestic abuse cases within the criminal justice system are not found in all regions. Further research into survivors' experiences of the SDAC system would be beneficial for ensuring a standardised model which best meets their needs. It is particularly concerning that the majority of victims in the cases observed did not receive advocacy from IDVAs, and that the safety of victims was not properly ensured both inside and outside the courts. SDACs are an integral part of survivor-centred justice. It is crucial that the challenges and inadequacies identified in this five-year initiative are addressed.

³² 'Publish and fund a domestic abuse perpetrator strategy to cut violent crime and protect victims' backers of a new campaign tell Government' Available at: <http://driveproject.org.uk/news/call-to-action-for-perpetrator-interventions-in-england-and-wales/>

³³ 'This specialist court model employs a multi-agency approach to provide a more effective response to processing domestic abuse cases within the criminal justice system' Available at: <https://justiceinnovation.org/project/westminster-specialist-domestic-abusecourt>

Appendix A – Questionnaire

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

Your responses will be submitted automatically after you have pressed 'send'. It would be helpful if you could retain a copy of the paper form as a backup.

Your Name:

Court Name:

Observation Date:

Gender of the victim: Male / Female / Non binary / Other or not known

Gender of the defendant: Male / Female / Non binary / Other or not known

Is the case heard by Magistrates or District Judge?: Magistrates/District/Other

Defendant's Name:

Date of alleged offence:

The charge:

Is the defendant pleading guilty or not guilty?: Guilty/Not Guilty

IF THE DEFENDANT IS PLEADING NOT GUILTY, PLEASE ANSWER THE QUESTIONS IN SECTION 2 OTHERWISE PLEASE MOVE TO SECTION 3 AND LEAVE SECTION 2 BLANK.

SECTION 2 – IF THE DEFENDANT IS PLEADING NOT GUILTY

If the defendant is pleading not guilty, what was the basic description of the case, as presented by the Crown Prosecution Service (CPS)?

Is the prosecution seeking to rely on evidence of the defendant's bad character in the trial?
Yes/No

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

Were special measures requested to assist the alleged victim? Yes/No

Which special measures were these?

Was there an application to vary bail conditions? Yes/No

What reasons were given to vary, or not to vary, bail conditions?

Was there any reference made in open court to consultation with the alleged victim on these variations? Yes/No

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

Was there any reference in open court to the alleged victim being consulted on trial arrangements? Yes/No

Were you satisfied that the needs of the alleged victim (and any children) were fully considered during the course of these proceedings? Yes/No

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

SECTION 3 - IF THE DEFENDANT IS PLEADING (OR HAS BEEN FOUND GUILTY)

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

Was a Victim Personal Statement (VPS) referred to by the CPS? Yes/No

Was a Victim Personal Statement (VPS) referred to by the CPS? Please summarise the issues raised.

Was any reference made to the victim wanting to attend court to read their VPS in person? Yes/No

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

What arrangements were made for this to happen?

Did the CPS seek to highlight any previous convictions to the offender that might be relevant prior to sentencing? Yes/No

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

Were any other aggravating factors highlighted by the CPS? Yes/No

Were any other aggravating factors highlighted by the CPS? Please give details.

Did the defence make reference to any mitigating factors prior to sentencing? Yes/No

Did the defence make reference to any mitigating factors prior to sentencing? Please give details.

Did the defence dispute any aspect of the prosecution case? Yes/No

Did the court consider a Newton Hearing?: Yes/No

Did the defence refer to the defendant's previous good character and its relevance to sentencing?: Yes/No

How did the court respond?

Did the defence seek to excuse the defendant's conduct by reference to the victim's behaviour before, during or after the incident? Yes/No

Were these comments addressed? By whom?

What was the sentence imposed?

Was a restraining order sought/imposed? Yes/No

Was a restraining order sought/imposed? Please give details

Were you satisfied that the needs of the victim (and any children) were fully considered during the course of these proceedings? Yes/No

OTHER QUESTIONS

Was an Independent Domestic Violence Advisor (IDVA) present in court during this case? Yes/No

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

Was there any suggestion in open court that problems relating to the acquisition of evidence/documentation from the police had impacted on case progress in any way? Yes/No

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

Was any information shared that indicated coercive or controlling behaviour was a feature of the relationship between offender and victim? Yes/No

Was any information shared that indicated coercive or controlling behaviour was a feature of the relationship between offender and victim? Please describe what was shared, by whom and for what purpose.

Any other comments



SPECIALIST DOMESTIC ABUSE COURTS (SDAC)

How special were
they in 2022?