

A duty to protect

Police use of protective measures in cases involving violence against women and girls



A joint investigation by Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services, the College of Policing and the Independent Office for Police Conduct



Contents

| | |
|---|-----------|
| Senior panel foreword | 4 |
| Summary | 7 |
| What is a super-complaint? | 7 |
| What does this super-complaint say? | 7 |
| Our approach and methodology | 7 |
| Our findings | 8 |
| Background and overarching legal framework | 15 |
| Crimes of violence against women and girls..... | 15 |
| The prevalence of domestic abuse..... | 16 |
| The Policing and Crime Act 2017 and changes to the use of pre-charge bail | 17 |
| The Police, Crime, Sentencing and Courts Bill | 18 |
| The Domestic Abuse Act 2021 | 18 |
| Definition of domestic abuse..... | 19 |
| Police and Criminal Evidence Act 1984 Code of Practice G..... | 20 |
| HMICFRS inspections | 21 |
| College of Policing guidance | 21 |
| Our super-complaint investigation | 22 |
| Scope | 22 |
| Methodology – how we investigated the super-complaint..... | 22 |
| About our fieldwork..... | 23 |
| Our findings: Failure to impose pre-charge bail conditions | 25 |
| Background | 26 |
| National Police Chiefs’ Council guidance | 28 |
| Situations of concern raised in the super-complaint | 28 |
| Victims withdrawing support | 39 |
| Victim Research: BritainThinks..... | 42 |
| Our findings: Use of non-molestation orders | 47 |

| | |
|---|-----------|
| Background | 47 |
| Arrests for breaches | 48 |
| Communication of NMOs..... | 51 |
| Use of NMOs as an alternative to police action | 52 |
| Police advice on use of NMOs..... | 53 |
| Our findings: Failure to use Domestic Violence Protection Notices and Domestic Violence Protection Orders..... | 55 |
| Background | 55 |
| Data on the use of DVPNs and DVPOs..... | 56 |
| Effect of COVID-19 | 59 |
| Effect of DVPOs on victims’ safety | 59 |
| Our findings: Failure to apply for restraining orders..... | 62 |
| Background | 62 |
| Data | 63 |
| Applications | 64 |
| The role of the CPS | 66 |
| The slip rule..... | 67 |
| Victims who don’t have legal representation may not know the courts can make a restraining order | 67 |
| Our findings: How can protection best be achieved? | 69 |
| Legislative change | 69 |
| A collective response..... | 69 |
| Conclusions | 71 |
| Overarching recommendations..... | 72 |
| Recommendations and actions..... | 73 |
| Annex A: The Centre for Women’s Justice | 76 |
| Annex B: The police super-complaint system | 77 |
| Annex C: People and organisations consulted..... | 80 |
| Annex D: About the data | 81 |

| | |
|--|-----------|
| Annex E: Recommendations from <i>Pre-charge bail and released under investigation: striking a balance</i> | 85 |
| Annex F: Letter from the NPCC Lead for Bail Management Portfolio dated 29 January 2019 | 87 |
| Annex G: Definitions and interpretations | 88 |
| Annex H: Bibliography | 95 |

Senior panel foreword

Protecting the vulnerable and bringing offenders to justice are among the police's principal legal and moral responsibilities. The recent case of the murder of Sarah Everard has spurred a public debate about violence, the safety of women and the police's role in that respect.

Domestic abuse-related crime accounts for 1 in 6 (15 percent) of all crime recorded by the police in England and Wales, and over a third (35 percent) of all recorded violence against the person crimes¹. Each year, more than 100,000 people² in the UK are assessed as being at a high and imminent risk of being murdered or seriously injured as a result of domestic abuse. Women are much more likely than men to be the victims of high risk or severe domestic abuse. In England and Wales, seven women a month are killed by a current or former partner. It is estimated that well over a million women suffer from domestic abuse each year.³ These figures include violence, sexual assault and stalking by family members and current or former partners.

And yet the level of confidence in the police among female victims is worryingly low. Almost half (49 percent) of victims who have experienced sexual assault by rape or penetration (including attempts) since the age of 16 had been a victim more than once. Fewer than one in six reported the assault to the police.⁴

Behind these figures are the women and girls who are often suffering terrible abuse.

The Centre for Women's Justice has made a super-complaint because it is concerned that the police are failing to use protective measures, namely bail, non-molestation orders, Domestic Violence Protection Notices and Domestic Violence Protection Orders and restraining orders, to protect women and girls. It is worried that highly vulnerable people are not being safeguarded.

HMICFRS, the College of Policing and the Independent Office for Police Conduct (IOPC) are responsible for assessing, investigating and reporting on police super-complaints. We have worked together on this investigation and have jointly agreed our conclusions.

¹ [Domestic abuse prevalence and victim characteristics – Appendix tables](#), Tables 9 and 11, Office for National Statistics, 2020.

² [Getting it right first time](#), SafeLives, 2015.

³ [Domestic abuse prevalence and victim characteristics – Appendix tables](#), Table 5a, Office for National Statistics, 2020.

⁴ [Nature of sexual assault by rape or penetration, England and Wales: year ending March 2020](#), Office for National Statistics, 2021.

What we found

Protecting female victims isn't carried out by the police in isolation: they work with many other organisations, including criminal justice partners, such as the Crown Prosecution Service, the courts, Probation Service and the voluntary sector.

Our investigation in response to this super-complaint found examples of dedicated officers working well – both with victims and potential victims and with the Crown Prosecution Service – to put in place the best possible protection for vulnerable women and girls. Effective police work to protect women and girls can make material change beyond the individual case, including preventing further offences from being committed.

However, we also found instances where this didn't happen. And when victims don't feel well supported by the police, this can have significant and long-lasting consequences. The emotional effects can be devastating, and victims – and the people around them – who feel that the police didn't take the case seriously may be less likely to report crime in future.

The reasons why police support for victims is sometimes not good enough are complex and varied. Sometimes officers are not aware of the powers available to them. Sometimes the processes are confusing. And sometimes officers don't take the safety of vulnerable women and girls as seriously as they should.

Ensuring better protection

The Government's new [*Tackling violence against women and girls strategy*](#) commits to reducing the prevalence of violence against women and girls and improving the support and response for victims and survivors. The previous strategy, [*Ending violence against women and girls: strategy 2016–2020*](#), committed to making more tools available to the police to protect women and girls.

Providing powers to the police does not automatically mean that these powers will be used effectively. They must be fully understood before they are introduced and applied properly when they are introduced. There must also be careful data gathering and evaluation to make sure that these powers are having the intended results; the extent of many of the powers' ability to protect is unknown. And, crucially, the powers must be embedded within broader law enforcement work.

We have made recommendations in relation to each of the protective measures in the super-complaint. These include recommendations that forces change and monitor their approaches in respect of these measures and to make sure that police officers are better equipped to understand the full suite of measures available. We have also made recommendations to the Home Office, the National Police Chiefs' Council and the Ministry of Justice to do more to help make sure all measures are used as efficiently and effectively

as possible. HMICFRS will also change its inspection activity to enhance its scrutiny of the use of these measures.

We believe these recommendations will help to support and drive policing to improve the response to domestic abuse aligned with the Government's aim, set out in [Tackling violence against women and girls strategy](#) that no woman should live in fear of violence, and every girl should grow up knowing she is safe, so that she can have the best start in life.

Summary

What is a super-complaint?

A super-complaint is a complaint that “a feature, or combination of features, of policing in England and Wales by one or more than one police force is, or appears to be, significantly harming the interests of the public” (section 29A, Police Reform Act 2002).

The system is designed to examine problems of local, regional or national significance that may not be addressed by existing complaints systems. The process for making and considering super-complaints is set out in the Police Super-complaints (Designation and Procedure) Regulations 2018 (the regulations).

For more information on super-complaints, see Annex B.

What does this super-complaint say?

The Centre for Women’s Justice is concerned that the police are failing to use the protective measures available to them in cases involving violence against women and girls. The super-complaint addresses in detail four legal powers available to the police and explores the extent to which they are being used.

These powers are:

1. pre-charge bail conditions;
2. non-molestation orders;
3. domestic violence protection notices and orders; and
4. restraining orders.

The Centre for Women’s Justice believes that, when all these failures are taken cumulatively, there is a systemic failure to meet the state’s duty to safeguard a highly vulnerable section of the population.

In compiling its super-complaint, the Centre for Women’s Justice asked for information from a range of frontline organisations. The super-complaint and evidence from these organisations is available in [*Police super-complaints: police use of protective measures in cases of violence against women and girls*](#).

Our approach and methodology

In our investigation into this super-complaint, we examined whether there is evidence that the concerns set out by the Centre for Women’s Justice are features of policing. We then considered whether there is evidence that they are, or appear to be, causing significant harm to the public interest.

To achieve this, we carried out a range of activities, including conducting fieldwork in 37 forces, discussions with experts and organisations with extensive knowledge of the use of protective measures, and a review of information held by the investigating bodies and provided by police forces and other public bodies.

Our findings

Our findings are grouped under the four areas of concern, and the collective use of these protective measures.

Failure to impose and extend bail conditions

Following the introduction of changes to pre-charge bail legislation in April 2017, there has been a dramatic fall in the use of bail in rape, domestic abuse and harassment and stalking cases, and a corresponding increase in use of ‘released under investigation’ (RUI).

The super-complaint raises the concern that fewer bail conditions are being imposed on released suspects – even basic conditions such as not contacting the victim – and that this is making vulnerable women more at risk.

As we noted in HMICFRS’s report [*Pre-charge bail and released under investigation: striking a balance*](#) (2020), the data available is limited as a result of the police’s increased use of RUI instead of pre-charge bail. The report makes several recommendations about data collection, but it is too early for these to have had any significant effect. The Home Office’s response to the consultation on the 2017 changes, [*Police powers: Pre-charge bail*](#), suggests it recognises there’s potential for harm. It says: “Since the reforms came into force, the use of pre-charge bail has fallen, mirrored by an increasing number of individuals ‘released under investigation’ or RUI. This change has raised concerns that bail is not always being used when appropriate, including to prevent individuals from committing an offence whilst on bail or interfering with victims and witnesses” (page 16).

There is evidence that imposing pre-charge bail on a suspected perpetrator, and the conditions attached to it, are linked with victims’ feelings of safety. Victims who don’t feel well supported by the police reported experiencing significant and long-lasting consequences. In several cases, victims who were dissatisfied with the police response felt they would be less likely to report a crime in the future.

There has been only limited research on the question of whether imposing pre-charge bail increases either the actual or perceived safety of victims. The qualitative research available suggested that bail can have tangible effects for the victim, including in the ways that people and organisations respond to their situation. In the research we conducted with victims, we found that some victims felt more reassured when the suspected perpetrator had bail conditions imposed on them. When it is lawful for police officers to do so, imposing bail with conditions can communicate to victims, suspected perpetrators and support organisations that the matter is being taken seriously. In some cases, a failure to

impose bail may limit the victim's ability to gain access to other services such as support and housing options and civil orders.

We know from HMICFRS inspection findings that the reduction of the use of pre-charge bail was as a direct result of the changes to the relevant legislation. We agree with the Centre for Women's Justice that the absence of bail conditions (in circumstances in which pre-charge bail can be used lawfully) can cause significant harm to victims. For instance, we found evidence that a lack of bail conditions can cause victims to feel unsafe, and prevent them from receiving support from some third-party organisations. We also found a notable lack of research evidence on how well bail conditions protect victims by reducing reoffending (and so preventing further harm). We have made a recommendation to the Home Office to commission research on this.

The super-complaint suggests that there has been a large increase in suspects being invited to attend police interviews on a voluntary basis, rather than being arrested. Data is collected from forces on arrests and voluntary attendance as part of HMICFRS's regular inspection programme. However, the data on voluntary attendance is limited and not all forces are currently able to provide it. And for those who do, it only goes back three years.

The 2017 changes to legislation introduced a more rigorous process for imposing bail on a suspect. A sample study from 30 forces showed that the use of bail for those arrested (for all crimes) had decreased from approximately 26 percent before the legislation was introduced to 3 percent immediately after its introduction. It is likely that a similar pattern may hold for domestic abuse and violence against women and girls, although limitations in the way that different forces record their data (particularly for RUI) and any differences in approach for these offences mean it is difficult to know for sure. The Government has announced changes to the legislation since the super-complaint was made, which will be implemented via the Police, Crime, Sentencing and Courts Bill. We anticipate these changes will, to some extent, help address the concerns raised by the Centre for Women's Justice. However, we think the Home Office and Ministry of Justice should revisit whether to create a bespoke offence of breaching pre-charge bail, which has been described as a 'toothless tiger'.

Use of non-molestation orders

Non-molestation orders (NMOs) are designed to protect victims and are issued by the courts. They prohibit the abuser from certain types of activity, such as threatening or being violent towards one or more individuals in their family, including children, or going within a certain distance of an individual's home.

The super-complaint raises the concern that the police often fail to arrest people who breach their NMO. It also raises concerns that some officers suggest that victims obtain NMOs as an alternative to other police action such as making an arrest.

We agree with the Centre for Women's Justice that failure to arrest for breach of an NMO has the potential to cause significant harm. Ministry of Justice data shows that the number of NMOs granted has been increasing since 2012 and Home Office data shows that while reports of breaches of non-molestation orders recorded by the police have increased, the number of NMO breach cases which are not proceeding has increased significantly. Additionally, Ministry of Justice data shows that the number of offenders sentenced for breaching NMOs has been going down since 2014.

Our fieldwork for this report found that nearly every force had a good overall understanding of NMOs and when it is appropriate to arrest someone for breaching an NMO. However, officers sometimes have trouble gaining access to NMOs as a result of inconsistent or slow recording in records systems. And when they can gain access to them, many officers found that NMOs issued by the civil courts were not clear enough in their wording, making a decision about arrest difficult.

The super-complaint also raises the question of whether the police are advising victims to apply for NMOs as an alternative to police action. The officers we spoke to didn't believe this to be the case on the basis of their experience, and told us that they provided information about options for victims but did not routinely advise victims to get NMOs.

Failure to use Domestic Violence Protection Notices and Domestic Violence Protection Orders

Domestic Violence Protection Notices (DVPNs) and Domestic Violence Protection Orders (DVPOs) are designed to give short-term protection to a victim in the immediate aftermath of domestic abuse by preventing the suspected perpetrator from contacting the victim or returning to a residence for up to 28 days. They can be issued by the police without the co-operation of the victim. While DVPNs and DVPOs are currently in use, they will be repealed and replaced by new Domestic Abuse Protection Notices (DAPNs) and Domestic Abuse Protection Orders (DAPOs) when the Domestic Abuse Act 2021 enters into force.

Once again, the limited data currently available makes it difficult to draw firm conclusions about the use of DVPNs and DVPOs and whether they are being underused. Although the total number of DVPNs issued between 2018 and 2020 increased by more than a third, DVPNs and DVPOs are still being issued in only a small proportion of domestic abuse cases. This strongly suggests that they are being underused.

The fact that different forces are using these at substantially different rates also suggests at the very least that they aren't being used consistently and may mean that forces issuing fewer notices and orders aren't using them in cases when they should be. This has the potential to cause harm.

We asked officers from 37 forces why they think the number of DVPNs and DVPOs issued is so low. More than half reported finding DVPNs time-consuming, complicated, bureaucratic and difficult. These tended to be staff from forces where DVPN use is falling.

In forces where their use is high, we found that DVPNs tend to be widely understood, embedded in processes and supported by a legal team.

There is little published research on how effective DVPNs and DVPOs are at increasing victims' safety. The evidence available suggests that they result in a modest reduction in victimisation. This effect is strongest in chronic cases (three or more incidents) rather than first-time incidents.

Failure to apply for restraining orders

Restraining orders are issued by a judge in criminal proceedings to protect the victim, for example in cases of domestic abuse or stalking. They put restrictions on the offender, for example to stop them from contacting the victim or to prevent them from going to certain areas.

The super-complaint suggests that restraining orders could be used more effectively, and raises many concerns, including that applications are being overlooked. Data from the Ministry of Justice shows a reduction in the number of restraining orders granted from 2016 to 2018, which mirrors a fall in prosecutions for domestic abuse cases. Additionally, HMIC's 2017 report [*Living in fear – the police and CPS response to harassment and stalking*](#) noted that the police and Crown Prosecution Service (CPS) sometimes fail to request restraining orders and recommended that paperwork be changed and clear guidance provided.

When conducting our fieldwork, we did not find clear evidence that the police are consistently underutilising restraining orders. For example, 32 out of the 37 forces we assessed told us that they routinely considered and asked the CPS to apply for restraining orders in domestic abuse cases.

The super-complaint argues that, when a restraining order has not been made by the time the sentencing hearing is over, the magistrates' court should be able to grant one later under the slip rule, which allows mistakes to be corrected. However, the CPS does not view the failure to request a restraining order as the kind of error that the slip rule is able to correct.

Collective use of protective measures

Making sure women and girls are properly protected isn't a matter for the police alone. The police, Government, criminal justice system and those who provide support to victims all need to work together.

We will not know if the changes introduced by the Domestic Abuse Act 2021 and Police, Crime, Sentencing and Courts Bill (when enacted and brought into force) have improved victims' experiences unless there are systems in place to measure this and assemble data consistently across England and Wales. Without this, it will not be possible to monitor the different protective measures. Recording this data will ultimately allow forces to determine which protective measures are most effective in different scenarios.

Changes need to be made to the way the police and civil and criminal courts co-ordinate their work so important information, and consequently victims' safety, doesn't fall through the gaps that currently exist in the system.

Similarly, while our investigation has made recommendations for improving the policing of protective measures, making sure there is a multi-agency, community response, tailored by forces and local authorities is, in our view, the best way of giving better protection for women and girls.

Recommendations and actions

Recommendations

1. Chief constables, in conjunction with the NPCC lead for bail, should implement processes for managing RUI in line with the letter from the NPCC Lead for Bail Management Portfolio dated 29 January 2019 (Annex F). This is to ensure, as far as is possible, that investigations are conducted efficiently and effectively, thereby supporting both victims of crime and unconvicted suspects.
2. Chief constables should ensure data is gathered on the use of voluntary attendance to enable the identification of patterns of its use, particularly in relation to the types of cases, so that voluntary attendance is only used in those cases where it would be an appropriate case management tactic.
3. Chief constables should introduce processes to ensure that in all pre-charge bail cases where bail lapses, the investigator in charge of the case carries out an assessment of the need for pre bail-charge to continue. In those cases where the suspect has not been charged, the decision to extend or terminate bail should be recorded with a rationale.
4. The Home Office should commission research on whether bail reduces re-offending and protects victims, and publish the findings of any such research.
5. The Home Office and Ministry of Justice should intensify and accelerate their consideration of the creation of a bespoke offence of breaching pre-charge bail.
6. The Ministry of Justice and the Home Office should review the mechanism for informing the police of NMOs and propose remedies for improvement.
7. Chief constables should review and if necessary refresh their policy on how the force processes notifications of NMOs, so officers can easily identify if an NMO exists.
8. The Ministry of Justice should review a sample of NMOs to consider whether the wording of these are ambiguous and could cause problems for enforcement and propose a remedy to prevent ambiguity in NMO wording, if it is identified.

Recommendations

9. The Home Office should publish data on the number of reported breaches of NMOs. This should form part of the annual data collection on the applications for and granting of NMOs.

10. The NPCC lead for domestic abuse should consider Home Office data on the number of reported breaches of NMOs, and provide a report to HMICFRS within six months on national actions and guidance required as a result.

11. Chief constables should, until DAPOs replace DVPNs and DVPOs in their force:

- a. review, and if necessary refresh their policy on DVPNs and DVPOs, and in line with the overarching recommendation:
 - i. ensure that there is clear governance and communication to prioritise the effective use of DVPNs and DVPOs, when these are the most appropriate tools to use;
 - ii. monitor their use to ensure they are being used effectively; and
- b. ensure experience and lessons learned on using DVPN/DVPOs informs the use of DAPOs.

12. The NPCC should formulate a robust process, working with the CPS, to clearly define roles to ensure restraining orders are applied for in all suitable cases and that the victim's consent is obtained. This process should ensure prosecutors are made aware of what conditions are appropriate to protect the victim and that victims are consulted on the proposed conditions.

13. Chief constables should assure themselves that:

- a. their officers are fully supported in carrying out their duties to protect all vulnerable domestic abuse victims by:
 - i. ensuring their officers understand the suite of protective measures available (including new measures such as DAPOs);
 - ii. ensuring officers are aware of referral pathways to third-party support organisations which are available to protect vulnerable domestic abuse victims; and
 - iii. ensuring their officers have guidance and support on how to choose the most appropriate response for the situation; and
- b. governance is in place to monitor the use of all protection orders and to evaluate their effectiveness, including by seeking the views of victims.

Recommendations

14. Chief constables should consider what legal support they need to use protective measures (if they don't already have this) and secure this support. The NPCC should consider whether regional or national legal (or other) expertise could be made available, so forces can easily access specialist support and can maximise efficiency and consistency.

15. Monitoring of recommendations

- a. Home Office and Ministry of Justice to each provide a report to Her Majesty's Chief Inspector of Constabulary on progress in implementing HMICFRS's recommendations within six months of the date of publication of this report.
- b. NPCC to collate chief constables' progress in reviewing and, where applicable, implementing their recommendations and report these to Her Majesty's Chief Inspector of Constabulary within six months of the date of publication of this report.

Actions

1. In light of changes to pre-charge bail, we propose that HMICFRS should consider future inspection activity to review the impact of the changes.
2. The College of Policing will update its guidance to reflect changes needed on the implementation of the Police, Crime, Sentencing and Courts Bill and to clarify that officers may consider that if a suspect were to be released from police detention on bail with lawfully imposed conditions, the need for those conditions may well fulfil the 'necessity test' for arrest.
3. HMICFRS to continue to assess use of DVPN/DVPOs and any new domestic abuse orders through its wider inspection activity.
4. HMICFRS should consider future inspection activity in respect of restraining orders, including supervision and monitoring use of these by police forces. After a suitable period when more data is available from the inspection activity, HMICFRS and Her Majesty's Crown Prosecution Service Inspectorate (HMCPSI) should consider undertaking a review to assess how effective the police and CPS are at applying for restraining orders, and if there is any point of failure within the process that needs to be addressed.

Background and overarching legal framework

Crimes of violence against women and girls

Crimes of violence against women and girls involve a broad range of offences, including:

- assault;
- rape;
- sexual offences;
- stalking;
- harassment;
- so-called 'honour-based' violence, including forced marriage;
- female genital mutilation;
- child abuse;
- human trafficking focusing on sexual exploitation; and
- prostitution.

The Government's aim is that no woman should live in fear of violence, and every girl should grow up knowing she is safe, so that she can have the best start in life. This was set out in the Government's [Ending violence against women and girls: strategy 2016–2020](#). Since then, in July 2021, the Home Office has published its new [Tackling violence against women and girls strategy](#). This commits to reducing the prevalence of violence against women and girls and to improving the support and response for victims and survivors.

In April 2021, following the national debate which took place after the murder of Sarah Everard, the Home Secretary commissioned HMICFRS to undertake a bespoke thematic inspection into police handling of female victims of crime and engagement with women and girls. While some elements of the inspection (for example the enforcement of non-molestation orders (NMOs), and use of Domestic Violence Protection Notices (DVPNs) and Domestic Violence Protection Orders (DVPOs)) are relevant to our super-complaint investigation, the scope of the inspection is much wider. It focuses on the quality and effectiveness of interactions between the police and women (whether as victims, offenders or witnesses), with a focus on the lived experiences of women and girls. A report summarising the findings of this inspection is due to be published later this year.

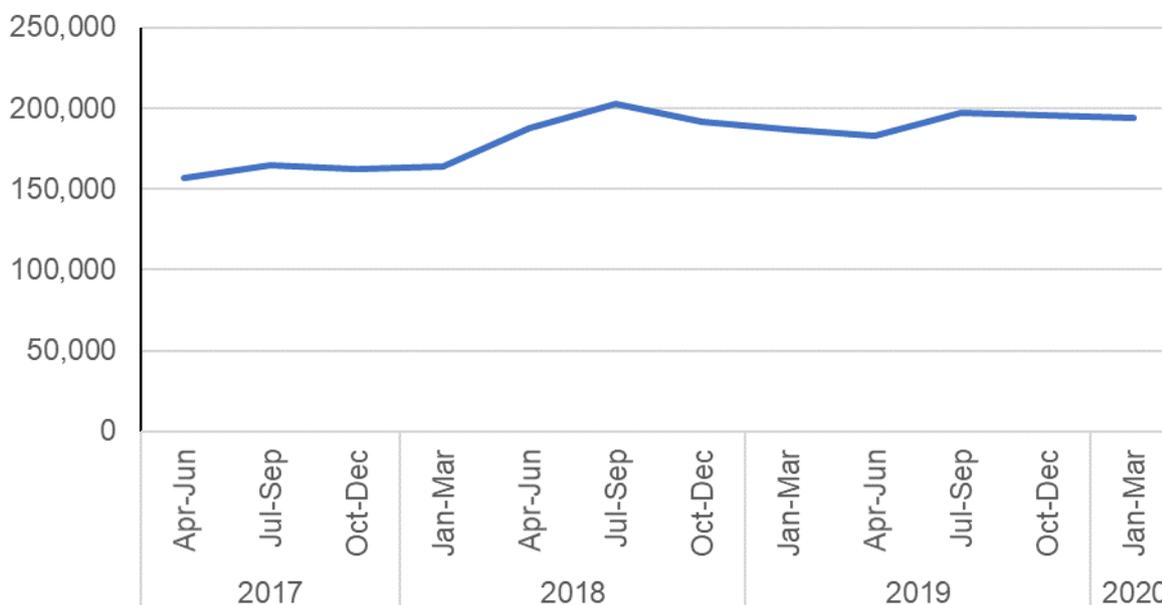
The prevalence of domestic abuse

Domestic abuse remains a hidden crime, with much of it going unreported to police or specialist services. The [Crime Survey for England and Wales](#) showed that an estimated 2.0 million adults (aged 16 to 59 years) experienced domestic abuse in the year to March 2020. This number has been falling over time. An estimated 2.7 million adults (aged 16 to 59 years) experienced domestic abuse in the year to March 2005.

However, the police in England and Wales (excluding Greater Manchester Police) recorded only 759,000 domestic abuse-related crimes in England and Wales, an increase of 9 percent from the previous year. This continues a trend that may reflect improved recording by the police alongside increased reporting by victims.

HMICFRS data shows that there has been an increase of 27 percent in the volume of domestic abuse crimes recorded between 2017/18 and 2019/20 in England and Wales (excluding Greater Manchester Police). Arrests per 100 domestic abuse crimes have decreased by 7 percentage points over the same period. Use of voluntary attendance increased by 0.2 percentage points in that time.

Figure 1: Domestic abuse crimes in England and Wales, 1 April 2017 to 31 March 2020



Source: HMICFRS data collection

Note: Greater Manchester Police hasn't been included in 2019/20 figures as a result of problems with the implementation of new ICT systems

Since the publication of the HMIC report [Everyone's business](#) in 2014, there has been a continued increase in domestic abuse crimes recorded by police forces in England and Wales. Some of this rise can be attributed to the continued focus of all police forces on the domestic abuse agenda, including engagement in national campaigns such as No Excuse,⁵ alongside improvements in identifying incidents of domestic abuse and accuracy of crime-recording.

Between April 2016 and February 2020, as part of the rolling programme of Crime Data Integrity inspections, HMICFRS reviewed representative samples of reports of crime to police forces in England and Wales. Patterns in crime-recording changed in this period with the national trend showing a substantial improvement in crime-recording standards, in particular for violent and sexual offences.

These improvements in recording violent and sexual offences in general, along with improvement in crime-recording as part of vulnerable victim cases, means more domestic abuse-related offences are accurately identified and recorded by the police. This also likely influenced the increased upwards trend in the volume of domestic abuse-related offences recorded by police forces in England and Wales.

Even though crime-recording standards have improved, there is scope for further improvement. In a minority of forces, substantial improvements are still required to make sure victims' reports are recorded and victims receive the service and support they deserve.

The Policing and Crime Act 2017 and changes to the use of pre-charge bail

The Policing and Crime Act 2017 introduced several changes to policing. One of the main elements of the legislation made changes to pre-charge [bail](#). The changes were intended to remedy the problem of suspects being on pre-charge bail for long periods of time, which caused concerns and uncertainty for both victims and suspects. In particular, the Act introduced a presumption against the use of pre-charge bail, changed the timescales for pre-charge bail periods and required pre-charge bail to be authorised by a more senior officer than was previously the case. These changes made the use of pre-charge bail less likely and made it more likely that suspects would be released under investigation (RUI).

⁵ [No excuse](#) is a multi-agency campaign led by the West Midlands Police and Crime Commissioner, West Midlands Police and victims' services to give information to the public around what services are available to victims of domestic abuse and to emphasise that support is available to those in need while coronavirus continues to present new challenges.

The Police, Crime, Sentencing and Courts Bill

In its January 2021 response to a consultation on the 2017 changes [Police powers: Pre-charge bail](#), the Home Office said:

“Since the reforms came into force, the use of pre-charge bail has fallen, mirrored by an increasing number of individuals ‘released under investigation’ or RUI. This change has raised concerns that bail is not always being used when appropriate, including to prevent individuals from committing an offence whilst on bail or interfering with victims and witnesses. Other concerns focus on the potential for longer investigations in cases where bail is not used and the adverse impact on the courts. The Government committed to reviewing this process to consider whether further change is needed to ensure that bail is being used where appropriate and to support the police in the timely progression of investigations. As a result of the consultation process, a number of proposals will be taken forward to ensure the bail regime is proportionate and effective. Where legislation is required to give effect to these proposals, as set out in this document, this will be taken forward in the current parliamentary sitting.”

This Government response, which was announced after the super-complaint was submitted, established new measures to create a more proportionate system where people are not held on pre-charge bail for unreasonable lengths of time. It also gave the police the power to impose conditions on more suspects in alleged high-harm cases, including cases of domestic abuse and sexual violence. These new measures will be brought in via the [Police, Crime, Sentencing and Courts Bill](#).

The Domestic Abuse Act 2021

The Domestic Abuse Bill was presented to Parliament in July 2019 following a period of consultation and received Royal Assent in April 2021. The Domestic Abuse Act 2021 contains provisions on many aspects of the management of domestic abuse, including defining domestic abuse, the introduction of new Domestic Abuse Protection Notices (DAPNs) and Domestic Abuse Protection Orders (DAPOs), and changes to the way domestic abuse is dealt with in the criminal justice system.

The Act will repeal the current DVPNs and DVPOs that form part of the Centre for Women’s Justice’s super-complaint.

DAPNs, like the current DVPNs, are intended to give victims immediate protection following an incident. A DAPN would be issued by the police and could, for example, require a suspected perpetrator to leave the victim’s home for up to 48 hours.

DAPOs are designed to provide longer-term protection for victims. As with the current DVPO, the police will make an application for a DAPO to a magistrates’ court. However, the Government will introduce alternative application routes so that victims and specified third parties can apply for a DAPO directly to the family court. It will also give criminal, family and civil courts the power to make a DAPO during existing court proceedings, which don’t have to be domestic abuse-related.

DAPOs may impose both prohibitions and positive requirements on suspected perpetrators. These could include prohibiting the suspected perpetrator from coming within a specified distance of the victim's home and/or any other specified premises, such as the victim's workplace, alongside requiring the suspected perpetrator to attend a behaviour change programme, an alcohol or substance misuse programme or a mental health assessment.

The courts will be able to vary the requirements imposed by a DAPO so that they can respond to changes over time in the suspected perpetrator's behaviour and the level of risk they pose. The legislation will also give courts the express power to use electronic monitoring ('tagging') to monitor a suspected perpetrator's compliance with certain requirements imposed by a DAPO.

All DAPOs will include notification requirements, which will require suspected perpetrators to notify the police of their name and address and of any changes to this information. The Act also includes the power for additional notification requirements to be specified in regulations, which courts may impose on a case-by-case basis as appropriate.

Breach of a DAPO will be a criminal offence, carrying a maximum penalty of up to five years' imprisonment, or a fine, or both. Breaches will be dealt with as a civil contempt of court.

The Government plans to pilot DAPNs and DAPOs in a small number of areas across the UK to assess the effectiveness of the new model before it is brought in nationally.

It is expected that most of the provisions in the Act will come into force during 2021/22.

Definition of domestic abuse

From March 2013 until the implementation of the Domestic Abuse Act 2021, the [definition of domestic abuse](#) for the purposes of crime-recording was "Any incidents or pattern of incidents of controlling, coercive or threatening behaviour, violence or abuse between those aged 16 or over who are or have been intimate partners or family members regardless of gender or sexuality".

This meant that any crime involving a family member aged 16 or over who behaved in a threatening or violent way against another family member aged 16 or over (for example their parent or sibling) should have been recorded as domestic abuse. For example, this could have included a threat made through Facebook from one sibling to another, even when they live miles apart.

The Domestic Abuse Act 2021 changed the definition of domestic abuse. Section 1 defines it as:

(2) Behaviour of a person ("A") towards another person ("B") is "domestic abuse" if—

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

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

- (a) physical or sexual abuse;
- (b) violent or threatening behaviour;
- (c) controlling or coercive behaviour;
- (d) economic abuse (see subsection (4));
- (e) psychological, emotional or other abuse;

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

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

- (a) acquire, use or maintain money or other property, or
- (b) obtain goods or services.

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

Police and Criminal Evidence Act 1984 Code of Practice G

This Code of Practice states a lawful arrest requires two elements, namely (1) a person's involvement or suspected involvement or attempted involvement in the commission of a criminal offence and (2) reasonable grounds for believing that the person's arrest is necessary.

The Centre for Women's Justice makes the point in their super-complaint that the law allows for arrest on the grounds of a need for bail conditions to protect the complainant. The super-complaint refers to a High Court judgment in January 2017⁶ in which the judge expressed the view that the need for bail conditions can make an arrest necessary on either one of two grounds under section 24 of the Police and Criminal Evidence Act 1984, namely to allow the prompt and effective investigation of the offence or to protect a vulnerable person from the accused.

⁶ *R (TL) v Chief Constable of Surrey Police* [2017] EWHC 129 (Admin), [2017] 1 Cr.App.R.29.

The College of Policing will amend its guidance to reflect when an arrest may be lawful, to remove any confusion among officers.

HMICFRS inspections

HMICFRS has undertaken a number of inspections which are relevant to this super-complaint.

Between October 2019 and February 2020, HMICFRS and Her Majesty's Crown Prosecution Service Inspectorate (HMCPPI) jointly inspected police and CPS responses to the pre-charge [bail](#) changes and the use of [released under investigation \(RUI\)](#).

The findings of this inspection are set out in the report [Pre-charge bail and released under investigation: striking a balance](#). The recommendations of this report are included at Annex E for information.

Other HMIC/HMICFRS reports relevant to this super-complaint include:

- [Everyone's business: Improving the police response to domestic abuse](#) (March 2014).
- [Increasingly everyone's business: A progress report on the police response to domestic abuse](#) (December 2015).
- [A progress report on the police response to domestic abuse](#) (November 2017).
- [The police response to domestic abuse: An update report](#) (February 2019).
- [Living in fear – the police and CPS response to harassment and stalking](#) (A joint inspection by HMIC and HMCPPI; July 2017).
- [Stalking and harassment – An inspection of Sussex Police commissioned by the police and crime commissioner, and an update on national recommendations in HMICFRS's 2017 report](#) (April 2019).
- [Evidence led domestic abuse prosecutions](#) (a joint inspection by HMIC and HMCPPI; January 2020).

Most recently, and since the investigation into this super-complaint has concluded, HMICFRS has published [Review of policing domestic abuse during the pandemic – 2021](#), its [Interim report: Inspection into how effectively the police engage with women and girls](#) and [A joint thematic inspection of the police and Crown Prosecution Service's response to rape](#) (A joint inspection by HMICFRS and HMCPPI; July 2021).

College of Policing guidance

The College of Policing has four published Authorised Professional Practice (APP) documents relevant to this super-complaint. These are on [domestic abuse](#), on [investigation](#), on [arrest and other positive approaches](#) and on [post-arrest management of suspect and case file](#).

Our super-complaint investigation

Scope

Our investigation considered whether there is evidence that the concerns set out by the Centre of Women's Justice are features of policing. We then considered whether there is evidence that they are, or appear to be, causing significant harm to the public interest.

Methodology – how we investigated the super-complaint

We established the following lines of enquiry to structure an investigation of current police practice, examine its rationale and assess evidence of harm. The investigation examined:

- the extent to which the legal powers the super-complaint focuses on are used and understood by both frontline officers and supervisors;
- training available to officers about the legal powers, as well as other connected themes such as vulnerability, and to what extent training is being accessed;
- an understanding of any effect the 2017 changes to pre-charge bail have had on officers' decision-making;
- what other factors affect officers' decision-making; and
- the risks of harm to the public arising from forces not adequately using or enforcing the four legal powers mentioned in the super-complaint.

To fulfil these lines of enquiry, the investigation team:

- reviewed evidence submitted by the Centre for Women's Justice as part of its super-complaint;
- submitted a request to all 43 territorial forces in England and Wales for information on current relevant practices;
- considered findings from previous inspection reports;
- reviewed existing data and sought new data from outside parties (mainly focusing on data related to domestic abuse cases, as the most common crime reported against women);
- consulted interested parties, including members of HMICFRS's Domestic Abuse Expert Reference Group;⁷
- examined submissions and documents provided by public bodies and other agencies in response to our enquiries;

⁷ This group includes representatives from the police service, police and crime commissioners, the College of Policing, the Home Office and the voluntary sector.

- conducted an exercise to identify the points when decisions are made about protective measures;
- conducted a review of relevant national policy, guidance and research;
- reviewed Independent Office for Police Conduct (IOPC) cases (and those of the Independent Police Complaints Commission, or IPCC) to identify relevant investigations and whether any learning was relevant to inform this super-complaint investigation; and
- conducted fieldwork in 37 forces across England and Wales.

Separately, HMICFRS commissioned research consultancy BritainThinks to conduct qualitative research (first-hand observations and interviews) to explore victim and suspect experiences of changes made as a result of the Policing and Crime Act 2017.

About our fieldwork

Police officers and staff working on the front line take initial decisions to use (or not use) the powers discussed in this super-complaint. We spoke to custody sergeants, public protection officers, domestic abuse specialists and response officers either individually or together in a focus group.

The discussion leaders were trained force liaison leads or inspection officers experienced in obtaining evidence for HMICFRS force inspections.

Data from IOPC and IPCC cases

The IOPC investigates the most serious and sensitive incidents and allegations involving the police. These independent investigations are conducted by IOPC investigators. Before January 2018, the IOPC's predecessor, the IPCC, carried out independent investigations. To help with the investigation of this super-complaint, a search of relevant IOPC and IPCC independent investigations was carried out, focusing on investigations completed between April 2014 and October 2019.⁸

Due to the nature of the IOPC's/IPCC's work and the criteria for referral, the IOPC doesn't see every case, and so information from independent investigations is not necessarily representative of what is happening or has happened across all forces. In some cases, no issues are identified with the way in which police have dealt with matters. However, this review focused on whether there was any evidence in IOPC/IPCC independent investigations of harm being caused by the way in which police were using, or failing to use, protective measures in cases involving violence against women and girls.

See Annex D for more information about the data sources used in this investigation.

⁸ To identify relevant cases, case descriptions were searched for key words or phrases. The search terms used were: bail condition(s), molestation, protection notice, protection order, restraining order, DVPO and DVPN.

We identified a variety of people and organisations with knowledge of, and expertise in, the matters raised in the super-complaint and approached them for their views. As the investigation progressed, documents were given to us by some of those approached and each was reviewed. These included policy documents (given by 15 forces), academic research, and published reports and documents.

The following sections set out our assessment of each of the four powers referred to in the super-complaint in turn (bail conditions, non-molestation orders (NMOs), Domestic Violence Protection Notices (DVPNs), Domestic Violence Protection Orders (DVPOs) and restraining orders).

Our findings: Failure to impose pre-charge bail conditions

The Centre for Women's Justice expressed concerns that the failure to impose pre-charge bail in three situations is leaving victims potentially unprotected. These are:

- where suspects are interviewed following voluntary attendance and pre-charge bail can't be used;
- where suspects are interviewed under arrest, released under investigation (RUI) without bail, or released on pre-charge bail without bail conditions; and
- where pre-charge bail isn't extended beyond 28 days.

“A dramatic fall in the use of bail”

The Centre for Women's Justice is concerned that, following the introduction of the changes to pre-charge bail legislation in April 2017, there has been a dramatic fall in the use of pre-charge bail in rape, domestic abuse, and harassment and stalking cases.

The Centre for Women's Justice says that many suspects are released without any pre-charge bail conditions. It says that previously it was standard practice to release suspects on pre-charge bail with conditions. Frontline organisations contacted by the Centre for Women's Justice (for more detail, see [Police super-complaints: police use of protective measures in cases of violence against women and girls](#)) reported a widespread lack of pre-charge bail conditions (where they thought conditions should have been applied) in cases involving domestic abuse, harassment and stalking, and rape.

The Centre for Women's Justice considers this as surprising, given “the first three of these behaviours invariably involve repeat victimisation and in the majority of rape cases the parties know each other. Many, if not most, such cases involve vulnerable women. Frontline organisations report that women are living in fear, exposed to persistent and dangerous men”.

The Centre for Women's Justice also explains that “Whilst ... [victims] may be in fear even if bail conditions were used, and in some cases conditions may have been breached, bail conditions at least represent an attempt by the authorities to provide protection during the critical period following a report to police.”

The Centre for Women's Justice also says that the failure to impose pre-charge bail conditions has had other wider consequences, such as making it more difficult for victims to access other services.

Background

Granting a suspected perpetrator pre-charge bail is an alternative to them being in custody.

Following an arrest, a decision to bail a suspected perpetrator can be made by:

- the police, when there isn't sufficient evidence to charge the person – this is also known as pre-charge bail and sometimes called police bail;
- the police, when a suspected perpetrator has been charged with an offence – this is also known as post-charge bail; and
- by the courts when a person has been charged – this is also known as court bail.

Our investigation focused on pre-charge bail. The police powers relating to the use of pre-charge bail are set out in the Police and Criminal Evidence Act 1984 (PACE).

Pre-charge bail allows for police officers and staff to continue investigations without suspects being detained. It can be imposed with or without conditions. Bail conditions can only be applied to suspects who have been arrested and where pre-charge bail is applied. As a result, they can't be applied to suspects who are RUI or interviewed after voluntary attendance.

Bail conditions can be imposed under section 3OA(3B) of the Police and Criminal Evidence Act 1984 if the custody officer considers them necessary:

- to prevent the person from failing to surrender;
- to prevent the person from committing an offence while on bail;
- to prevent the person from interfering with witnesses or otherwise obstructing the course of justice; or
- for the person's own protection or welfare.

Examples of pre-charge bail conditions could include:

- not to contact the victim directly or indirectly – where there are child contact problems, this may be modified to allow contact through a third party (solicitor/social services/mutually acceptable family member) to arrange child contact;
- not to attend the home address of the victim/not to enter the victim's street or a specific area marked out on a map – specified distances may also be used but can be difficult to enforce;
- not to go to the victim's place of work;
- not to go to a named school or other place the victim or victim's children attend regularly, such as shopping areas, leisure or social facilities, child minders, family and friends;

- to live and sleep at a specified address – this should never be that of the victim, whether or not the suspected perpetrator owns the house or is named on the tenancy agreement;
- to report to a named police station on specific days of the week at specified times; and
- to obey a curfew within specified times (the curfew address must not be that of the victim).

PACE establishes that pre-charge bail conditions are necessary to manage risks posed by the suspect to the victim or wider community. There is a presumption in law that unless imposing pre-charge bail satisfies the necessity and proportionality criteria and is subject to authorisation by an officer of the rank specified, that a suspect will be RUI.

Whether bail is considered necessary and proportionate in the circumstances is judged in accordance with Article 8(2) of the European Convention on Human Rights (the right to respect for private and family life) and case law arising from it. The terms 'necessary' and 'proportionate' are refined and defined below.

Necessary

Bail authorisation is permitted under Article 8(2) of the European Convention on Human Rights (the right to respect for private and family life), if it is necessary in a democratic society for one of the following reasons:

- in the interests of national security;
- in the interests of public safety;
- in the interests of the economic wellbeing of the United Kingdom;
- for the prevention of disorder or crime;
- for the protection of health or morals; or
- for the protection of the rights and freedoms of others.

Proportionate

Authorisation is proportionate if:

- what is being done is not arbitrary or unfair;
- the restriction is strictly limited to what is required to achieve a legitimate public policy;
or
- the severity of the effect of the restriction does not outweigh the benefit to the community that is being sought by the restriction.

Any restriction must be proportionate to the legitimate aim being pursued.

National Police Chiefs' Council guidance

In January 2019, the National Police Chiefs' Council (NPCC) published updated [Operational Guidance for Pre-Charge Bail and Released Under Investigation](#).

Situations of concern raised in the super-complaint

The three situations of concern to the Centre for Women's Justice are examined in detail below.

Situation 1: When suspects are interviewed following voluntary attendance and pre-charge bail can't be used

The super-complaint suggests there has been a large increase in suspects being invited to attend police interviews on a voluntary basis, rather than under arrest.

The discretion to arrest or not arrest a suspect rests with the investigator, who is usually a police officer.

The Police and Criminal Evidence Act 1984 Code of Practice G states:

“The use of the power [of arrest] must be fully justified and officers exercising the power should consider if the necessary objectives can be met by other, less intrusive means. Absence of justification for exercising the power of arrest may lead to challenges should the case proceed to court. It could also lead to civil claims against police for unlawful arrest and false imprisonment.”

A lawful arrest requires two elements:

- a person's involvement, suspected involvement or attempted involvement in the commission of a criminal offence; and
- reasonable grounds for believing the arrest is 'necessary'.

There are a number of statutory criteria set out in Code G of the Police and Criminal Evidence Act 1984 regarding what may constitute 'necessity'. These criteria are exhaustive, and if none are met then the officer has no lawful power to arrest the suspect. It remains an operational decision at the discretion of the officer to decide what circumstances may satisfy those criteria. A police officer cannot be instructed to exercise their power of arrest. Each time the power of arrest is exercised, the person exercising it must have sufficient information available to them to inform their decision.

Analysing the data

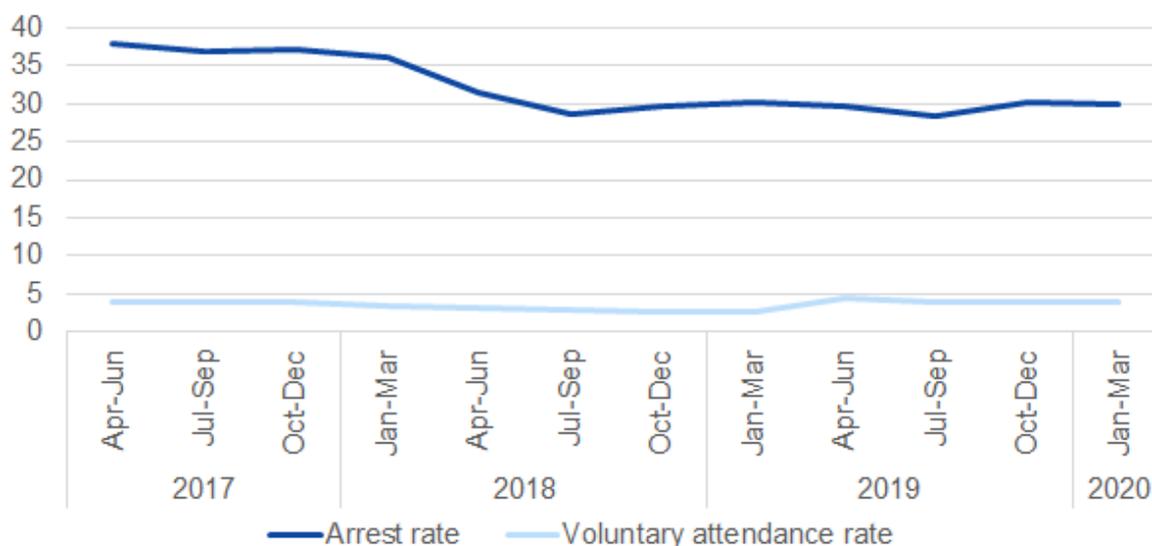
HMICFRS collects data on arrests and voluntary attendance in cases of domestic abuse from forces as part of its regular data collections to support PEEL inspections. The available data on voluntary attendance is limited and has only been collected in the past three years. Currently, not all forces record this data. Only 33 of 43 forces gave this data to HMICFRS in 2019/20.

The inability of some forces to report this data raises serious questions about how they are monitoring their own use of voluntary attendance for domestic abuse cases. It also means they are unable to assure themselves or the public that the incidents of apparently inappropriate use of voluntary attendance cited in the super-complaint are isolated.

The police recorded a total of 1,288,000 domestic abuse-related incidents and crimes in the year ending March 2020 (excluding Greater Manchester Police as a result of issues associated with a new crime-recording system). Of these, 758,900 were recorded as domestic abuse-related crimes, an increase of 9 percent from the previous year. However, the Crime Survey for England and Wales saw no significant change in the prevalence of domestic abuse experienced in the year ending March 2020 compared with the year ending March 2019.⁹ The Office for National Statistics suggests that the increase in police-recorded crime may reflect improved recording by the police and increased reporting by victims.

The picture for arrests for domestic abuse shows a similar downward trend to that of arrests for all offences. It is likely that the downward trend began before 2017 as the data for all arrests shown above began to decline from 2008 (this data isn't available for domestic abuse offences before 2017 because it wasn't recorded).

Figure 2: Domestic abuse arrests per 100 domestic abuse crimes and voluntary attendances per 100 domestic abuse crimes, in England and Wales, 1 April 2017 to 31 March 2020



Source: HMICFRS data collection

⁹ [Domestic abuse in England and Wales overview: November 2020](#), Office for National Statistics, 2020.

From 2017/18 to 2019/20, domestic abuse arrests per 100 domestic abuse crimes decreased from 37 arrests per 100 domestic abuse crimes to 30 arrests per 100 domestic abuse crimes in England and Wales.

The wider context

The pattern shown here for domestic abuse data must be understood in context.

There is a wider trend showing an increase in recorded crime alongside a decline in arrests. In 2017, HMIC considered this trend in [PEEL: Police effectiveness 2016: A national overview](#). It didn't establish one single cause but pointed to a range of possible factors. One possible factor was resourcing pressures. The centralisation of custody suites (meaning officers may have to travel greater distances to take someone to custody and may be less likely to do this on a busy shift) might also have played a part. Another possible factor was increased use of voluntary attendance.

HMICFRS suggested that the use of voluntary attendance had increased as a result of a more stringent application of the 'necessity test' introduced in 2012. According to the test, for an arrest to be lawful there must be reasonable grounds for believing that it is necessary (this is covered in PACE Code G).

In its report of February 2019, entitled [The police response to domestic abuse: An update report](#), HMICFRS documented a reduction of 65 percent in pre-charge bail granted in domestic abuse cases within the first three months of the new bail regime in 2017 compared to the same period in 2016. Annex D explains why this data is unreliable.

Positive action policy

In [A progress report on the police response to domestic abuse](#) (2017), HMICFRS expressed concerns about the falling levels of arrests in domestic abuse cases. Most forces have a positive action policy, which means that, in general, the force supports the arrest of a suspect. Any officer deciding not to arrest a suspect would need to justify that decision to a supervisor.

Police officers have a duty to take positive action when dealing with domestic abuse incidents. Often this means making an arrest, provided that the grounds exist, and it is a necessary and proportionate response. Despite clear guidance in the College of Policing Authorised Professional Practice on [arrest and other positive approaches](#), some officers we spoke with felt there was confusion about what positive action involves.

“A decision not to arrest can have symbolic value”

Rights of Women is a charity which specialises in providing legal advice to women who are experiencing, or are at risk of experiencing, violence against women and girls offences, including domestic and sexual violence. It suggested that voluntary interviews give the impression that an offence is not serious. It said: “in our experience, victim-survivors are very sensitive to actions by the police which suggest that they are not believed or taken seriously. A decision not to arrest can have symbolic value.”

In contrast, some research literature states that some victims don't want their partner to be arrested or prosecuted (see, for example, Hoyle and Sanders, 2000¹⁰). There is no consensus in the literature on whether positive arrest and evidence-led prosecution is empowering or disempowering individual victims.

Neither perceptions of the importance of a case nor increasing victim anxiety are on their own acceptable reasons for exercising the legal powers of arrest or use of pre-charge bail. However, Rights of Women believes that a lack of bail conditions causes victims anxiety and that a lack of bail places women at risk.

In situations where a power to arrest exists, police officers must balance multiple considerations. These include the expectation to take positive action and arrest the suspect (and to have the ability to impose pre-charge bail conditions). But the police also need to consider both the necessity to arrest and the victim's wishes as regards their short and long-term strategies for managing the abuse.

Confusion over proportionality

There are likely to be many contributing factors to the decrease in arrest rates for domestic abuse. One factor highlighted in fieldwork by HMICFRS when investigating the super-complaint was confusion over what constituted necessity and proportionality according to Code G of PACE.

Some frontline officers suggested that if a suspect was not arrested at the time of the offence, the custody officer would be less likely to authorise detention. They explained this was because it is more difficult to show an arrest made (some time) after the offence was necessary and proportionate.

In its super-complaint, the Centre for Women's Justice states “Police officers may also be applying the law on necessity to arrest incorrectly, falsely believing that where a suspect is willing to attend voluntarily an arrest cannot be carried out”. Our fieldwork showed that most officers were confident that they could arrest someone who had attended voluntarily

¹⁰ Police response to domestic violence: From victim choice to victim empowerment? Hoyle, C. and Sanders, A. *British Journal of Criminology* 2000. 40(1), 14–36.

for interview. But some officers thought they could only meet the necessity test if new evidence had come to light.

The College of Policing has produced eLearning on managing Pre-charge bail and risk on its Managed Learning Environment. It recognises that the decision whether or not to arrest and grant pre-charge bail can influence how risk is managed throughout the rest of the investigation, and sometimes on into court proceedings after a suspected perpetrator has been charged. The learning makes officers aware of how this crucial decision may have a permanent effect on a case.

Situation 2: When suspects are interviewed under arrest, released under investigation without pre-charge bail, or released on pre-charge bail without bail conditions

Decision to apply pre-charge bail

The 2017 changes to legislation on pre-charge bail mean that the police need to go through a more rigorous authorisation process to impose bail on a suspect. Since 2017, there has been a presumption toward RUI unless imposing bail satisfies the ‘necessity’ and ‘proportionality’ criteria. When a person is RUI, they are not (at that time) given any pre-charge bail conditions.

The use of pre-charge bail decreased from approximately 26 percent for those arrested in March 2017 (before the changes to legislation) to 3 percent for those arrested between April and June 2017. This is based on data of a sample of 30 forces provided to the College of Policing. The vast majority of suspects in all cases were RUI.

It is likely that similar patterns have been seen for domestic abuse cases, but national data isn’t available to confirm this.

Additionally, before the legislation change in April 2017, [Hucklesby \(2015\)](#) found that bail conditions were applied in approximately two-thirds of the cases involving bail, but this proportion varied widely between forces. Our investigation hasn’t identified or reviewed the detail of these cases, but we anticipate it is likely that conditions were applied in all or a majority of these cases because of their seriousness.

Before the Policing and Crime Act 2017, the police measured and reported on the number of custody records involving a suspect released on pre-charge bail (including unconditional bail). Since 2017, there hasn’t been any reliable nationally published police data on the numbers of suspects RUI.

There are several reasons why the data isn’t accurate. Forces measure pre-charge bail and RUI cases in different ways. For example, some forces count one offender RUI as one, while other forces count each offence RUI. This makes it difficult to aggregate and analyse the data. Some forces can’t identify cases involving RUI because their IT systems can’t flag these cases.

HMICFRS's 2020 inspection on the use of pre-charge bail and RUI, [Striking a balance](#), found that most forces have well-established recording systems for bail and have a clearer picture of the number of people on bail compared with RUI. However, it found that the systems for recording RUI in most forces are underdeveloped and some forces have no accurate information on RUI cases at all. So not all forces knew for certain how many people are RUI, nor do they have systems in place to identify any emerging trends and patterns.

While HMICFRS saw that some forces are now starting to develop better recording systems to measure and report on RUI and pre-charge bail, these systems have only recently been introduced. Forces were unable to judge how effective these systems were because it was too early to measure this. In one force, a new system had been introduced to record RUI the day before the inspection started in early 2020 – three years after the legislation had been introduced. It wasn't clear why it had taken so long to introduce this. Annex D contains more information.

This lack of data on the use of RUI is a serious concern. Consequently, one of the recommendations of the [Striking a balance](#) report is “the Home Office and the National Police Chiefs' Council (NPCC) should work together to develop and put in place data collection processes to give an accurate national picture of RUI and pre-charge bail”.

Effect of imposing pre-charge bail conditions on victim safety

There is limited available research on the effect of imposing bail conditions on the actual and perceived safety of victims. However, Anthea Hucklesby, in her [2016 evidence](#) to the Home Affairs Select Committee, stated that for the victim applying conditional bail not only went some way towards affirming their value and credibility, but also influenced responses from other agencies, family, friends and communities.

One IOPC/IPCC case was identified that featured issues about imposing pre-charge bail.

Case one

This related to the police investigation of offences committed by a man against his ex-partner, whom he subsequently murdered. The investigation highlighted that although bail conditions were in place, they were arguably not good enough to protect the victim. It found that an officer's decision to release the man on conditional bail, with stipulation that he should live at his home address (eight doors away from his ex-partner), failed to provide adequate protection for the woman. This case also featured a failure to arrest for breach of bail conditions.

The investigation concluded there was learning for the force around (i) formalising the process between the custody sergeant and the force's domestic abuse investigation and safeguarding unit in relation to deciding whether to bail a suspect; and (ii) implementing mandatory risk assessments for domestic abuse victims when the suspected perpetrator breaches their bail conditions.

Examples of how failures to impose pre-charge bail can have wide-ranging effects on victims

In its super-complaint, the Centre for Women’s Justice states “A Rape Crisis service reports that it can be more difficult for women to obtain assistance from statutory services such as local authority housing departments because bail is treated as an indication of the seriousness of an offence.”

The super-complaint describes how a woman was advised by several family law solicitors that she wouldn’t be able to obtain legal aid for a family law case because the suspect had not been arrested and put on bail. This was supported by Rights of Women. It agreed that a victim’s ability to obtain statutory services is affected by bail.

In her research on rape victims and their experience of the criminal justice system entitled [*A system to keep me safe: An exploratory study of bail use in rape cases*](#) (2018), which examined both pre and post charge bail, Sarah Learmonth argues that the application and conditions of bail form an important part of procedural justice. She says they’re a social indicator of the validity of the allegation (showing others that the case is valid).

The Home Office completed a literature review on this subject as part of its consultation on pre-charge bail in 2019. It found very little robust evaluative evidence research looking at the extent to which pre-charge bail with conditions affects suspects’ behaviour, increases victims’ sense of security or encourages victims to support investigations. It found some small-scale qualitative research with victims, which suggested bail conditions may help victims feel safer and that there were secondary benefits of bail conditions.

The available qualitative research suggests that victims value bail as an affirmation of their credibility and the validity of their allegation. Sarah Learmonth’s study suggests that the application of bail can influence responses from other agencies, family, friends and communities.¹¹ The same study also suggested that the arrangements in place before 2017 reform could sometimes leave victims feeling unsupported in cases where breaches were reported but not acted on.

Government proposals to reform pre-charge bail

In January 2021, the Government published a response to its consultation on pre-charge bail. New measures, which will be introduced via the Police, Crime, Sentencing and Courts Bill will create a more proportionate system where suspected perpetrators aren’t held on pre-charge bail for unreasonable lengths of time, while enabling police to impose conditions on more suspects in high-harm cases, including cases of domestic abuse and sexual violence.

¹¹ These are not included in the statutory criteria for which a suspect may be arrested, or bail imposed.

The Home Office has informed us these measures seek to (i) end the presumption against pre-charge bail, instead requiring pre-charge bail to be used where it is necessary and proportionate and (ii) to add a requirement that a constable must have regard to the following factors when considering whether application of pre-charge bail is necessary and proportionate:

- The need to secure that the person surrenders to custody;
- The need to prevent offending by the person;
- The need to safeguard victims of crime and witnesses, taking into account any vulnerabilities of any alleged victim of, or alleged witness to, the offence for which the person was arrested where these vulnerabilities have been identified by the custody officer;
- The need to safeguard the person, taking into account any vulnerabilities of the person where these vulnerabilities have been identified by the custody officer; and
- The need to manage risks to the public.

Reforms included within the Bill will also establish a new duty to inform victims of changes to pre-charge bail conditions and to seek views from victims on what the conditions concerning their safeguarding should be, making sure that victims are more involved and informed in the process. Officers can then take into account any safeguarding concerns that are raised to make sure that appropriate measures are in place.

There will also be a new power for the College of Policing to issue statutory guidance on pre-charge bail to establish consistent practice across all forces.

Breaching pre-charge bail conditions

There are very limited consequences for breaching pre-charge bail, to the extent that it has been referred to as a “toothless tiger” (see for instance Hillier and Kodz’s 2012 research findings, [The police use of pre-charge bail](#)). The only action that the police can take when a suspect breaches pre-charge bail conditions is to arrest them again. In most cases, a person can’t be detained in police custody for more than 24 hours without being charged. Being re-arrested for a breach of bail uses up time on the 24-hour PACE clock, which could instead be used for strengthening the primary case against the suspect.

In our fieldwork, some police officers we spoke with told us they have experience of suspects admitting that they don’t take pre-charge bail with conditions seriously. Some officers said this influenced their decision-making on whether to arrest someone, ask them to voluntarily attend for interview, or apply bail conditions if they do make an arrest.

IOPC and IPCC cases

Thirteen IOPC/IPCC cases were identified that featured a failure to arrest for breach of bail conditions. Although this problem isn't explicitly specified as one of the situations of concern in the super-complaint, these cases are included in this report as they are relevant to the overall subject matter.

There is no single, overarching theme for these cases; however, various problems were identified, including:

- unclear force procedures for progressing actions in relation to breaches of bail;
- confusion around roles in progressing enquiries; and
- lack of relevant training for officers.

In one of the cases identified, a man called the police stating that he was at his partner's address and needed to be arrested. The man's first language was not English and he appeared intoxicated, which led to some communication difficulties with the call handler. The call handler sent the incident log to dispatchers and continued to try to gather additional information from the man and his partner. An entry was added to the incident log six minutes later that the man was subject to pre-charge bail conditions. These prohibited him from contacting his partner or visiting her address. The call handler did not add this information to the main section of the incident log and this information was not communicated to the attending officers.

When officers arrived, the man and the woman said that they could not remember calling the police and did not know why they were there. The officers waited outside the property, spoke with neighbours who raised no concerns, and then left the address. In the early hours of the next morning, the police received a report of a disturbance at the same address. On entering the property, the man was found on top of the woman, applying pressure to her neck. The man said that he was trying to kill his partner and he was arrested on suspicion of attempted murder. The man later pleaded guilty to causing grievous bodily harm with intent and assault occasioning actual bodily harm.

The key area highlighted in the investigation was around the call being sent to the dispatcher prior to the call handler obtaining all the information. When the call handler discovered pre-charge bail conditions, they added these to the log, but this did not alert the dispatcher that new information had been added, so the information was not passed onto the police who initially attended. No learning recommendations were made in the investigation because the force had already identified that there was an issue when the log was created – specifically, that new information didn't show on the main section of the log, meaning that it could be easily missed – and took steps to address this. This was corrected by the force prior to conclusion of the IOPC/IPCC investigation.

Effect of being released under investigation

When a suspect is RUI, there is no statutory timetable for reviewing the investigation and managing them. There is some evidence that this has led to longer investigations in RUI cases. This potentially puts victims at risk of further offences.

HMICFRS's inspection into pre-charge bail and RUI found that, on average, in the cases assessed the time between arrest and charge was 128 days for pre-charge bail and 201 days for RUI.

HMICFRS also found¹² that forces don't have adequate data systems in place to monitor the number of suspects on bail versus RUI, or the number of cases which move from bail to RUI. This means that the management of suspects under investigation isn't always monitored as closely as it should be.

The available national data on investigation lengths shows that investigation times for some categories of offence is getting longer. But this is not consistent across all offences. However, for domestic abuse offences, in the years following the change in the bail legislation, there was a noticeable decrease in the proportion of offences where the investigation was finalised within five days.

Figure 3a: Proportion of domestic abuse-related offences assigned an outcome within a certain timeframe (years ending March 2017 to March 2020)

| Time taken (days) | 2017 | 2018 | 2019 | 2020 |
|--------------------|------|------|------|------|
| Same day to 5 days | 28% | 32% | 28% | 28% |
| 6 to 30 days | 34% | 31% | 33% | 28% |
| 31 to 100 days | 28% | 26% | 27% | 28% |
| More than 100 days | 9% | 11% | 13% | 17% |

Source: [ONS Domestic abuse in England and Wales](#)

Figure 3b: Proportion of non-domestic abuse-related offences assigned an outcome within a certain timeframe (years ending March 2017 to March 2020)

| Time taken (days) | 2017 | 2018 | 2019 | 2020 |
|--------------------|------|------|------|------|
| Same day to 5 days | 43% | 49% | 48% | 46% |
| 6 to 30 days | 26% | 24% | 23% | 26% |
| 31 to 100 days | 22% | 19% | 19% | 18% |
| More than 100 days | 9% | 8% | 9% | 10% |

Source: [ONS Domestic abuse in England and Wales](#)

¹² [Pre-charge bail and released under investigation: striking a balance](#), HMICFRS, 2020.

Note for figures 3a and 3b: figures for 2020 are based on returns to the Home Office datahub by 29 forces, for 2019 37 forces, for 2018 29 forces, and for 2017 24 forces

In its literature review for the pre-charge bail consultation, the Home Office found that for all offences the average (median) time taken to charge suspects has gradually increased from 14 days in 2015/16 to 23 days in 2018/19 ([Home Office, 2019](#)).

However, the Home Office said that: “we cannot infer that the increase in durations is simply the result of the greater use of RUI and the reduction in the use of PCB [pre-charge bail]. Generally average investigation durations, where suspects have been identified, have been increasing in recent years. This is thought to be partly in response to increased levels of demand on the police, including more reporting of complex crimes and the increased need to examine digital evidence.”

According to [Crime outcomes in England and Wales 2019 to 2020](#), the time taken to charge someone in the year ending March 2020 has increased further to 33 days.

No time to investigate

Our super-complaint investigation found that not all officers are being given the time to progress investigations when a suspect is RUI for an offence. Some officers we spoke to reported that releasing a suspect under investigation could adversely affect an investigation as there was no time limit to enquiries. Some officers told us there was “always something more important” to prioritise when a suspect was RUI, so investigations are not dealt with as quickly as they should be. Conversely, supervisors would make sure that officers had time to progress investigations with a bail date.

Legislative changes

The pre-charge bail reforms in 2017 had the primary aim of addressing concerns regarding people being held on pre-charge bail for long periods of time. The RUI process was created as a direct consequence of these reforms. In its subsequent consultation after bringing in these reforms, the Home Office recognised that the “2017 reforms disincentivised the use of pre-charge bail which has led to the fall in the use of bail and the subsequent rise in the use of RUI and other non-bail investigations”.

The Police, Crime, Sentencing and Courts Bill is designed to create a more proportionate system, encouraging the police to use pre-charge bail in all cases where it is necessary and proportionate. It will also adjust applicable bail periods for suspects, which will be more balanced and operationally workable.

As part of these reforms, the College of Policing is to have the power to issue statutory guidance to help establish consistency on the new pre-charge bail regime across all forces in England and Wales. This guidance will also give advice on how forces should manage the RUI process.

It is anticipated that levels of RUI will reduce and there will be more parity between cases involving pre-charge bail and RUI once the new measures set out in the Police, Crime, Sentencing and Courts Bill are in place. However, further research would need to be done to determine whether these reforms address the problems raised in the super-complaint.

Situation 3: Extending pre-charge bail conditions

The super-complaint suggests that after the initial period of bail (28 days), which is authorised by an inspector, bail conditions are often removed. Then the suspect is RUI without conditions for the remainder of the investigation period.

The Centre for Women's Justice includes the following as an example:

“A woman in London reported attempted rape, sexual assault, revenge porn and false imprisonment perpetrated by her ex-partner. The perpetrator was arrested and released on bail with bail conditions not to contact her. The bail conditions were then lifted after 28 days. The police did not notify her of this and did not put any other safety measures in place. On the same day that the bail conditions were lifted the perpetrator made multiple attempts to make contact with her. This was reported to the Sexual Offences Investigations Trained officer (SOIT) but no actions have been taken to safeguard her as the SOIT stated the attempts to contact her did not have any ‘malicious intent’. The officer did not consider putting any other safeguards in place or advise her of any alternative safety options (such as applying for a civil protection order). Since then she has been petrified of leaving her home and is unable to continue leading her everyday life as she is scared that the perpetrator will try to contact her again.”

Some officers we spoke with told us that suspects were often RUI after the initial 28-day bail period. While we don't know the specifics of these cases, we know from HMICFRS's RUI inspection work that this can happen for a number of reasons.

HMICFRS's [*Striking a Balance*](#) found that in most forces, a suspect's status defaults to RUI after the 28-day initial bail period ends. In some cases, this was due to an oversight that resulted in bail not being extended. In other cases, the police decided not to extend bail conditions because they expected long delays in forensic analysis. But, most worryingly, it found some cases with no recorded rationale to explain why the bail conditions were no longer considered necessary.

Victims withdrawing support

Home Office Crime Outcomes Data shows that there has been a steady increase in the number of domestic abuse victims withdrawing support for police action in recent years. However, this data wasn't collected before 2015/16. So it isn't possible to identify if this is a continuation of a longer-term trend or has been influenced by the change in legislation on pre-charge bail. Other factors such as the increased reporting of domestic abuse may also be affecting the figures.

Figure 4a: Outcomes assigned to domestic abuse-related crimes recorded in the years ending March 2017 – March 2020

| Outcome | 2017 | 2018 | 2019 | 2020 |
|--|------|------|------|------|
| Charged/Summoned | 18% | 15% | 11% | 9% |
| Out-of-court (formal and informal) | 5% | 4% | 3% | 2% |
| Evidential difficulties (suspect identified; victim supports action) | 25% | 22% | 23% | 23% |
| Evidential difficulties (victim does not support action) | 42% | 48% | 53% | 54% |
| Investigation complete – no suspect identified | 2% | 2% | 2% | 2% |
| Other | 3% | 4% | 4% | 3% |
| Total crimes assigned an outcome (type 1–18, 20, 21) | 96% | 94% | 96% | 93% |
| Crimes not yet assigned an outcome | 4% | 6% | 4% | 7% |

Source: [ONS Domestic abuse in England and Wales](#)

Figure 4b: Outcomes assigned to non-domestic abuse-related crimes recorded in the years ending March 2017 – March 2020

| Outcome | 2017 | 2018 | 2019 | 2020 |
|--|------|------|------|------|
| Charged/Summoned | 10% | 8% | 8% | 7% |
| Out-of-court (formal and informal) | 6% | 5% | 4% | 4% |
| Evidential difficulties (suspect identified; victim supports action) | 8% | 8% | 9% | 9% |
| Evidential difficulties (victim does not support action) | 15% | 16% | 18% | 19% |
| Investigation complete – no suspect identified | 54% | 54% | 53% | 51% |
| Other | 3% | 4% | 4% | 4% |
| Total crimes assigned an outcome (type 1–18, 20, 21) | 97% | 94% | 96% | 95% |
| Crimes not yet assigned an outcome | 3% | 6% | 4% | 5% |

Note for figures 4a and 4b: figures for 2020 are based on returns to the Home Office datahub by 29 forces, for 2019 37 forces, for 2018 29 forces, and for 2017 24 forces

When investigating the super-complaint, many officers told us that they believed that the increase in victims withdrawing support was more likely to be as a result of the increasingly extended length of time that a case takes to get through the criminal justice system.

Given the evidence we found that the lack of management of the investigation of RUI is contributing to the increase in the length of investigations, it follows that the changes made by the Policing and Crime Act 2017 could ultimately be an underlying factor.

However, it is important to note that victims decide to withdraw support for police action for a number of different reasons, including, for example, their experience of their interactions with the police and delays in cases coming to court. These and other contributory factors mean it is not possible to assess the true impact of any failure to extend bail conditions in respect of victims withdrawing support.

HMICFRS's [Review of policing domestic abuse during the pandemic – 2021](#) reported that victims withdrawing support continues to be a significant problem. In the 12-month rolling period up to March 2020, HMICFRS found that on average 54.8 percent of domestic abuse cases were discontinued because the victim no longer supports the prosecution. Consequently, the report made a recommendation as below:

Recommendation 3 in [Review of policing domestic abuse during the pandemic – 2021](#)

We recommend that all forces immediately review their use of outcome 15, outcome 16 and evidence-led prosecutions. This is to ensure that:

- domestic abuse investigations guarantee all attempts to engage victims are explored, and that all possible lines of evidence are considered so that in all cases the best possible outcomes for victims are achieved;
- there is regular and effective supervision of investigations that supports the above point to be achieved; and
- the use of outcomes 15 and 16 is appropriate, and the reasons for using them, including auditable evidence of victim engagement, are clearly recorded.

An outcome code allows every crime recorded by the police to be given an outcome, showing how the police deal with all crimes (including crimes that are still under investigation).

Outcome 15 is where a victim supports the prosecution but there are evidential difficulties, which could be a lack of evidence collected, and the case is not continued. Outcome 16 is where a suspect has been identified but the victim no longer supports the prosecution.

Additionally, [*A joint thematic inspection of the police and Crown Prosecution Service's response to rape*](#) reported that in more than a third of the cases reviewed (120 cases), the victim didn't support the investigation from the outset. The report concluded that much better information was required on why victims either don't support the case from the start, or do, but then withdraw this support. It made a recommendation as below:

Recommendation 3 of [*A joint thematic inspection of the police and Crown Prosecution Service's response to rape*](#)

Police forces should collect data to record the different stages when, and reasons why, a victim may withdraw support for a case. The Home Office should review the available outcome codes so that the data gathered can help target necessary remedial action and improve victim care.

HMICFRS is assessing this evidence on the use of outcome codes across violence against women and girls offences as part of its police engagement with women and girls inspection, due to be published in September 2021. This is likely to make further recommendations in this area.

Victim Research: BritainThinks

We asked BritainThinks to undertake additional work on a research project it was already doing for HMICFRS. The sample sizes are very small and we are careful about drawing conclusions from such limited sample sizes. However, we find that the views and experiences reflected in the BritainThinks research supports evidence we have found in our other lines of enquiry. We feel able, therefore, to report these findings here.

HMICFRS commissioned research consultancy BritainThinks to conduct qualitative research to explore victim and suspect experiences of changes implemented as a result of the Policing and Crime Act 2017. The findings of this qualitative research were published in a [joint report](#). This research is based on the responses of victims of crime and professionals. Of the 27 victims of crime interviewed, 9 were victims of domestic abuse and 8 were victims of stalking and harassment. The group of 20 professionals included solicitors or defence legal representatives working on behalf of suspects, representatives of third-sector agencies supporting those with criminal convictions (including agencies operating nationally and those providing support at a local level) and representatives of third-sector agencies supporting victims of crime. More detailed information can be accessed in the report.

These are the five key insights from the research findings:

1. Awareness of the application of bail or RUI was low among the victims interviewed. Victims did not understand the difference between RUI and bail but they did understand when they were told a suspect could not do something. The application of bail conditions can increase victims' feelings of safety. For some participants, there was a sense that bail and RUI have a similar outcome – that the suspect is ultimately released. However, in the context where a suspect has been released, application of bail conditions can be reassuring and increase victims' feelings of safety.
2. Professionals suggested that the impact of changes to the use of pre-charge bail have been far-reaching and overwhelmingly negative – for suspects and especially for victims. They described their experiences of RUI being applied as a 'default' instead of bail, meaning that they see the challenges associated with these changes as being widespread and deeply rooted. While some did point to problems, including length of investigations, existing prior to the introduction of the Policing and Crime Act 2017, they felt that changes to the use of pre-charge bail had caused a negative impact overall. Negative impacts include an increased length of time to conclude cases, links to rates of reoffending and increasing strain on the criminal justice sector.
3. Compared with RUI, the application of pre-charge bail can make victims feel safer and better supported by police (although it should be noted that victims also frequently were unsure if bail was applied, and if it had been, whether it was pre or post charge). However, the application of bail is only one part of their experience. Some victims interpreted the application of any bail conditions as the police taking them more seriously, making them feel listened to and supported (in comparison to cases where RUI is applied). However, even in cases where bail conditions were applied, some victims acknowledged that this alone was not enough to make them feel safe and supported by the police.
4. Where victims do not feel well supported by the police at any one stage of the process, regardless of whether pre-charge bail or RUI is applied, this can have a large and long-lasting impact on them. In several cases, victims who were dissatisfied with the police response they received felt they would be less likely to report a crime in the future.
5. The research analysis points to victims who experience specific types of crime as requiring a particularly tailored and supportive police response. In the sample of nine victims of domestic abuse, the majority felt that they had had a negative experience with the police. These participants did not feel they were taken seriously when reporting the crime or during the investigation. This was heightened in cases where RUI was applied, or the suspect attended voluntarily. The eight victims of stalking and harassment interviewed described feeling a heightened sense of immediate danger, particularly where the suspect was unknown to them. These participants described feeling particularly unsafe in cases where RUI was applied, as they felt there was nothing to disincentivise or prevent the suspect from re-offending. These participants stressed the importance of a supportive response from officers responding to their initial report and investigating officers to ensure they feel their cases are taken seriously.

Summary – Failure to impose and extend pre-charge bail conditions

The change in the bail legislation in 2017 produced a significant decrease in the use of pre-charge bail for all offences, including domestic abuse, and a move to the presumption of RUI.

We remain concerned about the limited data collected by and therefore available to some forces to manage suspects, and note that HMICFRS made several recommendations in its report [*Pre-charge bail and released under investigation: striking a balance*](#) to improve data collection and monitoring of suspects.

In respect of extending bail conditions, the evidence available, including that set out in the *Striking a balance* report, identifies cases where the police did not extend bail conditions when that would have been the most appropriate option, and that a suspect's status defaulted to RUI after the 28-day initial bail period ended. That report made a number of recommendations to address this and other concerns about the use of bail (see Annex E). Following our super-complaint investigation, we think additional measures are needed in respect of RUI and also consider more data needs to be gathered on the use of voluntary attendance, as set out in recommendations below.

The BritainThinks research found that some victims were reassured by the imposition of bail conditions. Research and third-party evidence indicate that using bail shows victims, and some agencies, that the police are treating the incident as a serious matter. Consequently, a failure to use pre-charge bail may have an impact on victims' ability to access other services or orders.

Pre-charge bail is an essential tool for the police to manage suspects. Bail conditions can be put in place to offer specific protection for victims and further reduce the risk of re-offending. We agree with the Centre for Women's Justice that the absence of pre-charge bail conditions to protect victims (when it can be lawfully used) can cause significant harm. For example, we found evidence that it causes victims to feel unsafe and can mean support is not available from third-party organisations.¹³ We found limited evidence of research on whether bail in and of itself reduces re-offending, nor on whether as a tool it is effective in protecting victims. This seems a significant gap. We recommend the Home Office commissions research on this.

The increase in time between offence and court increases attrition of cases. This increase in investigation times can also cause harm to the public.

Bail with conditions has been described as a 'toothless tiger' because penalties for breaching them are inadequate. The Government has previously considered the likely impact of the creation of a separate offence for breach of pre-charge bail conditions and assessed that it is not currently a workable legislative option. However, the Government is keeping this issue under review. We think the Home Office and Ministry of Justice

¹³ The regime for conditional pre-charge bail at s.30A PACE does not allow bail to be imposed if it is only for those reasons.

should revisit whether to create a bespoke offence of breaching pre-charge bail, so that police officers do not have to strive to find another offence or reason to justify arresting a suspect who has breached their pre-charge bail conditions.

As set out in the ‘Background and overarching legal framework’ section above, the Government has announced changes to the legislation since the super-complaint was made.

This super-complaint has been helpful in setting out women’s experiences and the Home Office has told us it took the super-complaint into account and considered what could be done to address the concerns raised by the Centre for Women’s Justice as part of the overall review of pre-charge bail legislation. The Home Office has also told us that the Centre for Women’s Justice fed comments in separately to the consultation on pre-charge bail which were also taken into account when developing policy proposals.

Striking a balance recommended that: “The College of Policing and NPCC should work together to develop clear guidance for police forces so that all cases involving serious harm and risk, such as domestic abuse and stalking, are subject to bail with conditions to protect victims and require a new risk assessment before a suspect’s bail status changes.”

The College produced a training film setting out the value that pre-charge bail can contribute in assisting to manage the risk of harm in cases with vulnerable victims. The Police Crime Sentencing and Courts Bill contains clauses that will make substantial changes to the pre-charge bail system and a provision for the College to develop statutory guidance. As a result, there is currently advice available to policing regarding the value of pre-charge bail and there are plans for the College to produce specific statutory guidance for the new arrangements and update existing guidance.

In the light of the changes to pre-charge bail, we propose that HMICFRS should consider future inspection activity to review the impact of the changes.

Actions and recommendations

Actions

1. In light of changes to pre-charge bail, we propose that HMICFRS should consider future inspection activity to review the impact of the changes.
2. The College of Policing will update its guidance to reflect changes needed on the implementation of the Police, Crime, Sentencing and Courts Bill and to clarify that officers may consider that if a suspect were to be released from police detention on bail with lawfully imposed conditions, the need for those conditions may well fulfil the ‘necessity test’ for arrest.

Recommendations

1. Chief constables, in conjunction with the NPCC lead for bail, should implement processes for managing RUI in line with the letter from the NPCC Lead for Bail Management Portfolio dated 29 January 2019 (Annex F). This is to ensure, as far as is possible, that investigations are conducted efficiently and effectively, thereby supporting both victims of crime and unconvicted suspects.
2. Chief constables should ensure data is gathered on the use of voluntary attendance to enable the identification of patterns of its use, particularly in relation to the types of cases, so that voluntary attendance is only used in those cases where it would be an appropriate case management tactic.
3. Chief constables should introduce processes to ensure that in all pre-charge bail cases where bail lapses, the investigator in charge of the case carries out an assessment of the need for pre bail-charge to continue. In those cases where the suspect has not been charged, the decision to extend or terminate bail should be recorded with a rationale.
4. The Home Office should commission research on whether bail reduces re-offending and protects victims, and publish the findings of any such research.
5. The Home Office and Ministry of Justice should intensify and accelerate their consideration of the creation of a bespoke offence of breaching pre-charge bail.

Our findings: Use of non-molestation orders

The Centre for Women's Justice's super-complaint sets out a number of concerns about policing practices relating to non-molestation orders (NMOs).

In particular, the Centre for Women's Justice is concerned that the police:

- often fail to arrest an individual who is in breach of an NMO;
- treat incidents in isolation, rather than as part of a pattern of behaviour, and also trivialise breaches;
- use NMOs as an alternative to taking police action; and
- sometimes advise victims to apply for NMOs in circumstances where it wouldn't be appropriate.

The super-complaint refers to the “devastating impact upon survivors of failures to enforce them” after they have been obtained by women at considerable effort, financial and emotional cost. The Centre for Women's Justice is concerned that when no action is taken by the police when an NMO is breached, women are put at risk, and the value of NMOs is undermined.

The Centre for Women's Justice's super-complaint refers to an (unnamed) frontline service which says:

“The main problem is that police do not view many types of breaches of orders as their paradigm idea of what constitutes a breach. Their idea of a breach is threats, assaults, a perpetrator turning up at a woman's house. Breaches such as repeat contact, for example sending repeat text messages, or approaching women in public places, are trivialized and not treated as breaches.”

The super-complaint also says NMOs are often refused on grounds there is another form of protection available. The grounds for granting NMOs is out of scope of this investigation.

Background

Non-molestation orders are orders available in the Family Courts (see [Part 10 of the Family Procedure Rules](#)) under the Family Law Act 1996, allowing victims of abuse to obtain protection. An NMO can prohibit a person associated with the applicant from molesting them and/or any relevant child. Breach of the order is a criminal offence, punishable by up to 5 years' imprisonment, a fine or both (on conviction on indictment) or up to 12 months' imprisonment, a fine or both (on summary conviction).

Repeat, especially persistent, breaches of orders can amount to a fresh offence of harassment and stalking.

In contrast to the other protective powers referenced in the super-complaint, an NMO is an order for which the police don't apply.

NMOs can be granted completely independently of the police. For example, they can be granted in the family court during child custody cases.

Alternatively, victims can take steps to obtain an NMO themselves, or with support after being signposted to services such as [FLOWS \(Finding Legal Options for Women Survivors\)](#) which is provided by Royal Courts of Justice Advice in partnership with the charity Rights of Women.

An individual can apply for an NMO if they want to be protected from:

- someone they're having or have had a relationship with;
- a family member; or
- someone they're living or have lived with.

An NMO can state clearly that the abuser must not do certain things, for example:

- be violent or threaten violence towards an individual or any children in the individual's family;
- harass, pester or intimidate an individual in any other different ways (for example by text message);
- go within a certain distance of an individual's home; or
- damage or dispose of an individual's belongings.

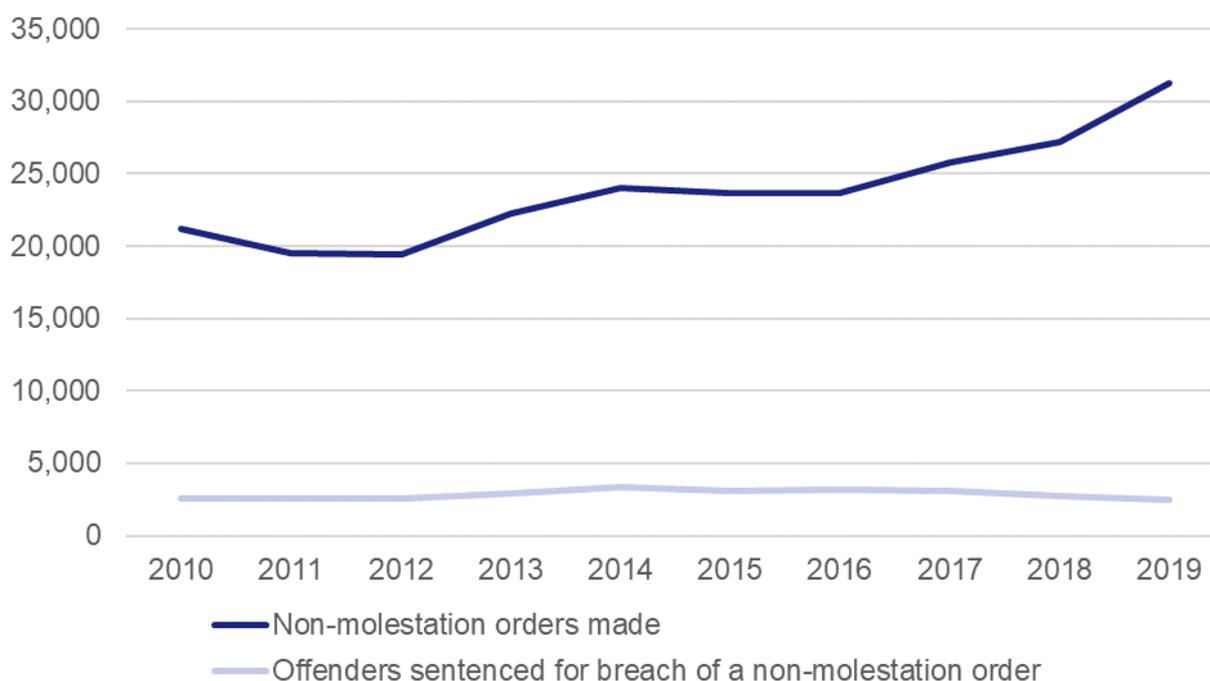
NMOs provide a longer period of protection for victims than other protective measures.

An NMO is usually granted for 6–12 months, although in certain circumstances it could be granted for a longer period. An order can also be extended.

Arrests for breaches

As the Centre for Women's Justice points out in the super-complaint, there is limited published data on NMOs. Ministry of Justice data shows that the number of NMOs granted have been increasing since 2012 and that the number of offenders sentenced for breaching NMOs has been going down since 2014. The number of NMOs granted rose 48 percent between 2010 and 2019. The number of offenders sentenced for breaching NMOs has not followed the same pattern as orders granted. The number of offenders sentenced for breaching an NMO in 2019 was 3 percent lower than in 2010.

Figure 5: Non-molestation orders made and offenders sentenced for breaches, 2010 to 2019

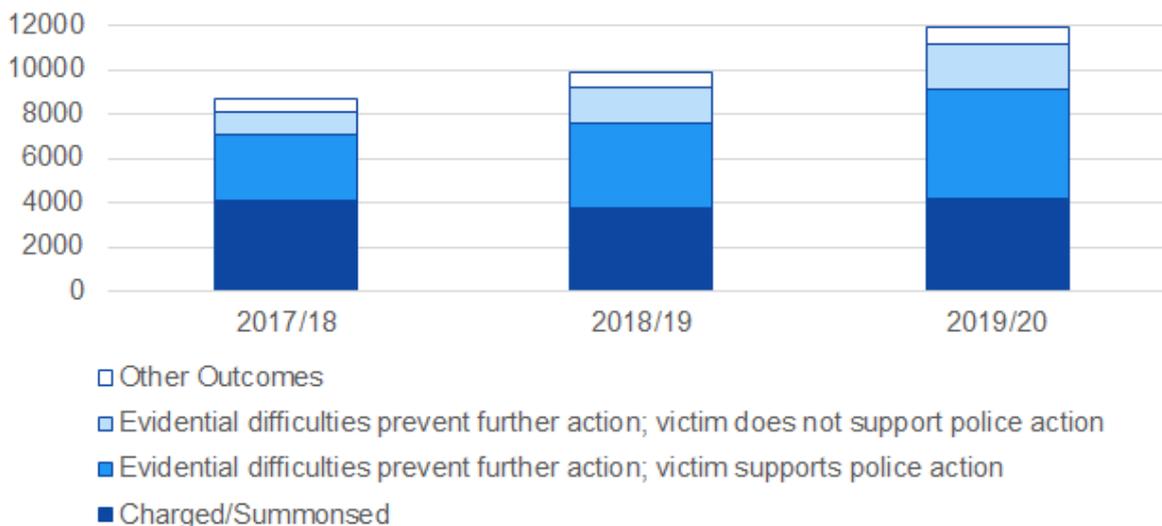


Source: Ministry of Justice NMO data

One of the Centre for Women’s Justice’s concerns is that the police fail to arrest individuals who breach NMOs.

To fully understand the extent of any failure by the police to arrest for breaches of NMOs, the number of reports of breaches, together with their outcomes, is needed. The Home Office started collating data on the number of arrests made for breaching NMOs in July 2019.

Figure 6: Breaches of non-molestation orders recorded by the police and their outcome, 2017/18 to 2019/20



Source: Home Office

Note: The Home Office data hub received data from 40 forces

Data on breaches of non-molestation orders is not published but the Home Office collates this information as forces must tell the Home Office about all notifiable offences, including reports of breaches. Breaches of non-molestation orders have increased 37 percent from 2017/18 to 2019/20. The proportion of cases resulting in a suspect being charged is falling from around half in 2017/18 to a third in 2019/20. The number of cases that are not proceeding due to evidential difficulties, despite the victim supporting action, is increasing (from 34 percent in 2017/28 to 42 percent in 2019/20).

Research from [Bates and Hester](#) found evidence of officers misunderstanding and/or ‘trivialising’; and of not understanding threats and intimidation in the context of domestic abuse, especially in relation to stalking and harassment.

In contrast our overall assessment from our fieldwork is that officers in nearly every force had a good understanding of NMOs and when to arrest for a breach of an NMO. Some officers spoke of how they preferred to arrest for NMOs as it was considered an “easy” arrest. Several officers we spoke with were keen to emphasise they did not “trivialise” the use of NMOs. Most were aware of the importance of NMOs to safeguard victims and recognised that child contact or being sent a single text message would be a breach.

When asked about their understanding of what constitutes a breach, many officers said they were frustrated by ambiguous wording on NMOs provided by the civil courts, which they felt left NMOs open to interpretation, particularly in comparison with restraining orders made by criminal courts.

While this in itself is not conclusive, this may explain the view that minor breaches are sometimes not acted on, or that officers treat incidents in isolation.

Communication of NMOs

Our investigation found that police officers sometimes have problems accessing NMOs to check the provisions of the orders, including the power of arrest. Being able to access this information is essential to enabling officers to assess whether the provisions have been breached. They told us accessing the information was often time-consuming and involved “digging around in police computer records”. We were also told that despite their efforts, there were occasions when some officers couldn’t find information on the NMO.

Some officers also told us there were sometimes delays between the NMO being issued at court to it being recorded on the database. They added that they had experienced particular difficulties when dealing with suspects over a weekend when an NMO had been issued on a Friday. This was because the NMO was often not recorded until the following week.

This is supported by research by [Bates and Hester](#), who say the recording of NMOs is a problem. However, Bates and Hester argued that their evidence, from both victim reports and police data, suggests that there is still a lack of systematic communication of these NMOs to the police.

In the same article, Bates and Hester say that “in 307 out of 400 police domestic violence incidents (77 percent) analysed for the project, it was not known whether or not a protection order was in place. Given that at least a quarter of victims/survivors interviewed reported having one or more protection orders (26 percent), it is likely that police data is not capturing a swathe of cases where orders are in place. Forces do not seem to be systematically recording (especially civil) protection orders.”

IOPC and IPCC cases

Two IOPC/IPCC cases were identified that involved breaches of NMOs.

The first case related to the police’s handling of reported breaches of a NMO and a non-occupation order. The orders were put in place to safeguard a woman who was believed to be at risk from her husband. The woman was later found dead, and her husband was convicted of her murder.

The investigation found that when copies of the NMO and non-occupation order were delivered to a police station, a breakdown within force processes had prevented them being placed on the police national computer (PNC). Subsequently, when officers were alerted to a breach of the orders, the absence of an entry on the PNC had caused confusion and an opportunity to arrest the man had been missed. A recommendation was made to the force around introducing a policy to give clear guidance on the

recording of civil court orders and actions to be followed when these are delivered to the force.

The second case related to the police's handling of reported breaches of both a NMO and a restraining order. The victim was subsequently murdered by her estranged husband.

The investigation highlighted several failures in this case, including the time taken to respond to reported breaches and the removal of operational information from police systems, meaning the victim had to repeatedly provide the same information and officers did not have access to this when performing risk assessments. The investigation found that conditional bail was granted to the offender, despite there being evidence that he had, by this point, continued to make repeated unwanted contact with the victim, requiring police attendance. The investigation could not identify any force policies or guidance about when it may be necessary to remand a suspect in custody within a domestic violence setting where harassment is a feature and there has been a breach of a court order.

There were 12 recommendations made, which covered areas including:

- training for officers and call centre staff;
- improving how incidents were linked on force systems;
- ensuring operational information was recorded correctly and efficiently;
- reviewing force control room (FCR) procedures to ensure a consistent approach to risk assessment;
- ensuring adequate response in terms of safeguarding and victim support where crimes were reported other than through the FCR; and
- reviewing whether further guidance was needed in cases involving domestic abuse, harassment, threats to kill and breaches of NMOs/restraining orders.

Use of NMOs as an alternative to police action

The Centre for Women's Justice is concerned that police advise victims to apply for NMOs as an alternative to taking police action.

Its super-complaint includes a quote from the National Domestic Abuse Helpline:

“We receive many calls from women who say that they contacted the police to report conduct by a perpetrator such as harassment, stalking or other abuse and the police have not taken any action but advised them to obtain a civil injunction. These women were expecting some kind of policing response. Sometimes they are told that there were no witnesses or other evidence but often the police do not regard it as a criminal matter unless there are threats being made. This is despite the fact that repeated unwanted contact amounts to the criminal offence of harassment.”

Some of the officers we spoke with told us they suggest victims obtain NMOs as part of a suite of measures available to them to safeguard victims from harm. However, from our

discussions with frontline officers it was clear that many didn't fully understand the civil court process.

This is supported by some of the evidence submitted as part of the super-complaint.

A support worker for Women's Aid said:

"It seems that police officers have little understanding of what is required to obtain an NMO. This is quite a demanding process for a woman to go through. Firstly, she may have to apply for legal aid which means providing bank statements, mortgage details and other financial documents. Some women obtain legal aid but then have to pay a contribution, which can be quite large depending on their income. Those who cannot obtain legal aid either have to prepare the court application themselves or pay a solicitor. Many women represent themselves without solicitors. A detailed written statement must be prepared along with a court application form and these must be lodged with the court urgently. In many cases where an order is granted ex parte at the first hearing the perpetrator may challenge the order and the woman has to attend a second hearing where she must confront him in court. In some cases, such as those involving repeat e-mails and text messages it is unlikely that an order will be granted ex parte and she will have to face the perpetrator at a hearing."

The officers we spoke with in our fieldwork didn't believe that NMOs were used as a way of avoiding police action. In general, officers told us they would provide victims with information about different options but not routinely advise them to get an NMO.

Police advice on use of NMOs

The Centre for Women's Justice's super-complaint also states that officers sometimes advise victims to apply for NMOs in circumstances where it wouldn't be appropriate for them to do so.

We asked officers what they advise victims as part of our fieldwork. We found that many officers suggested NMOs to victims as part of a suite of measures available to them in order to safeguard them from harm. However, some officers didn't know the application process as they were not involved with it themselves or hadn't been informed of the process. Officers stated they would provide options available to victims but would not tell them to get an NMO, and that commonly victims are signposted to third parties such as the National Centre for Domestic Violence, or Domestic Violence Assist to get an NMO when there are no available police powers to safeguard victims.

Summary – use of NMOs

We recognise that failure to arrest for breach of an NMO has the potential to cause significant harm, as argued by the Centre for Women's Justice.

The data shows that the number of NMO breach cases that are not proceeding due to evidential difficulties despite the victim supporting action, is increasing (from 34 percent

in 2017/18 to 42 percent in 2019/20). This is worrying. It is being considered further in HMICFRS's Police Engagement with Women and Girls inspection which is due to be published in September 2021.

The police rely on the civil courts to approve clear and unambiguous orders and effectively communicate to the police that an NMO is in place.

Poor communication of NMOs to the police, including ambiguously worded conditions and poor or late recording of NMOs on police systems are creating an obstacle to the police doing their job effectively. We consider that the Home Office and Ministry of Justice should review the NMO processes and procedures to address this.

There is a lack of understanding about the civil court process by some officers. However, equipping officers with information on pathways for referral to third parties, rather than providing them with specialist knowledge on civil court applications, is likely to lead to better outcomes for victims because it would enable them to access specialist support directly.

Given we found evidence that officers did not know about the application process, and that the Centre for Women's Justice reported in its super-complaint instances where this can happen, we think chief constables should ensure officers are aware of all protective measures and referral pathways to support victims.

We did not find evidence that officers are advising victims to obtain NMOs in cases where it would be inappropriate to do so.

Recommendations

6. The Ministry of Justice and the Home Office should review the mechanism for informing the police of NMOs and propose remedies for improvement.
7. Chief constables should review and if necessary refresh their policy on how the force processes notifications of NMOs, so officers can easily identify if an NMO exists.
8. The Ministry of Justice should review a sample of NMOs to consider whether the wording of these are ambiguous and could cause problems for enforcement and propose a remedy to prevent ambiguity in NMO wording, if it is identified.
9. The Home Office should publish data on the number of reported breaches of NMOs. This should form part of the annual data collection on the applications for and granting of NMOs.
10. The NPCC lead for domestic abuse should consider Home Office data on the number of reported breaches of NMOs, and provide a report to HMICFRS within six months on national actions and guidance required as a result.

Our findings: Failure to use Domestic Violence Protection Notices and Domestic Violence Protection Orders

The Centre for Women's Justice is concerned that Domestic Violence Protection Notices (DVPNs) and Domestic Violence Protection Orders (DVPOs) are being under-used and that some police forces are not using them at all.

Additionally, the Centre for Women's Justice suggests that too much bureaucracy (as mentioned in HMIC's [*Increasingly everyone's business: a progress report on the police response to domestic abuse*](#)) or the limited understanding of officers responsible for applying for DVPNs and DVPOs are factors which explain why the number of applications for these protective measures is low.

A quote from a representative of Aurora New Dawn, submitted as part of the super-complaint, states: "I keep stats on whether the police have ever considered or applied for a DVPN/ O. In literally a handful of cases each quarter do the police actually use this measure. I know other forces use this regularly but it should be a consideration for every arrest in my view, intimate partner abuse or not."

Background

DVPNs and DVPOs can be used following a domestic abuse incident to provide short-term protection to a victim in the immediate aftermath. They can prevent a suspected perpetrator from returning to a residence and from having contact with a victim for up to 28 days. The process is designed to give breathing space to victims by granting a temporary respite from their abuser. This allows them to consider their options and get support without interference. DVPNs and DVPOs can be used when an arrest has not been made but positive action is required. They can also be used where an arrest has taken place but the investigation is in progress. DVPNs and DVPOs could, for example, be used where a decision is made to caution the suspected perpetrator or take no further action, or when the suspect is bailed without conditions.

For a DVPN to be considered:

- the suspect must be over 18;
- there must be reasonable grounds for believing that the suspect has been violent or has threatened violence towards an associated person; and
- it must be necessary to protect the associated person from violence or threat of violence by the suspect.

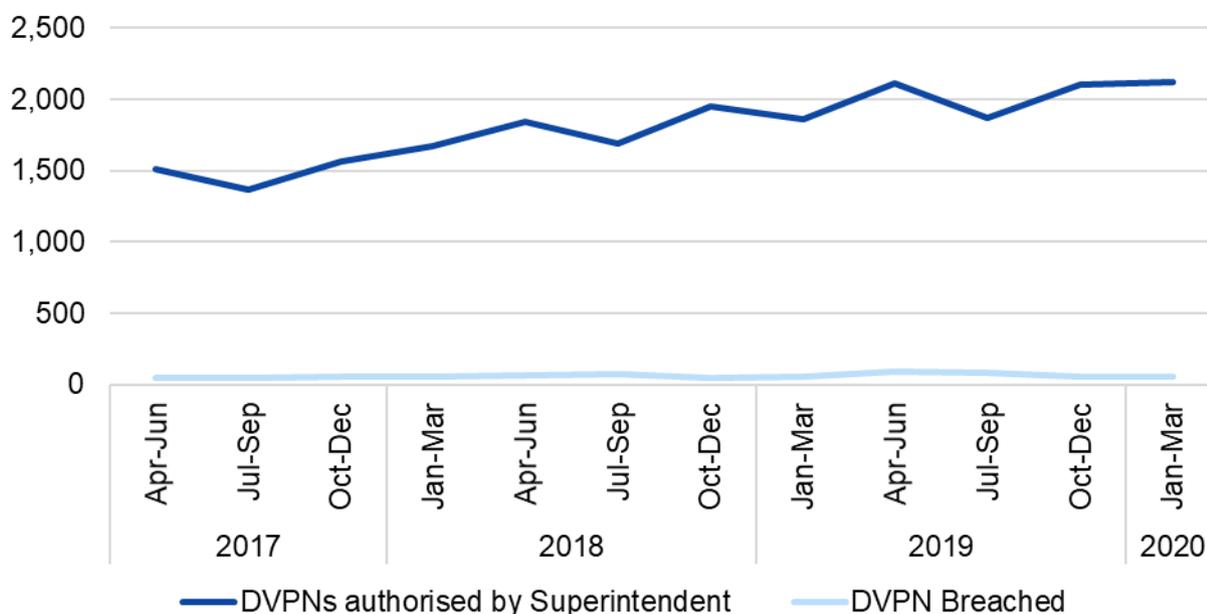
A DVPN can be issued by the police for 48 hours and obtained regardless of whether the victim provides a statement or supports prosecution or the application of the order. Before a DVPN expires, the police can apply to the court to grant a DVPO which lasts for 14–28 days. Unlike an NMO, the responsibility for action in applying for a DVPN or DVPO is for the police rather than the victim.

Data on the use of DVPNs and DVPOs

Data collected by HMICFRS from forces shows that forces are using DVPNs and DVPOs. The total number of DVPN applications authorised in the year to March 2020 increased by 34 percent when compared with the year to March 2018. There was an overall increase in domestic abuse crimes of 27 percent in the same period. Most forces don't record or can't identify the number of DVPN applications made to a superintendent before a DVPN is authorised.

There are a number of caveats around DVPN and DVPO data that are important to understand when interpreting it. These are outlined in the data annex (Annex D).

Figure 7: DVPNs authorised by a superintendent and breaches recorded by the police in England and Wales, 1 April 2017 to 31 March 2020



Source: HMICFRS data collection

Note: Nine forces were unable to provide breach data for 2019/20. Two forces were unable to provide the number of DVPN applications authorised by the superintendent for 2019/20.

The super-complaint focuses on the number of DVPNs/DVPOs applied for as a proportion of domestic abuse crimes, rather than the number applied for in total. We found that the ratio of DVPNs authorised to the total number of domestic abuse crimes 2018/19 was only one in 100.

One of the factors to consider in understanding the use of DVPNs and DVPOs is that not all victims are eligible for one. For example, a DVPN can only be applied for in cases where there has been a threat of violence or violence has occurred. Additionally, the suspect must also be over 18.

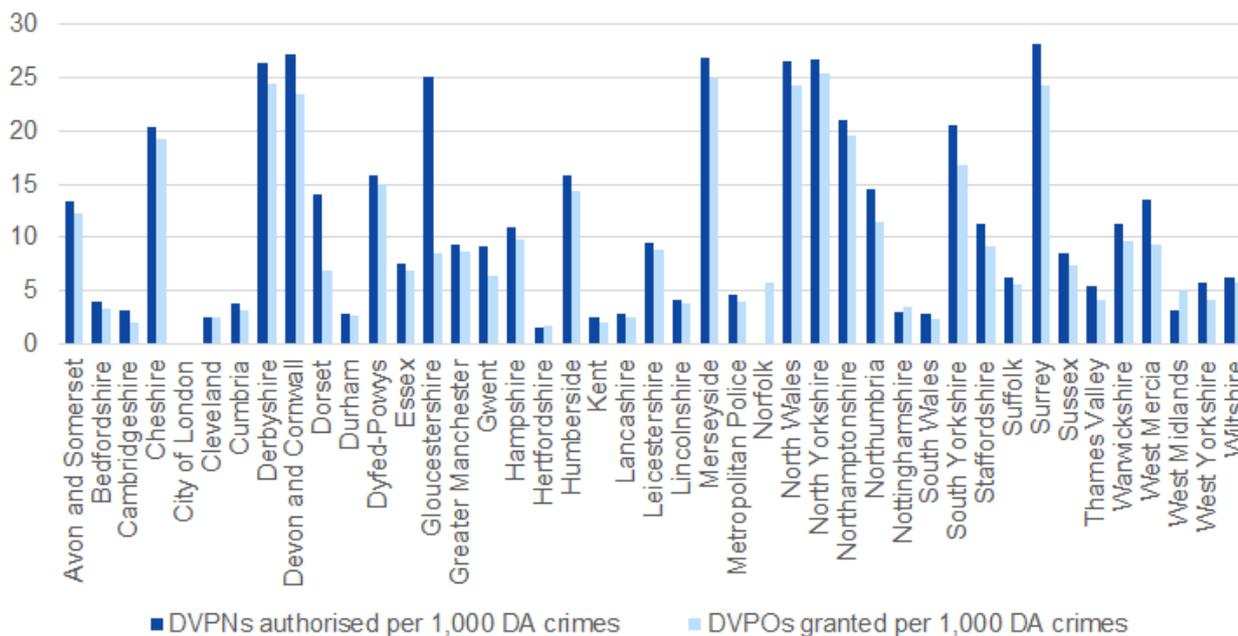
Existing data does not differentiate between incidents suitable for a DVPN application and incidents where a DVPN can't be considered. To accurately monitor the effectiveness of protective measures, and accurately provide a picture of domestic abuse, there needs to be a way of differentiating between the various types of abuse for recording purposes.

In the absence of this data, it is impossible to assess the rate of use of protective orders per crime type accurately when a proportion of the cases wouldn't be appropriate for the protective orders.

Number of DVPN/DVPO applications

We visited 37 forces and invited police officers and staff to consider the reasons for the low numbers of DVPN and DVPO applications. Over half reported that DVPNs were time-consuming, complicated, bureaucratic and difficult. These tended to be the forces where the numbers of DVPNs applied for per 1,000 domestic abuse crimes had fallen. Officers in one of the forces with the lowest rate we visited suggested that custody officers were reluctant to consider DVPNs due to concerns that they would be seen as influencing the investigation.

Figure 8: DVPNs authorised and DVPOs granted per 1,000 DA flagged crimes, 1 April 2018 to 31 March 2019



Source: HMICFRS data collection

Note: Norfolk Constabulary was unable to provide DVPN data

Variation in force use of DVPN/DVPOs

The data available shows there is wide variation between forces in the use of DVPN and DVPOs.

HMICFRS’s [PEEL inspection report for North Wales Police](#) (2018/19) says:

“The importance of using DVPNs to protect victims is embedded at all levels in the force.” This was supported by our fieldwork. In North Wales we found that officers consider DVPNs from the point of arrest and develop a parallel process alongside the investigation. There are also effective links between the custody team and authorising superintendent from an early stage.

A common theme from other forces where we have seen good practice (South Yorkshire Police, Humberside Police, and Devon and Cornwall Police) is support from a legal team in each force. Devon and Cornwall Police have employed specialist lawyers to help increase the number of DVPN/DVPO applications.

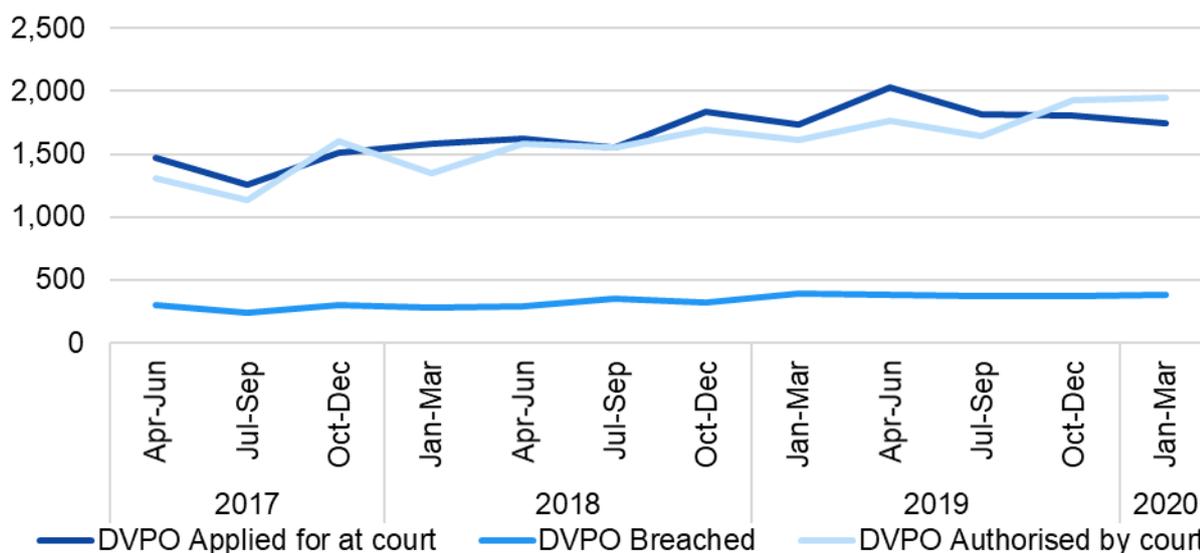
Applications for DVPOs

Our data shows that the majority of DVPO applications are granted by the courts.

From 2017/18 to 2019/20, DVPO applications, authorisations and breaches all increased. Applications increased by 27 percent, authorisations increased by 35 percent and

breaches increased by 34 percent. There are substantially more recorded breaches of DVPOs than of DVPNs.

Figure 9: DVPO applications, orders granted and breached in England and Wales, 1 April 2017 to 31 March 2020



Source: HMICFRS data collection

Note: Not all forces are able to provide or record the volume of DVPOs applied for. In Q3 and Q4 2019/20, six forces were unable to provide this data. For this reason, the number of DVPOs authorised by the court exceeds the number applied for in these periods.

Effect of COVID-19

In its report *Review of policing domestic abuse during the pandemic – 2021*, HMICFRS noted the effect of the pandemic on DVPO applications:

“During the first lockdown, most courts closed. However, Her Majesty’s Courts and Tribunal Service (HMCTS) agreed that applications for DVPOs could continue virtually through the remand courts [...] Many forces reported that making DVPO applications remotely was more efficient, and that they would continue to do this beyond the pandemic.”

Effect of DVPOs on victims’ safety

There is very limited published research on how the orders have been implemented and their impact on victim safety.

An early Home Office-commissioned evaluation of DVPOs (Kelly et al., 2013) found that although the process itself was implemented successfully, there were problems which prevented DVPOs being used regularly. These included differing levels of officer

understanding and support, the availability of senior officers to provide authorisation and the perceived burden of paperwork.

In terms of impact on victim safety, the evaluation found DVPOs were associated with modest overall reductions in victimisation: around 2.6 fewer repeat incidents per victim compared with around 1.6 fewer incidents for arrest followed by no further action.

The positive effects on further victimisation were seen specifically for 'chronic' cases (defined as three or more previous incidents). There was no statistically significant change in re-victimisation if a DVPO was issued following the first or second report to police.

IOPC and IPCC cases

Eight IOPC/IPCC cases were identified that involved failure to use DVPNs and DVPOs. The main recurring theme across the cases was a general confusion or misunderstanding around the process for obtaining DVPN/DVPOs and the situations in which they should be obtained.

Some of the specific issues identified included:

- failure to consider obtaining a DVPN/DVPO;
- officers holding the mistaken belief that DVPN/DVPOs should only be used where the two parties were living at the same address; and
- the absence of a clear process to authorise a DVPN, leading to miscommunications and ultimately no DVPN being issued.

In one of the cases identified, a female reported that her ex-partner would not leave her flat and had her keys. She was staying with a friend at the time of the call. The ex-partner was arrested the next day and an investigation was carried out into the allegations. The day after, no further action was taken against the ex-partner and he was released from custody. An officer requested a DVPN to be issued but this was not done. Four days later, the ex-partner approached and assaulted the female in the street, before taking her back to her flat where he continued to physically assault her. The next day she contacted the police and the ex-partner was arrested again.

During the IPCC investigation, an officer gave an account that they made a DVPN application and contacted a superintendent by phone for authorisation. The superintendent's account was that he understood the call was to consider the possibility of applying for a DVPN, not an actual application seeking authorisation. The investigation identified there was no clear policy or procedure in place by the force to clarify the correct process. In interviewing those involved, it was clear that a variety of perceptions of the DVPN process existed and, in this case, this led to miscommunications and misunderstandings, and ultimately no DVPN being issued. Two recommendations were made: (i) that the force should issue guidance on the DVPN process, and (ii) that the force should issue guidance to make it mandatory for officers to record a full rationale when a decision is made not to refer a matter to the Crown Prosecution Service, documenting all offences considered in cases involving domestic abuse.

Summary – A failure to use DVPNs and DVPOs

The number of DVPN/DVPOs applied for is very low in relation to the number of domestic abuse incidents, and varies significantly across forces. While not all incidents are eligible for a DVPN or DVPO, this strongly suggests that some forces are underusing them. It is essential that forces understand this variance and are taking steps to ensure they are being used where appropriate.

Evidence gathered in our investigation shows there are instances of misunderstanding by officers around DVPN/DVPOs. This supports the Centre for Women's Justice's view that a lack of understanding may explain why some forces may be underusing DVPN/DVPOs. This has the potential to cause harm. There is room for improvement and we have made recommendations to achieve this.

The Domestic Abuse Act 2021 provides a revised framework for forces to safeguard victims of domestic abuse and an opportunity to change their approach. Forces using fewer DVPNs and DVPOs can improve by replicating the measures used by forces who use them more frequently, such as running DVPN/DVPO processes in parallel with investigations and drawing on the expertise of specialist staff for support. The efficiency of making DVPO applications remotely, identified during the pandemic, could also be beneficial. Forces could also apply all of this learning when creating new procedures for the new Domestic Abuse Protection Orders (DAPOs) to ensure there is a seamless transition to using the new DAPOs once the legislation is in force. We do not consider it appropriate to make a recommendation in relation to DAPOs at this stage, as their use will initially be piloted in some forces.

Action

3. HMICFRS to continue to assess use of DVPN/DVPOs and any new domestic abuse orders through its wider inspection activity.

Recommendation

11. Chief constables should, until DAPOs replace DVPNs and DVPOs in their force:
 - a. review, and if necessary refresh their policy on DVPNs and DVPOs, and in line with the overarching recommendation:
 - i. ensure that there is clear governance and communication to prioritise the effective use of DVPNs and DVPOs, when these are the most appropriate tools to use;
 - ii. monitor their use to ensure they are being used effectively; and
 - b. ensure experience and lessons learned on using DVPN/DVPOs informs the use of DAPOs.

Our findings: Failure to apply for restraining orders

The Centre for Women's Justice has raised a number of concerns about restraining orders. These are that:

- applications for restraining orders can be overlooked by both the police and prosecutors;
- in the magistrates' court, if an application is overlooked, magistrates may not be empowered under the court rules to rectify that mistake and grant a restraining order after the sentencing hearing; and
- victims who don't have legal representation may not know the courts can make a restraining order.

Background

A restraining order is a preventative and protective measure that is issued by the court at the end of criminal proceedings – either on conviction or on acquittal – but where the court considers that the victim remains in need of specific protection. The types of cases in which a restraining order may be necessary include:

- cases where the defendant and witness know each other or have been in a previous intimate relationship (such as in domestic violence cases);
- cases where the parties have ongoing contact (for example where the victim runs a local business); or
- cases where there is evidence that the victim has been targeted by the defendant in some way (for example by continued minor public order offences or criminal damage).

A restraining order could be issued to prevent someone from causing harm to someone else in situations involving domestic violence, harassment, stalking or sexual assault.

Restraining orders place prohibitions and/or restrictions on a suspected perpetrator, to stop them from causing fear or further harm to the victim.

When police officers or staff submit a case file to the CPS, they fill in a document called the MG5 form (which varies from force to force). This document is used to provide initial details of the case for the first hearing at court. The MG5 includes a section regarding special measures, compensation and orders. Section 8 of the MG5 form covers the application for restraining orders and states:

“In cases of Domestic Abuse, Restraining Orders MUST be considered and if applicable the reasons why one is required fully explained. If a Restraining Order is not

required the Officer MUST specifically state this and explain the reasons why one is not required.”

The police, prosecutors and the court have a collective responsibility to ensure that restraining orders are routinely applied for in appropriate cases.

On 12 June 2020, a Memorandum of Understanding was agreed across the criminal justice system. It concerned existing commitments under the Victim’s Code, and set out how witness care units, Her Majesty’s Courts and Tribunal Service, the CPS and the police would ensure effective court hearings. The Code of Practice for Victims of Crime is a statutory document. It sets out the information, support and services that victims of crime are entitled to receive from criminal justice agencies in England and Wales. These agencies include the police and the CPS. The memorandum seeks to maximise the effectiveness of court hearings by identifying issues and having a clear understanding of the needs of victims and witnesses in domestic abuse cases.

Our investigation has focused on the police’s role in relation to restraining orders. The CPS has helped us consider overlapping issues with prosecutors. We have not assessed the role of prosecutors because that does not fall within the scope of a super-complaint investigation.

The CPS told us about the case of *R. v. Herrington* [2017] EWCA Crim. 889. In this case the court made a restraining order against the explicit wishes of the victim. On appeal it was found that the court had been wrong to impose a restraining order on the defendant preventing him from contacting his partner where his partner was content to live with him, despite the risk of domestic violence which she faced. Since this case the court must satisfy itself that the victim agrees to the restraining order.

Data

The CPS’s [*Violence Against Women and Girls Report 2018–19*](#) shows that there has been a reduction in the number of restraining orders issued between 2016 and 2018. Data (which is not broken down by offence type) shows that 18,300 restraining orders were issued on conviction in England and Wales in 2018 (compared with 23,100 in 2016). Over the same period there has also been a fall in the number of prosecutions for domestic abuse related offences.

In 2018, 9,960 defendants were prosecuted for breaching a restraining order that had been imposed on conviction, with 8,920 convicted. This was a decrease from 10,090 prosecutions and 9,150 convictions in 2017, but very similar to the 9,920 defendants prosecuted for breaching an order in 2016, with 8,950 convicted, despite a fall in the number of restraining orders issued.

In 2018, there were also 520 defendants prosecuted for breaching a restraining order issued following the acquittal of the defendant, with 410 convicted. This was a small decrease from 530 prosecutions and 430 convictions in 2017.

Figure 10: Number of restraining orders issued on conviction and defendants prosecuted and convicted for breaches of restraining orders 2016 to 2018

| Restraining orders, prosecutions and convictions | 2016 | 2017 | 2018 | Percentage change 2016 – 2018 |
|--|--------|--------|--------|-------------------------------|
| Number of domestic abuse prosecutions | 93,600 | 89,100 | 78,600 | -16% |
| Restraining orders issued on conviction | 23,100 | 19,200 | 18,300 | -21% |
| Defendants prosecuted for breaches of restraining orders | 9,920 | 10,090 | 9,960 | 0% |
| Defendants convicted for breaches of restraining orders | 8,950 | 9,150 | 8,920 | 0% |

Source: [CPS Violence against Women and Girls Report](#)

Note: Domestic abuse prosecutions refer to financial years, not calendar years

Applications

The super-complaint suggests that restraining orders could be used more effectively, and more restraining orders should be applied for and granted to protect vulnerable victims.

The super-complaint includes a quote from an anonymous frontline organisation based in London:

“Our caseworkers always feel the need to raise requests for Restraining Orders with the officer in the case, and check up on whether a request has been made, otherwise they will be overlooked. We continually chase and our caseworkers attend sentencing hearings to ensure that an order is applied for, as we have no confidence that this will be done automatically. We also raise requests at MARAC in high risk cases. In other cases it can be very difficult to communicate with the officer in the case and our caseworkers have to do a lot of chasing. We would expect that without an advocate many women will not be able to do this alone.”

The National Police Chiefs’ Council (NPCC), the College of Policing and the CPS jointly considered applications for restraining orders in response to the HMIC domestic abuse inspection [Everyone’s business](#) in 2014.

Prompts to consider restraining orders were included in the CPS/NPCC evidence checklist for domestic abuse (and subsequently the stalking or harassment checklist and NPCC/CPS protocol) and included in the national College 'toolkit' for domestic abuse.

There are also specific sections on available orders within the Authorised Professional Practice (APP) for domestic abuse (and stalking or harassment APP briefings) and the College generic Tactical Menu of Options for Public Protection linked to vulnerability and other training products specific to domestic abuse.

Our super-complaint investigation fieldwork found evidence which indicates the police are not, in general, overlooking restraining orders at the point of charge. For example, in 32 out of 37 forces, officers told us that restraining orders were routinely considered and applied for in domestic abuse cases. This could be in part due to the simple tick-box requirements on the MG5 form to ask CPS to consider restraining orders at court.

Additionally, the 2017 HMIC report [Living in fear](#) set out findings on restraining orders following a review of cases. It found that police officers and staff were making requests for the CPS to apply to the courts for restraining orders to be imposed. These requests were mainly made through completing the box on the police summary of evidence form (MG5). However, prosecutors told inspectors that it was sometimes difficult to establish what conditions were appropriate to protect the victim, and whether the victim had been consulted as part of these considerations.

This could result in:

- last-minute attempts to contact the officer in the case or the victim, to establish what conditions were required;
- prosecutors relying on assumptions about what may be appropriate; and
- prosecutors relying on standard conditions that did not take the victim's specific needs into account.

In the forces inspectors visited (in 2017), they found that the MG5 form did not contain a space suitable for officers to note down both the proposed conditions for a restraining order and the rationale to justify them. The [Living in fear](#) report concluded that the national guidance was confusing and that the MG5 form in use at that time was not fit for purpose. Consequently, the report included a recommendation to revise the MG5 form to ensure it is used consistently and appropriately, and to provide clear guidance on how it should be completed.

A new Digital Case File¹⁴ system is due to be implemented from August 2021 and nationally from April 2022. When this happens the MG5 forms will be decommissioned. The information contained in the MG5 form will still be required, but in a structured,

¹⁴ This is an automated system that provides formatted case files for easy completion and transfer to the CPS.

digital format. The checklists which already exist will be embedded into the IT system so that prompts will be automated on a specific case.

The role of the CPS

In its super-complaint, the Centre for Women's Justice says that although the police should include a request for a restraining order in the papers when they send a case to the CPS, there is an independent duty on prosecutors to consider the need for a restraining order and request the necessary information from police.

CPS guidance currently states "Prosecutors should consider at the time of charge or review whether a restraining order might be appropriate in the event of an acquittal or conviction. Prosecutors should ensure that the police have provided the victim's (and any other person who requires protection such as the victim's family, friends or other witnesses) views about the need for a restraining order as well as confirming they have discussed the suitability of any suggested conditions with that person.

While a court can make a restraining order of its own volition, prosecutors also have an obligation to remind sentencing courts of the option of making a restraining order, including when the defendant has been acquitted."

One of the 'future priorities' in the CPS's [*Violence Against Women and Girls Report 2018-19*](#) is to refresh CPS guidance on breaches of restraining orders.

The CPS was invited to comment and said:

"The responsibility for raising Restraining Orders lies with the police, the CPS and the court. The role of the Prosecutor is also covered by the Criminal Procedure Rules: Rule 24.11 and 25.11 respectively for the Magistrates' Court and the Crown Court as well as in The Attorney General's Guidelines on the Acceptance of Pleas and the Prosecutor's Role in the Sentencing Exercise.

Guidance is clear that when considering which ancillary orders to apply for, prosecution advocates must always have regard to the victims' needs, including their future protection. The need to have early information to inform decisions is set out in CPS Domestic Abuse Guidelines for Prosecutors and included specifically in the NPCC and CPS protocol for cases of Stalking or Harassment. The mandated checklist requires police to consider this aspect specifically and provide the prosecutor with the information at the earliest opportunity.

In addition to these responsibilities the Court can also make a restriction order of its own volition if it feels that it is appropriate to do so. This is both on conviction and acquittal."

The slip rule

When a request for a restraining order has not been made (and the court has not considered a restraining order of its own motion) and the sentencing hearing is over, the super-complaint says it is unclear whether, and how, in law this can be remedied in the magistrates' court. While the role of the courts is not something we can focus on when investigating super-complaints, we asked the CPS for their view on this, and include their response here.

Our fieldwork confirmed that police officers don't routinely attend court and would rarely be present at the point of sentencing or acquittal, which is the point at which restraining orders would be considered. Therefore, there is a reliance on the prosecutor to review the file and consider a restraining order at this point.

The super-complaint suggests that it should be possible for the court to grant an order later under the 'slip rule' and raises concerns around the lack of clarity over whether it can be used where the mistake is by the prosecutor as opposed to the court. The slip rule operates in slightly different ways in the magistrates' court and in the Crown Court. In the magistrates' court in particular it is not clear whether the slip rule can be used to reopen a sentencing hearing to apply for a restraining order.

The CPS told us:

"In the magistrates' court unless there has been an administrative error a standalone application cannot be made after the case has been sentenced or in the case of an acquittal at the trial.

Where there has been an error in the Crown Court this can be address[ed] within 56 days as has been identified.

The slip rule cannot be used in the magistrate's court unless it is truly an administrative error. Failing to make an application is not an administrative error and therefore this process cannot be utilised in such cases."

We are unaware of any case law to determine this point.

Victims who don't have legal representation may not know the courts can make a restraining order

In fieldwork we asked officers about their advice to victims, and officers said they commonly signpost victims to third-party organisations. However, the evidence provided by the Centre for Women's Justice indicates there are instances where victims are not represented and are unaware of restraining orders or how they are applied for.

Summary – A failure to apply for restraining orders

From our review of the evidence gathered in this investigation, it is not possible to conclude that the police are underutilising restraining orders. The reduction in the number of restraining orders granted between 2016 and 2018 is similar to a reduction in domestic abuse prosecutions over the same period. Also, the data only covers the number of restraining orders granted and not the number applied for.

That said, we do think police forces and the CPS need to collaborate more closely to ensure restraining orders are applied for in all suitable cases where the victim consents and that suitable conditions are identified. We have made a recommendation to this effect.

We also think chief constables need to ensure that their officers are aware of referral pathways for victims, so that victims can be properly advised and supported (including on restraining orders).

Additionally, HMICFRS will consider monitoring the use of restraining orders as part of its inspection activity.

Action

4. HMICFRS should consider future inspection activity in respect of restraining orders, including supervision and monitoring use of these by police forces. After a suitable period when more data is available from the inspection activity, HMICFRS and Her Majesty's Crown Prosecution Service Inspectorate (HMCPPI) should consider undertaking a review to assess how effective the police and CPS are at applying for restraining orders, and if there is any point of failure within the process that needs to be addressed.

Recommendation

12. The NPCC should formulate a robust process, working with the CPS, to clearly define roles to ensure restraining orders are applied for in all suitable cases and that the victim's consent is obtained. This process should ensure prosecutors are made aware of what conditions are appropriate to protect the victim and that victims are consulted on the proposed conditions.

Our findings: How can protection best be achieved?

Legislative change

Changes in legislation which are already being implemented will, we believe, help ensure women and girls, and indeed all victims in society, are better protected. For example, new measures implemented via the Police, Crime, Sentencing and Courts Bill should lead to better outcomes for victims in respect of the use of pre-charge bail.

The Domestic Abuse Act 2021 widens the definition of domestic abuse, and among other changes introduces a new civil Domestic Abuse Protection Notice (DAPN) to provide immediate protection following a domestic abuse incident, and a new civil Domestic Abuse Protection Order (DAPO) to provide flexible, longer-term protection for victims. This Act will repeal the DVPNs and DVPOs which are part of the super-complaint investigated.

Additionally, the Stalking Protection Act 2019 introduced a new civil Stalking Protection Order.¹⁵

It is essential that all of these changes in legislation are communicated to frontline police officers, and that they are given clear guidance to help them understand the law.

Training all officers in every aspect of the complexities involved in responding to every threat to female victims is not feasible, nor would it necessarily lead to the best outcome for all victims of crime. While we agree there are real benefits in making sure all frontline officers have some training, such as the 'DA Matters' training, consideration should be given to building on this to update officers on legislative changes. Staff with specialist skills, such as domestic abuse experts, will similarly need to be trained on the new law. Additionally, given the overlap between stalking victims and domestic abuse victims, police officers will need to be equipped to understand, at least at a high level, the range of protective measures that are available to protect victims.

A collective response

Making sure women and girls are properly protected is not a matter for the police alone. A joined-up approach across the police, government, criminal justice system and those who provide support to victims is, we believe, the best way of achieving the optimum outcome.

¹⁵ A Stalking Protection Order (SPO) is made on application to the magistrates' court by the police. It is a civil order. Within an application for a SPO or an interim order, police can request both prohibitions and/or requirements to protect the victim from the risk of stalking.

For example, we will not know if the changes introduced by new legislation have improved victims' experiences unless there are systems in place to measure this and assemble data consistently across England and Wales. The wider definition of domestic abuse means it will be even more important to ensure proper recording of the different domestic abuse crime types so that the effectiveness of the different measures can be monitored. Without this it will not be possible to monitor the different protective measures most commonly used for each of them. Recording this data will ultimately allow forces to determine which protective measures are most effective in addressing different crime types.

Another example which supports the case for better co-ordination is highlighted by our findings in respect of NMOs. The interface between the civil courts and the police needs to work more efficiently, so that police officers can easily and quickly access the information they need. Priority must be given to the creation of a system whereby police know that an order is in place, and that all orders are worded in an unambiguous way, so officers can be clear whether or not there has been a breach and they can make an arrest.

In respect of DVPNs and DVPOs, and the soon-to-be-introduced DAPOs and DAPNs, again their use is part of a much bigger picture and a broader package of support that needs to be available to victims. While having access to these measures is important and creates, in effect, a 'breathing space' for victims, they are not likely to bring about the most positive outcome achievable for a victim if used in isolation. Using these in parallel with making other interventions, such as support from third-sector organisations for both victims and suspected perpetrators, is what we believe is needed.

While there are many good examples of the police and the CPS working together, there is scope for these links to be improved further to ensure restraining orders are applied for in every case in which they are needed.

Conclusions

There needs to be better data collection on the use of protective orders and research conducted on what works. This will help inform the police's use of these tools. We have found evidence that the limited data around the use of these protective orders continues in spite of many reports and reviews noting the issue. We consider the Government's commitment in its [Tackling violence against women and girls strategy](#) "to improve data, and in turn improve understanding, of these crimes" should include a clear focus on the data relating to use of the protective orders that can be used to improve the safety of vulnerable people.

Nevertheless, it is important that the police consider the full range of protective orders that may be available when making arrangements to keep victims safe. They should involve victims to the extent they can, recognising that some victims may be unwilling or unable to become involved in the process.

Our investigation has found evidence to support many of the concerns set out in the super-complaint, as documented in the sections above.

It is clear that the Policing and Crime Act 2017 resulted in some unfavourable consequences for victims of crime and we anticipate the Police, Crime, Sentencing and Courts Bill will remedy these. However, measuring the value of these changes in the future is essential to being able to take an informed view of their success.

While our investigation identified evidence which showed the policing of non-molestation orders and restraining orders can be improved, and we have made recommendations in respect of these, we think the fundamental problem for each is broader than any failure in policing. Changes need to be made to the way the police, civil and criminal courts co-ordinate their work so that important information, and consequently victims' safety, does not fall between the gaps that currently exist in the system.

Similarly, while our investigation has made recommendations for improving the policing of DVPNs/DVPOs and the orders which will replace them, making sure there is a multi-agency, community response, tailored by forces and local authorities is, in our view, the best way of providing better protection for women and girls.

Combining efforts on all of these measures simultaneously is paramount if this vulnerable section of the population is to be properly safeguarded.

Overarching recommendations

Recommendations

13. Chief constables should assure themselves that:

- a. their officers are fully supported in carrying out their duties to protect all vulnerable domestic abuse victims by:
 - i. ensuring their officers understand the suite of protective measures available (including new measures such as DAPOs);
 - ii. ensuring officers are aware of referral pathways to third-party support organisations which are available to protect vulnerable domestic abuse victims; and
 - iii. ensuring their officers have guidance and support on how to choose the most appropriate response for the situation; and
- b. governance is in place to monitor the use of all protection orders and to evaluate their effectiveness, including by seeking the views of victims.

14. Chief constables should consider what legal support they need to use protective measures (if they don't already have this) and secure this support. The NPCC should consider whether regional or national legal (or other) expertise could be made available, so forces can easily access specialist support and can maximise efficiency and consistency.

15. Monitoring of recommendations

- a. Home Office and Ministry of Justice to each provide a report to Her Majesty's Chief Inspector of Constabulary on progress in implementing HMICFRS's recommendations within six months of the date of publication of this report.
- b. NPCC to collate chief constables' progress in reviewing and, where applicable, implementing their recommendations and report these to Her Majesty's Chief Inspector of Constabulary within six months of the date of publication of this report.

Recommendations and actions

Recommendations

1. Chief constables, in conjunction with the NPCC lead for bail, should implement processes for managing RUI in line with the letter from the NPCC Lead for Bail Management Portfolio dated 29 January 2019 (Annex F). This is to ensure, as far as is possible, that investigations are conducted efficiently and effectively, thereby supporting both victims of crime and unconvicted suspects.
2. Chief constables should ensure data is gathered on the use of voluntary attendance to enable the identification of patterns of its use, particularly in relation to the types of cases, so that voluntary attendance is only used in those cases where it would be an appropriate case management tactic.
3. Chief constables should introduce processes to ensure that in all pre-charge bail cases where bail lapses, the investigator in charge of the case carries out an assessment of the need for pre bail-charge to continue. In those cases where the suspect has not been charged, the decision to extend or terminate bail should be recorded with a rationale.
4. The Home Office should commission research on whether bail reduces re-offending and protects victims, and publish the findings of any such research.
5. The Home Office and Ministry of Justice should intensify and accelerate their consideration of the creation of a bespoke offence of breaching pre-charge bail.
6. The Ministry of Justice and the Home Office should review the mechanism for informing the police of NMOs and propose remedies for improvement.
7. Chief constables should review and if necessary refresh their policy on how the force processes notifications of NMOs, so officers can easily identify if an NMO exists.
8. The Ministry of Justice should review a sample of NMOs to consider whether the wording of these are ambiguous and could cause problems for enforcement and propose a remedy to prevent ambiguity in NMO wording, if it is identified.
9. The Home Office should publish data on the number of reported breaches of NMOs. This should form part of the annual data collection on the applications for and granting of NMOs.

Recommendations

10. The NPCC lead for domestic abuse should consider Home Office data on the number of reported breaches of NMOs, and provide a report to HMICFRS within six months on national actions and guidance required as a result.

11. Chief constables should, until DAPOs replace DVPNs and DVPOs in their force:

- a. review, and if necessary refresh their policy on DVPNs and DVPOs, and in line with the overarching recommendation:
 - i. ensure that there is clear governance and communication to prioritise the effective use of DVPNs and DVPOs, when these are the most appropriate tools to use;
 - ii. monitor their use to ensure they are being used effectively; and
- b. ensure experience and lessons learned on using DVPN/DVPOs informs the use of DAPOs.

12. The NPCC should formulate a robust process, working with the CPS, to clearly define roles to ensure restraining orders are applied for in all suitable cases and that the victim's consent is obtained. This process should ensure prosecutors are made aware of what conditions are appropriate to protect the victim and that victims are consulted on the proposed conditions.

13. Chief constables should assure themselves that:

- a. their officers are fully supported in carrying out their duties to protect all vulnerable domestic abuse victims by:
 - i. ensuring their officers understand the suite of protective measures available (including new measures such as DAPOs);
 - ii. ensuring officers are aware of referral pathways to third-party support organisations which are available to protect vulnerable domestic abuse victims; and
 - iii. ensuring their officers have guidance and support on how to choose the most appropriate response for the situation; and
- b. governance is in place to monitor the use of all protection orders and to evaluate their effectiveness, including by seeking the views of victims.

14. Chief constables should consider what legal support they need to use protective measures (if they don't already have this) and secure this support. The NPCC should consider whether regional or national legal (or other) expertise could be made available, so forces can easily access specialist support and can maximise efficiency and consistency.

Recommendations

15. Monitoring of recommendations

- a. Home Office and Ministry of Justice to each provide a report to Her Majesty's Chief Inspector of Constabulary on progress in implementing HMICFRS's recommendations within six months of the date of publication of this report.
- b. NPCC to collate chief constables' progress in reviewing and, where applicable, implementing their recommendations and report these to Her Majesty's Chief Inspector of Constabulary within six months of the date of publication of this report.

Actions

1. In light of changes to pre-charge bail, we propose that HMICFRS should consider future inspection activity to review the impact of the changes.
2. The College of Policing will update its guidance to reflect changes needed on the implementation of the Police, Crime, Sentencing and Courts Bill and to clarify that officers may consider that if a suspect were to be released from police detention on bail with lawfully imposed conditions, the need for those conditions may well fulfil the 'necessity test' for arrest.
3. HMICFRS to continue to assess use of DVPN/DVPOs and any new domestic abuse orders through its wider inspection activity.
4. HMICFRS should consider future inspection activity in respect of restraining orders, including supervision and monitoring use of these by police forces. After a suitable period when more data is available from the inspection activity, HMICFRS and Her Majesty's Crown Prosecution Service Inspectorate (HMCPIS) should consider undertaking a review to assess how effective the police and CPS are at applying for restraining orders, and if there is any point of failure within the process that needs to be addressed.

Annex A: The Centre for Women's Justice

The Centre for Women's Justice describes itself as “a legal charity that aims to hold the state to account around male violence against women and girls and challenge discrimination in the criminal justice system. It undertakes strategic litigation, provides training to frontline specialist women's services and access to advice and representation to victims and survivors, that those services support. Through working in this way, CWJ is able to monitor trends and systemic flaws in policies and practice of criminal justice agencies and raise awareness of these issues through media coverage.”

[More information can be found on its website.](#)

Annex B: The police super-complaint system

Background

The police super-complaints system began on 1 November 2018. It enables certain organisations designated by the Home Office (known as ‘designated bodies’) to raise concerns on behalf of the public about a feature of policing in England and Wales that is, or appears to be, significantly harming the public interest. [The full list of designated bodies is available.](#)

The system is designed to examine systemic problems of local, regional or national significance that may not be addressed by existing complaints systems. Super-complaints will not typically be about individual forces.

A super-complaint is a complaint that “a feature, or combination of features, of policing in England and Wales by one or more than one police force is, or appears to be, significantly harming the interests of the public”.¹⁶

Super-complaints can be made about:

- any one or more of the 43 police forces in England and Wales;
- British Transport Police;
- Civil Nuclear Constabulary;
- Ministry of Defence Police; and
- National Crime Agency.

The process for making and considering super-complaints is set out in the Police Super-complaints (Designation and Procedure) Regulations 2018 (‘the Regulations’).

The three bodies responsible for assessing, investigating and reporting on police super-complaints are HMICFRS, the Independent Office for Police Conduct (IOPC) and the College of Policing. [More information about their individual roles is available online.](#) [Guidance on making a super-complaint about policing is available online.](#)

Investigating and assessing a police super-complaint

A new super-complaint from a designated body first is assessed by HMICFRS, the College of Policing and the IOPC to see if it is eligible for consideration. If the three bodies agree that it meets the eligibility test in the legislation, they plan what activity needs to happen.

¹⁶ [Guidance on submitting a super-complaint about policing: What is a super-complaint?](#), IOPC, College of Policing and HMICFRS, updated 18 April 2019.

The aim of a super-complaint investigation is to identify if there is (or may be) a problem with policing that could harm the public, and to propose a remedy if this is the case. A super-complaint investigation isn't a comprehensive inquiry into police practices in all forces.

The scope and elements vary by case, but lines of enquiry may include:

- assessing relevant information already held by the investigating authorities;
- doing or commissioning further research (including data);
- approaching other public bodies or government departments for information;
- seeking information from other important parties (for example those with experience relevant to the topic of the super-complaint);
- asking for information from police forces;
- talking to people directly affected by the issues set out in a super-complaint (for example in focus groups); and
- interviewing staff and officers in a small number of police forces.

The information gathered in all individual lines of enquiry (such as those indicated above) is considered as a whole. The information is used by HMICFRS, the College of Policing and the IOPC to decide whether a feature (or features) of policing is or appears to be leading to significant harm to the public interest.

'Significant harm' isn't defined in the legislation governing the super-complaints process and we consider it should be given its ordinary meaning.

Investigation outcomes

If the decision-making bodies decide there is or could be significant harm to the public interest, they may consider action is needed to further investigate or put the situation right.

An investigation may also result in a conclusion that the super-complaint is unfounded or that no action is required.

The outcomes of an investigation include:

- an inspection by HMICFRS;
 - an investigation by the IOPC;
 - changes to existing policing standards or support materials from the College of Policing;
 - a recommendation that another public body is better placed to deal with the problem;
 - a recommendation to one or more police forces to change practices or local policies;
- or

- a recommendation to another public body or government department to consider responding to the super-complaint or a related matter.

Where recommendations are made, we expect the organisations named in the recommendations to act on them and consider whether they need to involve others to bring about change.

HMICFRS, the College of Policing and the IOPC may individually, or as a group, monitor the implementation of recommendations made after each super-complaint investigation. They may take further action if they consider a feature of policing continues to cause harm.

Annex C: People and organisations consulted

- Crown Prosecution Service
- Her Majesty's Crown Prosecution Service Inspectorate
- HMICFRS Domestic Abuse Expert Reference Group
- Home Office
- Ministry of Justice
- National Police Chiefs' Council
- PACE Strategy Board
- University of Bristol (Centre for Violence and Research)

Annex D: About the data

The information presented in this report comes from a range of sources, including published data, HMICFRS data collections, HMICFRS file reviews and HMICFRS recommendations. Not all the data mentioned below was used in the report, but all data sources were used in the investigation of this super-complaint.

HMICFRS Integrated PEEL Assessments all-force data collection

HMICFRS collects quarterly data from all forces quarterly. The data covers many elements of policing, one of which being domestic abuse.

Caveats around this data can be seen below.

HMICFRS DVPN/O data

There are several issues with data provided to HMICFRS by forces surrounding applications and grants of DVPNs and DVPOs.

Many forces do not record the number of applications for DVPNs. Some forces report that the number issued is the same as applications made. For this reason, the number of applications is excluded from this report.

The data is the best available but may have some omissions. It is published by the ONS as part of the annual [Domestic Abuse in England and Wales Overview](#).

HMICFRS Pre-charge bail and released under investigation data

Background

At the time of the 2017 effectiveness and domestic abuse thematic reports, HMICFRS was unaware of the data quality problems in respect of pre-charge bail and released under investigation (RUI). On revisiting this data, it became apparent that there were data quality problems, so HMICFRS stopped using pre-charge bail and RUI data in its published reports. As such, HMICFRS would not recommend drawing conclusions using the data collected in June 2017 beyond the data in respect of the decreases seen in the use of pre-charge bail which were likely as a result of legislative changes in 2017.

To improve its understanding of how pre-charge bail and RUI are recorded for operational purposes, HMICFRS visited five forces (Durham, Gwent, Humberside, Metropolitan Police and South Wales) that volunteered their assistance.

HMICFRS noticed inconsistencies in how forces record this information and difficulties in extracting meaningful data for analytical purposes. To widen our evidence base, HMICFRS conducted a survey distributed to all 43 forces in England and Wales; 34 forces responded. Principal findings indicated:

- Although forces have some information on the use of RUI/pre-charge bail, there is no consistency across England and Wales; this means that as a whole we are unaware of the scale of RUI/pre-charge bail and are also unable to accurately monitor changes and trends.
- Forces are recording RUI/pre-charge bail on different systems: crime systems, custody systems, bespoke systems, or combinations of systems. This means that RUI/pre-charge bail is being recorded against a mixture of crimes, suspects, incidents and arrests – hence the denominator for counts is different across forces, affecting any measurement of the scale of use.
- There are complexities with multiple content. For example, multiple suspects, crimes, incidents and combinations thereof might mask the true scale of RUI/pre-charge bail.

Pilot

Following a review of the survey, HMICFRS issued a pilot question set to forces as part of our autumn data collection. This was to test whether forces can provide data the way in which we've requested, and whether this aligns with survey responses. Forces were informed this data would not be published or disseminated more widely. Forces were informed HMICFRS would use the insights gained from the pilot to develop a question set on RUI and pre-charge bail for our spring 2020 data collection.

Analysis of the survey data alongside the pilot data return indicated that although some forces were able to provide the data that they said they could, some forces showed inconsistencies in what data the force said it could provide and what it did then provide (for example, some forces said that they could provide data in the survey but then did not provide it in the pilot, and some forces said they could not provide data in the survey and then did provide it in the pilot).

Note that a number of forces did not respond to the survey or provide pilot data, so we do not have the full picture across all forces.

HMICFRS actions

HMICFRS has used the data collected from the pilot to design a question set on RUI and pre-charge bail in its spring 2020 data collection.

Initial findings indicate 'good' and 'bad' forces, in terms of whether records of pre-charge bail and RUI exist. Forces have not changed their approaches and are recording the same information over time, even if the recording approaches between forces may be inconsistent – but the different approaches are not necessarily right or wrong.

HMICFRS is now collecting data from forces, based on how forces record the data. For example, if a force records these powers against an arrest record, the questions that follow will be directed towards the use of pre-charge bail following an arrest.

This approach will result in groups of forces receiving the same question set. Data may be comparable across forces with similar approaches, but we will not be able to compare all forces in England and Wales. HMICFRS will not track retrospective changes over time – such as differences from legislative changes in 2017 – as it will focus on gaining an accurate picture on the current use of, and recording practices of, pre-charge bail and RUI, building a new consistent time series against a consistent question set.

The limitations in the data mean it cannot be used to answer the question of whether victims are put at more or less risk compared with other bail powers as (a) there are inconsistent recording practices across forces and (b) we don't know the context of the data. For example, it is not possible to establish the number of individuals bailed going on to offend after being bailed and whether this outcome would have been any different had a different power been used.

Ministry of Justice non-molestation order data

This data is gathered from two separate data bulletins:

1. 'applications and orders made for domestic violence remedies in England and Wales, annually 2003–2018' from Family Court Statistics and
2. 'the number of defendants proceeded against at magistrates' courts and found guilty at all courts for breach of non-molestation orders in England and Wales' from Criminal Justice System statistics, March 2019.

For domestic abuse cases there is no widely used marker for the conclusion of cases; here cases are considered to be concluded in the quarter of the last definitive order in the case.

The figures relate to defendants for whom these offences were the principal offences for which they were dealt with. When a defendant has been found guilty of two or more offences it is the offence for which the heaviest penalty is imposed. Where the same disposal is imposed for two or more offences, the offence selected is the offence for which the statutory maximum penalty is the most severe.

Home Office non-molestation order data

Official statistics based on police recorded crime collected by the Home Office from all police forces in England and Wales are published by the Office for National Statistics. This includes the data on recorded offences of breach of a non-molestation order. However, the statistics are published as aggregated groupings and not at specific offence level.

Ministry of Justice restraining order data

This data was taken from the [Violence Against Women and Girls Report 2018–19](#) published by the CPS.

This data covers all offence types.

There are a small proportion of defendants with an unknown sex post 2010, therefore the total number of defendants does not exactly equal male plus female following this date.

HMICFRS crime file review

During HMICFRS's Integrated PEEL Assessment inspections, a file review is carried out on each force which spans a range of crime types. The crimes which had a domestic abuse marker are included in this report.

This data is only a small sample of domestic abuse flagged crimes so the findings should not be treated as statistically significant or a representation of all domestic abuse flagged crimes across England and Wales.

HMICFRS Monitoring Portal

HMICFRS Monitoring Portal contains recommendations issued by HMICFRS to police forces in England and Wales since 2013. From this database, we can extract recommendations given to forces that are related to this super-complaint.

For this product, the snapshot of data was extracted from the database on 18 November 2019. The accuracy of the recommendation status (whether it is open or closed) is reliant on updates in the Monitoring Portal from HMICFRS staff after inspection work. Therefore, there may be some delays in the portal showing the closure of some recommendations.

ONS Crime Outcome Data

Data based on responses from 24 forces in 2017, 29 forces in 2018, 37 forces in 2019 and 29 forces in 2020.

Annex E: Recommendations from *Pre-charge bail and released under investigation: striking a balance*

[*Pre-charge bail and released under investigation: striking a balance*](#) is available on the HMICFRS website.

- The Home Office should work with police and the College of Policing to review the legislation for bail and RUI. The bail consultation completed in 2020 should provide evidence for reviewing who must authorise bail and time frames for bail extensions. The learning from this report should inform this work.
- The Home Office should work with police and the College of Policing to make sure forces have enough time and adequate resources to prepare for any future changes to the legislation which arise from the bail consultation. They should also provide police forces with comprehensive guidance and protocols on the changes.
- The Home Office and the National Police Chiefs' Council (NPCC) should work together to develop and put in place data collection processes to give an accurate national picture of RUI and pre-charge bail.
- The Home Office should work with police forces and the College of Policing to develop and implement monitoring arrangements to make sure that changes resulting from the bail consultation are effective.
- The Home Office should work with the NPCC, the CPS and the College of Policing to make sure that any changes to the legislation secure improvements for victims of crime.
- The College of Policing should work with the NPCC to ensure that clear guidance is developed for officers in relation to updating suspects who are RUI on the progression of their cases.
- The College of Policing and NPCC should work together to develop clear guidance for police forces so that all cases involving serious harm and risk, such as domestic abuse and stalking, are subject to bail with conditions to protect victims and require a new risk assessment before a suspect's bail status changes.
- Forces should develop processes and systems to clearly show whether suspects are on bail or RUI. This will help them to better understand the risk a suspect poses to victims and the wider community and will help to increase safeguarding.

- Forces should record whether a suspect is on bail or RUI on the MG3 form when it is submitted to the CPS. This should be regularly checked and any changes in bail or RUI provided to the CPS. The CPS should work with the police to ensure this information is provided.
- The CPS and NPCC should work together to review their service level agreements and make sure that cases can be charged at the earliest opportunity.

Annex F: Letter from the NPCC Lead for Bail Management Portfolio dated 29 January 2019

Operational Guidance for Pre-Charge Bail and Released under Investigation

Dear Colleagues

This practitioner guidance has been prepared by the NPCC following the changes to pre-charge bail, introduced by the Policing and Crime Act on 3rd April 2017.

The legislation change was the first major reform of pre-charge bail, since PACE in 1984 and is intended to provide greater transparency, accountability and scrutiny concerning the management of bail.

The Policing and Crime Act introduced a rebuttable presumption that suspects should be released without bail, unless bail is necessary and proportionate in the circumstances. When bail is applied, adherence to strict timescales and authorisations are now a legislative requirement. These changes represent a tightening of the way in which bail is managed and since their introduction have significantly impacted not only the police service, but also our criminal justice partners.

Now that the practical effect of these changes is better understood, it is timely for guidance to be produced to assist officers and staff in recognising when and how pre-charge bail can be used in order to contribute to an effective investigation, but more importantly to safeguard and protect the associated victims and witnesses. Pre-charge Bail remains a legitimate option for investigators and should be used where appropriate.

I am grateful for the co-operation and support that has assisted in the production of the practitioner guidance, including the contributions from police forces and our partners in the criminal justice system.

This practitioner guidance is not intended to be used in isolation and reference should always be made to the primary legislation. It is intended to highlight some of the issues and challenges that have been encountered to date and outline some suggested considerations for practitioners in utilising the process to maximum benefit.

Chief Constable Darren Martland
National Police Chiefs' Council
NPCC Lead for Bail Management Portfolio

Annex G: Definitions and interpretations

In this report, the following words, phrases and expressions in the left-hand column have the meanings assigned to them in the right-hand column. Sometimes, the definition will be followed by a fuller explanation of the matter in question, with references to sources and other material which may be of assistance to the reader.

| Term | Definition |
|--|---|
| abuser | person who causes harm or distress to another |
| Aurora New Dawn | registered charity giving safety, support, advocacy and empowerment to survivors of domestic abuse, sexual violence and stalking |
| Authorised Professional Practice (APP) | professional practice on policing, developed and approved by the College of Policing; police officers and staff are expected to have regard to APP in discharging their responsibilities |
| bail | <p>alternative to custody, usually imposing conditions on what the individual can and cannot do; types of bail include:</p> <ul style="list-style-type: none"> • pre-charge bail or police bail, imposed by the police, when there isn't sufficient evidence to charge the individual; • post-charge bail, imposed by the police, when an individual has been charged; and • court bail, imposed by the courts when an individual has been charged |
| BritainThinks | research consultancy that conducted qualitative research (first-hand observations and interviews) for HMICFRS to explore victim and suspect experiences of changes made as a result of the Policing and Crime Act 2017 |
| controlling, coercive or threatening behaviour | behaviour and actions of a perpetrator that are intended to control the victim through isolation, intimidation, degradation and micro-regulation of everyday life; the term and concept were developed by Evan Stark, seeking to explain the range of tactics used by perpetrators, and their effects on victims; the concept highlights the continuing nature of the behaviour, and the extent to which the actions of the perpetrator control the victim; crucially, the concept sets out that such abuse can be psychological as well as physical; the term is explicitly covered within the definition of domestic abuse; the offence of controlling or coercive behaviour within an intimate or familial relationship is set out in section 76 of the Serious Crime Act 2015, and carries a maximum sentence of five years' imprisonment, a fine, or both, for offenders |

| Term | Definition |
|---|---|
| crime data integrity inspections | inspections to assess whether crimes are being recorded by the police when they should be and are being categorised correctly |
| Crime Survey for England and Wales | annual survey to monitor the extent of crime in England and Wales, conducted by Kantar on behalf of the Office for National Statistics; it is used by the Government to evaluate and develop crime-reduction policies and also provides information about the changing levels of crime over the last 30 years |
| digital case file system | system being introduced in 2021 to digitally acquire, store and secure all case file information and evidence, including multimedia, relevant to a criminal prosecution once in a chain of evidential integrity, which will be accessible on demand to all criminal justice partners |
| domestic abuse | incident or pattern of incidents of abusive behaviour of one person towards another, where those persons are 16 or over and are personally connected to each other; behaviour is abusive if it consists of (a) physical or sexual abuse; (b) violent or threatening behaviour; (c) controlling or coercive behaviour; (d) economic abuse or (e) psychological, emotional or other abuse; persons are personally connected if they are or have been married to each other or civil partners, engaged, in an intimate personal relationship, relatives, or where they have or once had a parental relationship in relation to the same child; the abuse may also be towards another person, such as a child; economic abuse is behaviour that has a substantial adverse effect on the victim's ability to acquire, use or maintain money or other property, or obtain goods or services; Domestic Abuse Act 2021, section 1 |
| Domestic Abuse Protection Notice (DAPN) | notice issued by a senior police officer prohibiting a person ('P') from being abusive towards a person aged 16 or over to whom P is personally connected; Domestic Abuse Act 2021, section 22 |
| Domestic Abuse Protection Order (DAPO) | order made by a court for the purpose of preventing a person ('P') from being abusive towards a person aged 16 or over to whom P is personally connected; it may be made (a) on application by the person for whom the protection order is sought, by the police or by other person specified, or (b) in the course of certain proceedings; Domestic Abuse Act 2021, section 27 |
| Domestic Violence Assist | registered charity that provides immediate emergency help to victims of domestic violence, including arranging non-molestation orders, prohibited steps orders and occupation orders |

| Term | Definition |
|--|--|
| Domestic Violence Protection Notice (DVPN) | initial notice issued by the police under sections 21 to 33 of the Crime and Security Act 2010 to provide emergency protection to an individual believed to be the victim of domestic violence; must be authorised by a police superintendent; contains prohibitions that effectively bar the suspected perpetrator from returning to the victim’s home or otherwise contacting the victim; may be issued to an adult if the police superintendent has reasonable grounds for believing that the adult has been violent towards, or has threatened violence towards an associated person, and the notice is necessary to protect that person from violence or a threat of violence by the intended recipient of the notice; piloted in three police areas in 2011–12 and introduced nationally in 2014 |
| Domestic Violence Protection Order (DVPO) | order that helps the police and magistrates’ courts to put in place protection in the immediate aftermath of a domestic abuse incident; where there is insufficient evidence to charge a perpetrator and give protection to a victim via bail conditions, a DVPO can prevent the perpetrator from returning to a residence and from having contact with the victim for up to 28 days; this gives the victim an opportunity to consider their options and get the support and guidance they need from a dedicated domestic abuse service |
| early investigative advice | guidance and advice provided to the police by a CPS lawyer in serious, sensitive or complex cases, or any case where a police supervisor considers it would be of assistance; meant to be given at a very early stage of a case, to help decide what evidence will be required to support a prosecution, or to decide if a case can proceed to court |
| female genital mutilation | procedure where the female genitals are deliberately cut, injured or changed, without medical reason; the practice is illegal in the UK and is an internationally recognised human rights violation; also known as ‘female circumcision’ or ‘cutting’ |
| force control room | facility in each police force in which call operators answer telephone calls from the public, determine the circumstances of the call and decide the initial response |
| forced marriage | marriage conducted without the valid consent of one or both parties |
| harassment | causing alarm or distress and/or putting a person in fear of violence; it includes the offence of stalking, either in person or through other means of communication; it is defined in sections 2 and 4 of the Protection from Harassment Act 1997; high-risk harassment means it is likely that a victim will be subject to an incident that is life-threatening and/or traumatic, and from which recovery, whether physical or psychological, can be expected to be difficult or impossible |

| Term | Definition |
|--|--|
| high-harm case | case in which the victim is at high risk of harm; includes most cases of domestic abuse and sexual violence |
| Home Office Crime Outcomes Data | annual official statistics on case outcomes that police forces have assigned to notifiable offences that have been recorded by the police in England and Wales |
| human trafficking | arranging or facilitating the travel of another person by recruiting, transporting or transferring, harbouring or receiving, or transferring or exchanging control over them with a view to exploiting them; the travel may be within a single country or across one or more international borders; it is irrelevant whether the person consents to the travel; an unlawful act, contrary to section 2 of the Modern Slavery Act 2015 |
| Managed Learning Environment | the College of Policing’s online learning portal |
| multi-agency risk assessment conference (MARAC) | locally held meeting where statutory and voluntary agency representatives come together and share information about people at high risk of domestic abuse; any agency can refer an adult or child they believe to be at high risk of harm; the aim of the meeting is to produce a co-ordinated action plan to increase an adult or child’s safety, health and wellbeing; agencies that attend vary, but are likely to include the police, probation, health and housing services; over 250 are currently in operation in England and Wales |
| <u>National Centre for Domestic Violence</u> | community interest company that provides a free, fast emergency service to help survivors of domestic abuse and violence obtain protection against an abuser, as well as offering services to the police, probation service, domestic abuse agency workers, the legal profession and judiciary; it helps survivors of domestic abuse and violence to obtain injunctions regardless of their financial circumstances, race, gender, age, beliefs or sexual orientation |
| National Police Chiefs’ Council (NPCC) | organisation which brings together 43 operationally independent and locally accountable chief constables and their chief officer teams to co-ordinate national operational policing; works closely with the College of Policing, which is responsible for developing professional standards, to develop national approaches on matters such as finance, technology and human resources; replaced the Association of Chief Police Officers on 1 April 2015 |
| No Excuse | multi-agency campaign led by the West Midlands Police and Crime Commissioner, West Midlands Police and victims’ services to give information to the public about what services are available to victims of domestic abuse and to emphasise that support is available to those in need while coronavirus continues to present new challenges |

| Term | Definition |
|------------------------------------|---|
| non-molestation order | court order that victims of domestic abuse can apply for that provides a longer period of protection than other protective measures, usually 6 to 12 months; it can also be extended |
| outcome 15 | category of crime outcome: 'evidential difficulties: suspect identified; victim supports action' |
| outcome 16 | category of crime outcome: 'evidential difficulties: suspect identified; victim does not support further action' |
| PEEL inspections | HMICFRS inspections of police effectiveness, efficiency and legitimacy |
| Police National Computer (PNC) | computer system used extensively by the police and other UK law enforcement organisations to access real-time information of national and local significance; the PNC is linked with the European-wide IT system (Schengen Information System [SIS II]), enabling all participating member states to share real-time information via a series of alerts; police forces use the PNC to carry out checks – for example, on a person's criminal record or vehicle registration |
| positive action | activity conducted at all stages of the police approach to ensure effective protection of victims and children, while allowing the criminal justice system to hold the offender to account; it is often used in the context of arrest policy (that is, that an arrest will normally be 'necessary' under the terms of the Police and Criminal Evidence Act 1984 to protect a child or vulnerable person, to prevent the suspect causing injury and/or to allow for the prompt and effective investigation of the offence) |
| public protection unit | section of a police force dedicated to ensuring the safety of those in danger of becoming victims of crimes such as child sexual exploitation, modern slavery and human trafficking and domestic abuse |
| Rape Crisis | registered charity and national umbrella body for a network of autonomous member Rape Crisis Centres across England and Wales that provide frontline specialist, independent and confidential services for women and girls of all ages who've experienced any form of sexual violence, at any time in their lives |
| released under investigation (RUI) | alternative to police bail that allows a suspect to be released from police custody while police investigations continue, but without conditions having been imposed |
| restraining order | civil order made by a court that considers it is necessary to protect the persons named in it from harassment or conduct that will put them in fear of violence; can be made on conviction or acquittal |

| Term | Definition |
|---------------------------|--|
| Rights of Women | registered charity that provides free and confidential legal advice and information to women |
| risk assessment | structured professional judgment using a guide/checklist method by which the likelihood of risk is determined; completion is intended to help police officers in the decision-making process on appropriate levels of intervention for victims of domestic abuse |
| safeguarding | protection of an individual's health, wellbeing and human rights, enabling them to live free from harm, abuse and neglect |
| SafeLives | UK-wide charity dedicated to ending domestic abuse, for everyone and for good; works with organisations across the UK to transform the response to domestic abuse; it looks at the whole picture for each individual and family to get the right help at the right time to make families everywhere safe and well |
| sexual exploitation | exploitation that includes rape, prostitution, sexual photography, subjection to pornography or witnessing sexual acts, and sexual assault or sexual acts to which a person has not consented or was pressured into consenting; adults and children can be sexually exploited |
| slip rule | procedural rule allowing courts to reopen sentencing proceedings to correct an obvious mistake |
| stalking | pattern of unwanted, persistent pursuit and intrusive behaviour directed by one person to another, that engenders fear and distress in the victim and is characterised by an obsessive fixation with the victim; offences under sections 2A and 4A of the Protection from Harassment Act 1997; examples of the types of behaviour that may be displayed in a stalking offences are given in section 2A(3) of the Protection from Harassment Act 1997, and include following a person; contacting, or attempting to contact, a person by any means; and monitoring the use by a person of the internet, email or any form of electronic communication |
| Stalking Protection Order | civil order that can be sought by the police to enable early police intervention, pre-conviction, to address stalking behaviours before they become entrenched or escalate in severity and to protect victims from more serious harm; there is no restriction as to the stage of the criminal justice process at which an order may be made, and depending on the circumstances an order could also be made following conviction or acquittal |
| survivors | people who have survived or experienced an ordeal, for example, honour-based violence, forced marriage or female genital mutilation |
| thematic inspection | inspection that focuses on a particular subject or topic |

| Term | Definition |
|---|--|
| victim | in relation to an alleged or suspected criminal offence, the person who (a) says they are the person against whom that offence was or may be committed; or (b) is said or considered by another person to be the person against whom that offence was or may be committed |
| Victims' Code (The Code of Practice for Victims of Crime) | statutory code of practice issued by the Secretary of State for Justice under section 32 of the Domestic Violence, Crime and Victims Act 2004; the code establishes minimum standards on the rights, support and protection of victims of crime; its stated objective is to ensure the criminal justice system puts victims first, making the system more responsive to them and easier for them to navigate; it also aims to ensure that victims of crime are treated well and receive appropriate support to help them cope and recover, and to protect them from becoming victims again; the code specifies the services which must be provided to victims of crime in England and Wales, and sets a minimum for the standard of those services; higher entitlements are set for victims of the most serious crime, persistently targeted victims and vulnerable or intimidated victims; the public sector bodies which are obliged to provide services to victims of crime are specified in the code, and include police forces and police and crime commissioners; the Victims' Commissioner has a statutory duty to keep the code under regular review |
| voluntary attendance | attendance by a person who is not under arrest |
| vulnerable person | person in need of special care, support or protection because of age, disability, or risk of abuse or neglect |
| 24-hour PACE clock | measure of time under the Police and Criminal Evidence Act 1984; 24 hours is (in most cases) the limit a person can be detained in police custody without being charged |

Annex H: Bibliography

Bates, L. and Hester, M. 2020. '[No longer a civil matter? The design and use of protection orders for domestic violence in England and Wales](#)', *Journal of Social Welfare and Family Law* 42: 133–153.

College of Policing. Authorised Professional Practice: [Arrest and other positive approaches](#)

College of Policing. Authorised Professional Practice: [Domestic abuse](#)

College of Policing. Authorised Professional Practice: [Post arrest management of suspect and case file](#)

College of Policing. Authorised Professional Practice: [Investigation](#)

Crown Prosecution Service. [Violence Against Women and Girls Report: 2018–19](#)

Hillier, J. and Kodz, J. 2012. [The police use of pre-charge bail: an exploratory study](#). National Policing Improvement Agency.

HMCPSP and HMICFRS, 2020. [Evidence led domestic abuse prosecutions](#)

HMIC, 2014. [Everyone's business: Improving the police response to domestic abuse](#)

HMIC, 2015. [Increasingly everyone's business: a progress report on the police response to domestic abuse](#)

HMIC, 2017. [PEEL: Police effectiveness 2016: A national overview](#)

HMIC, 2017. [Living in fear – the police and CPS response to harassment and stalking](#). A joint inspection by HMIC and HMCPSP.

HMICFRS, 2017. [A progress report on the police response to domestic abuse](#)

HMICFRS, 2019. [The police response to domestic abuse: An update report](#)

HMICFRS, 2019, [Stalking and harassment – An inspection of Sussex Police commissioned by the police and crime commissioner, and an update on national recommendations in HMICFRS's 2017 report](#)

HMICFRS, 2020. [North Wales Police PEEL effectiveness 2018/19](#)

HMICFRS, 2020. [Pre-charge bail and released under investigation: striking a balance](#)

HMICFRS, 2020. [Research into victim and suspect experiences of changes to the Policing and Crime Act 2017](#). Research commissioned by Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services. BritainThinks

HMICFRS, 2021. [Review of policing domestic abuse during the pandemic – 2021](#)

HMICFRS, 2021. [Interim report: Inspection into how effectively the police engage with women and girls](#)

HMICFRS, 2021, [A joint thematic inspection of the police and Crown Prosecution Service's response to rape](#). A joint inspection by HMICFRS and HMCPSI

Home Office, 2019. [Ending violence against women and girls: strategy 2016–2020](#)

Home Office, 2019. [Crime outcomes in England and Wales 2018 to 2019](#)

Home Office, 2020. [Police powers: pre-charge bail. Government consultation](#)

Home Office, 2021. [Police powers: Pre-charge bail. Government response](#)

Hoyle, C. and Sanders, A., 2000. 'Police response to domestic violence: From victim choice to victim empowerment?' *British Journal of Criminology* 40(1), 14–36

Hucklesby, A., 2015. [The Future of Pre-charge Police Bail: an introduction](#)

Hucklesby, A., 2016. [Policing and Crime Bill 2015–16: Pre-charge Bail \(Part 4 Chapter 1\)](#)

IOPC, College of Policing and HMICFRS, 2019. [Police super-complaints: Guidance on submitting a super-complaint about policing: What is a super-complaint?](#)

Kelly, L. et al., 2013. Home Office. [Evaluation of the pilot of Domestic Violence Protection Orders](#)

Learmonth, S., 2018. [A system to keep me safe': An exploratory study of bail use in rape cases](#)

Ministry of Justice, 2021. [Family court statistics quarterly: October to December 2020](#)

National Police Chiefs' Council, 2019. [Operational guidance for pre-charge bail and released under investigation](#)

Office for National Statistics, 2020. [Domestic abuse in England and Wales overview: November 2020](#)

Office for National Statistics, 2020. [Domestic abuse prevalence and victim characteristics – Appendix tables](#), Table 5a

Office for National Statistics, 2020. [Domestic abuse in England and Wales: appendix tables](#)

Office for National Statistics, 2021. [Crime Survey for England and Wales, year ending March 2020](#)

[Practice Direction 36H](#), issued by Sir James Munby in July 2018.

R (TL) v Chief Constable of Surrey Police [2017] EWHC 129 (Admin), [2017] 1 Cr.App.R.29

R. v. Herrington [2017] EWCA Crim. 889

SafeLives, 2015. [Getting it right first time](#)

West Midlands Police and Crime Commissioner, 2020. [No excuse](#)

Date of publication: 24 August 2021

Published by Her Majesty's Chief Inspector of Constabulary in accordance with Regulation 8 (2) (b) of the Police Super-complaints (Designation and Procedure) Regulations 2018

© HMICFRS 2021

<https://www.justiceinspectorates.gov.uk/hmicfrs/>

<http://www.college.police.uk/>

<https://policeconduct.gov.uk/>