

Response Pro Forma

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Please fill out your name and address or that of your organisation if relevant.

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Response Sheet

Contact details:

Please supply details of who has completed this response.

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16 July 2014

Please answer the consultation questions in the boxes below.

1. Do you agree that the CPS approach to understanding the context of domestic violence is right and well-informed?

The [MsUnderstood Partnership](#) welcomes this opportunity to contribute to the Crown Prosecution Service draft guidance on the prosecution of domestic violence cases.

In developing this response the MsUnderstood Partnership has drawn upon the following evidence:

- Emerging findings from local area support being delivered by the MsUnderstood Partnership
- Research from the University of Bedfordshire's International Centre Researching child sexual exploitation, trafficking and violence
- Emerging findings from on-going police case file analysis being conducted by the Head of the MsUnderstood Partnership
- Research into the impact of gang and serious youth violence conducted by the Head of the MsUnderstood Partnership while at Race on the Agenda
- Broader research and evidence into child sexual exploitation, teenage relationship abuse, and serious youth violence

Given the remit of the MsUnderstood programme (to focus on peer-on-peer abuse and exploitation) this response focuses on young people's needs and experiences of domestic violence. Our response will comment on specific paragraphs from the draft guidance where consideration of young people's needs and experiences could be strengthened.

In addition, given that [Imkaan](#) is part of the MSU Partnership, we have included input from Imkaan within this response.

We broadly agree with the draft guidance, and particularly welcome the sections of guidance on young people's relationships. This demonstrates leadership from the CPS, among statutory agencies, in recognising that the experiences of young people may not be the same as those of adults, and that young people may require a different approach.

While we are pleased to see sections specifically focused on teenagers in abusive relationships and teenage gangs, the remainder of the document remains adult-focused and does not consistently reflect or address the experiences of young people in abusive relationships. The guidance makes little reference to the role of youth services in supporting young people through investigation and prosecution and in working with prosecutors to assist the case-building process. Similarly, references to risk-assessment tools, multi-agency working arrangements and voluntary sector service provision are almost exclusively located within the adult sector.

As well as acknowledging the specific characteristics of young people's relationships and gang affected young people, the CPS must also highlight the specific actions and partnerships required by professionals in response.

Paragraph 5: We suggest the inclusion of *age* as a factor that needs to be taken into account when handling prosecutions of domestic violence.

Paragraph 8: Include youth-focused services such as children's social care, youth offending teams, voluntary sector youth services and schools in the list of agencies that should be regularly liaised with, in order to reflect the specific safety and support needs of young people.

Paragraph 30: How are defendants who are under the age of 18 and who are also victims flagged?

Paragraph 35: It is positive to see that domestic violence prosecutions should be addressed within an overall framework of violence against women and girls as well as alongside human rights. However, we therefore urge the CPS not address domestic violence or rape within gender neutral policies. Experiences of violence, risk to and safety of victims, their peers and families, following investigation and prosecution of domestic violence and rape are shaped by the gender, sexuality and age of the victim and defendant. These factors must therefore be recognised and considered in prosecuting cases, particularly when assessing risk and providing safety to victims.

2. Have we identified the right potential lines of enquiry for evidence gathering and the right public interest factors to be considered when the CPS makes a charging decision? If not, how can we address this?

The lines of enquiry for evidence gathering assume that violence is occurring in the home; however young people's relationships are much more likely to play out in public settings such as school, neighbourhoods, public transport and online spaces. In cases of domestic violence involving young people, police should communicate with and record any information from specialist youth-focused services including schools, children's social care, youth offending teams, specialist voluntary sector support agencies including youth services or young person's IDVAs who may have supported the young person. Police should also record any involvement of peer networks.

Paragraph 39: We suggest inserting the following to the last sentence of this paragraph to read as follows: 'The starting point should be to build cases in which the prosecution does not need to rely on the victim *although the victim should be consulted as and when needed*'.

Paragraph 41: Violence within young people's relationships or gangs is likely to occur in schools, neighbourhoods and other public settings. Even in such situations, where violence does not occur in private, or where the victim is not the only witness, giving evidence may still be very difficult for the victim.

Paragraph 42: The examples of case-building in this paragraph assume that domestic violence is occurring in the home; however teenage relationships are often played out in school, neighbourhoods or public settings. References to 999 calls and statements from neighbours as sources of evidence do not reflect or address the experiences of young people in abusive relationships and may not support the case-building process of young people involved. See first paragraph at the beginning of this section of the response form for further detail.

Paragraph 43: It is important to move away from the language of 'IDVA'. Support services provided to the victim by the police should include specialist services for marginalised groups. If the victim is a young person, they are more likely to access youth-focused services including schools, children's social care and voluntary sector youth services. If the victim is a BME woman, she may be receiving support from a specialist BME women's service. Such services are often smaller organisations that do not have funding for IDVAs and operate with a different specialism. Wherever IDVAs are mentioned within the document, we suggest that this is replaced with '*specialist support worker (for example an IDVA, specialist BME women's service or youth-focused service)*'.

Paragraph 44: In considering victims' safety in cases involving young people, prosecutors must also consider:

- the impact on the school environment when both perpetrators and victims are in the same school
- management of investigations when young peers linked to perpetrators are able to threaten victims and witnesses

- the need to identify cases where young perpetrators are associated to and controlled by organised crime groups and when they are not
- The potential overlap between cases of serious youth violence, and teenage relationship abuse
- Previous domestic violence incidents and serial defendants

Paragraph 57: In cases involving young people, good communication with safety and support services for the young people involved will also be crucial. Communication and consultation with previous victims to assess any risk that may follow the joining of a case, will also be key.

Paragraph 58, 61: The DASH risk assessment is designed for adult domestic relationships and does not adequately assess risk to young people involved in an abusive relationship. It is also important to acknowledge that risk assessment tools are static, and do not reflect changes in risk level which can shift and escalate very quickly. Any risk assessment of a young person involved in an abusive relationship must consider risk outside of the home, within the school, neighbourhood, public transport, other public settings and online spaces, and must consider risk from peer networks as well as risk from an individual perpetrator.

Paragraph 75: Special measures should be the norm, not the exception, in cases of domestic violence.

Paragraph 79: In cases where the victim is not willing to support a prosecution, ongoing communication and appropriate risk assessment and safety planning for the victim, the victim's family and peer network is crucial. For young people, risk and safety outside of the home must be assessed and addressed. See reference made to paragraph 58 above.

Paragraph 87, bullet point 6: Other vulnerabilities which could be aggravating factors could include age and immigration status as examples.

We suggest adding a bullet point on whether there is a wider peer network involved in the abuse.

Paragraph 94, 96: In cases of domestic violence involving young people, police should communicate with, record and investigate any information from specialist youth-focused services. Police should also record any involvement of peer networks.

Paragraph 96: Consideration of the victim's views is vital.

3. Do you think the guidance clearly sets out the basis for how we handle cases where complainants are not willing to support a prosecution? If not, please suggest how we could approach 'evidence-led' prosecutions (prosecutions continued without the victim).

We think that the guidance clearly sets out the basis for how the CPS handles cases where complainants are not willing to support a prosecution, however we have made reference to paragraphs where young people's experiences and needs could be better considered and addressed.

Paragraph 103: In cases involving young people, prosecutors should specifically communicate with youth-focused services that are supporting the victim in order to adequately assess the victim's ongoing safety (see first paragraph under question 2 for more detail).

Paragraph 103, bullet point 4: For young people who have experienced domestic violence, areas/locations the victim frequently visits or attends will include the school, the neighbourhood, public transport and online spaces.

Suggest additional bullet point on risk from peer networks associated with the perpetrator, to the victim and the victim's peer network and family, must also be identified and responded to in cases involving young people.

Paragraph 105, 106, 107: as well as safety of the victim and the victim's family members, the safety of the victim's peer network must also be considered in cases involving young people.

Paragraph 108: See reference made to paragraph 43 above.

Paragraph 109: Rather than mentioning school solely in the context of the victim's children, where the victim is a young person, one of the main areas where they should be able to retain freedom of movement is at school, as well as the local neighbourhood, other public settings including public transport, and online spaces.

Paragraph 114: It is crucial that the victim's views are sought, and any safety concerns are not minimised and are appropriately acknowledged and addressed.

Paragraph 120: See reference to paragraph 75 above. If delaying the case, communication and consultation with the victim is paramount to ensure their safety and agreement in proceeding with the prosecution.

Paragraph 121, 122: It is important to move away from the language of 'IDVA'. See reference made to paragraph 43 above for further detail.

Paragraph 126: Include in the list:

- Pressure from peers associated with the defendant.

- Where the victim or the victim's peer network has had previous contact with the police, fear that this will result in the victim's complaint not being taken seriously.
- Distrust in the police and criminal justice system, particularly following previous negative experiences with the police, or previously having been 'let down' by the system.

Paragraph 126, bullet point 10: Following from 'feelings of isolation and vulnerability' we suggest the inclusion that *'these feelings may be compounded if the victim is female, young, BME, LGBT or disabled.'*

Paragraph 126, bullet point 11: Following 'fears that showing support for a prosecution may place them at further risk of harm' we suggest the following change: *'fears that showing support for a prosecution may place the victim, their family members and/or peers, at further risk of harm.'*

Paragraph 126, bullet point 15: Barriers can be about exclusion and vulnerability from multiple marginalised identities e.g. young, lesbian and black. Rather than 'cultural barriers', we would suggest: *'Concerns about racism, sexism, ageism, homophobia and/or ableism within the criminal justice system, feelings of being judged, stereotyped or not being understood.'*

Paragraph 127: If a victim has retracted their allegation, the victim's needs and safety should always come first. The victim should be given the choice to access specialist support. Continued communication throughout the investigation and prosecution process is also crucial to ensure that the victim feels informed, that they have agency in the situation, and that they are not re-traumatised by the prosecution process – domestic violence is about power and control, if this dynamic is recreated through the prosecution process, this is perpetuating the abuse.

Paragraph 129: In these situations, victim's safety should be the primary concern of the police.

Paragraph 130: In the examples of those who have advised the victim, include *'peer or peer network'*.

Paragraph 133: See reference made to paragraph 43 above. At the end of the paragraph we also suggest to include: *'Throughout this process, the victim's safety, and the safety of the victim's family and peer network, must be the priority.'*

Paragraph 134: This does not reflect that in young people's relationships, the young people involved may not have labelled their relationship as a 'relationship'. Despite this, young people who have reported domestic violence may still be coerced into saying they have 'lied'. In consideration of this we suggest the following change to the first sentence: 'Prosecutors should note that some victims may be advised to say they had 'lied' when making their original statement; this may be the case where the victim and defendant are in a continuing relationship, *or where the victim is extremely fearful of repercussions of reporting abuse*, and illustrates how a victim can be persuaded or in some instances, coerced into retracting their allegation'.

Paragraph 136: See reference made to paragraphs 43 and 75 above.

Paragraph 142: See reference made to paragraph 43 above.

Paragraph 146: Rephrase the first sentence so that it reads 'Before the decision to apply for a witness summons is taken, prosecutors must make enquiries to satisfy themselves that the safety of the victim, *the victim's family, peer network* and any children will not be endangered.'

MARACs, MAPPAs and MASH are adult focused and may not include relevant information about young people. Information about young people could be sourced from youth-focused services and youth-focused forums such as Young Person's Risk Panels.

Paragraph 152: We suggest changing the wording in the brackets to: *(whether victims of familial, partner, or peer on peer abuse)*.

Page 34, last row: We suggest changing the wording in the brackets to: '*(e.g. Social Services, Schools, Housing, Health, specialist women's and BME women's services, youth services, other voluntary sector [including perpetrator services])*'

Paragraph 164: It is important to note that it is highly unlikely that a victim will attend court and claim they cannot recall the incident in order to be 'deliberately uncooperative', without fear or coercion at play.

4. Do you agree we have properly outlined the safety and support issues affecting victims and how those issues can be managed by the CPS?

We broadly agree that the guidance has outlined the safety and support issues affecting victims and how these may be addressed by the CPS, however we have highlighted paragraphs where the specific safety and support needs of young people have not been appropriately considered.

Paragraph 175: In cases involving young people, the safety and impact of the violence on their peer network is likely to be as important as the safety of their family. To reflect this, we suggest changing the second sentence to: 'The VPS can be an important way to empower the victim, and project the impact of abuse and the effects on the victim, *family and peers* to the court'.

Paragraph 180: This should be the norm for children and young people.

Paragraph 181-183: MARACs, MAPPAs and MASH are adult focused and may not include relevant information about young people. Information about young people could be sourced from youth-focused services and youth-focused forums such as Young Person's Risk Panels.

Paragraphs 186, 187, 189: See reference to paragraph 43 above.

Paragraph 188: See reference to paragraph 43 above. Many BME women are supported by specialist BME women's services that provide the same standard of support as an IDVA, with added specialism for BME women. Similarly, specific youth-focused services will be important for young people experiencing domestic violence, rather than the support of an IDVA.

193, 194: See reference to paragraph 75 above.

198: Such services are as important as an IDVA or ISVA, and should be recognised as such by prosecutors. Equally, youth-focused services must also be considered for young people experiencing domestic violence.

5. Have we demonstrated sensitivity and understanding to the issues which may be experienced victims from different groups? If not, please suggest how this could be achieved.

We welcome and broadly agree with the sections focusing on teenage relationships and teenage gangs. However, we suggest replacing the word 'teenage' or 'teenager' with 'young people under 18'. We would also replace the term 'teenage gangs' with 'young people affected by gangs'.

In this section, controlling or coercive behaviours have been mentioned specifically in relation to minority ethnic communities (paragraph 247) however these behaviours do need to be taken into account for all the affected groups of people mentioned in this section of the document, since controlling and coercive behaviours are core constituents of domestic violence.

Paragraph 215. Domestic violence may not always take place in private in young people's relationships. We suggest the following change: *Domestic violence may take place in private and/or in public spaces between young people. It is less likely that young victims will share a home with their abuser however the victim and defendant may attend the same school, live in the same local neighbourhood, may be connected to the same peer network and/or be connected through online spaces and social media. The extent of abuse perpetrated must not be minimised if the victim and defendant do not share a home.*

Paragraph 216: It is important to consider that the young people involved may not have labelled the relationship as 'a relationship' This does not mean that domestic violence has not taken place, however assessment of the background of young people's relationships may require a different approach to that of adult relationships.

Paragraph 218: We would suggest the inclusion of the following bullet points:

- Young people may not have labelled the relationship as 'a relationship' and may instead see their relationship as a friendship.
- Victims may be abused by other peers, and may again not realise that their behaviour constitutes abuse.

We suggest an addition to the 14th bullet point so that it reads: 'Victims may see their abuser at school, college, in their local neighbourhood, peer network and online spaces, which may prove very difficult for them – they may not want to endure any repercussions from friends of the abuse or others following the reporting of a crime.'

We suggest an addition to the 16th bullet point so that it reads: '*Equalities* issues such as the victim's ethnicity may make them reluctant to come forward for fear of embarrassing or shaming their community and fear of racist responses from authority figures. Younger victims may feel that they may be viewed negatively by authority figures. LGBT victims may also fear being 'outed' about their sexuality.'

Paragraph 249: Not knowing whether assistance is available or the nature of support that is available might not only be a language issue. Some women could be isolated to such an extent through control and coercion that they are not able to access information at all. This situation potentially affects all victims of domestic violence, not only women from minority ethnic communities.

Paragraph 250: The role that faith leaders play in discouraging the victim from reporting should not only be seen within the context of minority communities, but be viewed instead within a faith context.

Paragraph 251: In taking into account a victim's interpretation needs, prosecutors also need to be mindful of the literacy level of the victim in relation to written communication, and making available translated written communication, which the victim might not be able to read. Literacy is an issue that needs to be considered in relation to all victims and not just in terms of people from minority ethnic communities.

Paragraph 284. Include youth-focused services as experts for advising in cases involving young people.

Page 62, ANNEX A – Joint Evidence Checklist: In the first section of the checklist include:

- Statements from teachers or other school staff.
- Online evidence.

In the third section of the checklist include:

- If the victim is a young person, are they supported by any youth-focused services?

Page 64, second bullet point: See reference to paragraph 43 above.

Page 66, BUILDING A ROBUST CASE: In cases where the victim committed an offence or offences because of the circumstances she was in, but she is first and foremost a victim, how should this situation be treated?

Page 67, last bullet point, point 1: We suggest rewording the last sentence so that it reads: 'Some victims may be pressured by their family, *community or peer network*.'

Page 67, last bullet point, point 3: We suggest reworking so that it reads: 'A risk assessment has been conducted by the police *or specialist support worker (for example an IDVA, specialist BME women's service or youth-focused service)*' See reference to paragraph 43 above for further detail.

Page 67, last bullet point, point 4: Unless the safety of the victim, the victim's family and peer network can be addressed in the broadest possible way, and fears alleviated, discontinuing the case may be the most appropriate way to finalise the case.

Page 76: Please update the description and address of Imkaan: Imkaan is a black feminist

organisation dedicated to addressing violence against women and girls. As a second tier organisation Imkaan supports a network of specialist women's services run by and for black and minority ethnic women. Email: info@imkaan.org.uk Tel: 020 7842 8525

6. Please let us know if you have any other comments

Should you wish to discuss anything from this consultation response in further detail please contact Carlene Firmin MBE, Head of the MsUnderstood Partnership, on carlene@msunderstood.org.uk.