

# Domestic abuse

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## Domestic abuse

### Part one - Policy

<b>Policy summary</b>	This police procedure is intended to assist all officers and staff when dealing with domestic abuse incidents to protect the victim effectively and efficiently.
<b>Aim</b>	<p>The aims of the policy are to explain:</p> <ul style="list-style-type: none"> <li>• the responsibilities of each individual's role;</li> <li>• the DASH, risk assessment process;</li> <li>• the information required in a statement;</li> <li>• why a victim may withdraw their complaint; and</li> <li>• non molestation and restraining orders.</li> </ul>
<b>Scope</b>	All police officers, communication and help desk staff.
<b>Compliance</b>	<p>Human Rights Act 1998 Articles 2, 3, and 8 ECHR.</p> <p>PACE</p> <p>Criminal Justice and Public Order Act 1994 Sections 36 &amp; 37</p> <p>Protection from Harassment Act 1997</p>
<b>Related guidelines</b>	<p>Some victims of domestic abuse may be classed as 'vulnerable victims, and the policy guidance on this can be accessed via <a href="#">this link</a>.</p> <p>Information on honour based violence can be accessed via <a href="#">this link</a>.</p>

## Chapter 1 Definition

<b>Domestic abuse</b>	<p>The following classes of incident will be defined as domestic abuse by West Yorkshire Police and will be managed in accordance with this policy:</p> <p>Any incident of threatening behaviour, violence or abuse (psychological, physical, sexual, financial or emotional) between:</p> <ol style="list-style-type: none"> <li>1. adults aged 18 and over who are or have been intimate partners or are family members; and</li> <li>2. persons aged 16 and 17 who are or have been intimate partners, and in all cases regardless of gender and sexuality.</li> </ol> <p>Family members are defined as mother, father, son, daughter, brother, sister and grandparents, whether directly related, in-laws or step-family.</p>
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**Note:** Incidents involving persons under 18 who are related, for example between parents and children or siblings, will be recorded as child protection referrals on the VIVID system and will be dealt with as such by CPPU Units.

Link to [Multi-Agency Statutory Guidance for the Conduct of Domestic Homicide Reviews](#)

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## Chapter 2 Duty of positive action

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### Human Rights Act 1998

The Human Rights Act 1998 places positive obligations on police officers to take reasonable action, which is within their powers, to safeguard the following rights of victims and children:

- Right to life (Article 2, ECHR);
- Right not to be subjected to torture or to inhuman or degrading treatment (Article 3, ECHR);
- Right to and respect for private and family life (Article 8, ECHR).

Failure to make an arrest when there are grounds to do so may leave a victim at risk from further offences. It may also mean that the police force is vulnerable to legal challenge under both the Human Rights Act 1998 and the law relating to negligence. Action taken at all stages of the police response should ensure the effective protection of victims and children, while allowing the criminal justice system to hold the offender to account.

### Offence has been committed

Where an offence has been committed in a domestic abuse case, arrest will normally be 'necessary' within the terms of PACE to protect a child or vulnerable person, prevent the suspect causing injury and/or allow for the prompt and effective investigation of the offence.

Code G of the PACE Codes of Practice states that an arrest to allow prompt and effective investigation may also take place for a number of reasons, including where there are grounds to believe that a person may intimidate or threaten or make contact with witnesses.

### Decision to make an arrest

The decision whether or not to arrest a suspect rests with the police officer, and victims should not, therefore, be asked whether they require an arrest to be made.

The CPS makes the decision whether or not to prosecute. Initial police action should not pre-judge those decisions. The role of the police is to collect sufficient evidence to enable the CPS to make a decision.

If there is evidence of assault or other criminal offences arrest for those substantive offences should be made and not Breach of the

Peace (BOP). A binding over following a BOP does not afford effective protection for a victim or potential victim of domestic abuse. If however there are no substantive offences BOP may be appropriate. If grounds for arrest exist, but the officer believes that arrest is not necessary to ensure an effective investigation and/or to ensure that further offences will not be committed, the officer should **have this decision confirmed by a supervisor** and take the following action:

- record the details of why an arrest has not been made;
- explain the reason why an arrest has not been made to the victim, where appropriate; and
- give consideration to proceeding by summons or issuing a police notice for the purposes of the Protection from Harassment Act 1997 (PHA).

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**Removing the suspect from the incident**

**Under no circumstances** will Police transport a suspect from a domestic incident to an alternative address to calm a situation or prevent a breach of the peace.

If there is a need to remove the suspect from the location to calm the situation the suspect must be arrested. If a suspect is arrested for breach of the peace and resists or is violent to the arresting officer, a further arrest for a substantive offence should be considered.

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# Domestic abuse

## Part two – Policy procedure

### Chapter 1 Responsibilities

#### Communications staff

**Introduction** Incidents should be graded in line with the Force [Incident grading and response policy](#).

**Incident response** If the incident is ongoing, consider keeping the caller on the line so that evidence can be gathered on the tape.

You should:

Step	Action
1	inform the officer attending of the existence of this evidence, and record it on the STORM log;
2	prioritise the safety of the victim and children (giving safety, first aid or other advice as appropriate);
3	keep the victim or caller accurately informed of the deployment of officers.
4	if the suspect has left the address: <ul style="list-style-type: none"> <li>• advise the caller to lock and secure the premises and to return to the telephone; and</li> <li>• take a full description of the suspect and circulate it to officers in the area;</li> </ul>
5	abandoned or silent 999 calls where domestic abuse is suspected must be dealt with positively.  When telephone calls are cut off this requires an urgent reassessment of the call grading as the safety of the caller might be further threatened.

**Information gathering checklist** Full details of the incident and of all parties involved should be recorded and flagged appropriately on the incident log.

You should take, record and disseminate the following information:

Step	Action
1	location and identity of the caller or person making the report;
2	location of the incident;
3	location of the suspect, victim and children;
4	<ul style="list-style-type: none"> <li>• if the parties are injured;</li> <li>• the severity of any injury; and</li> </ul>

	• if medical assistance is required;
5	identity of all parties involved including the victim, children and suspect (e.g., names, sexes, dates of birth, home addresses, telephone numbers);
6	if any children are living in the household, if they are present, and safe;
7	if any weapons have been used (specifically firearms or knives);
8	if any weapons are available to the suspect and if the suspect or any other household members hold a license for a firearm;
9	if communication difficulties exist and officers require an interpreter;
10	if there are any special needs, for example, disability;
11	in what capacity the parties are involved;
12	if any person present appears drunk or has taken drugs;
13	if there is any history of domestic abuse;
14	a description of the suspect;
15	if any court orders apply;
16	first account of what the caller says has occurred; and
17	details of the demeanour of the victim, suspect and others present, and background noise (including shouting, words spoken).

#### Advice on preserving the crime scene

When you have established that the victim is safe, some basic advice can be given about preserving the crime scene until the police arrive.

This should include, **not**:

Step	Action
1	moving anything (or allowing others to do so);
2	cleaning up or tidying the house;
3	allowing the victim to wash, take a shower or change their clothing;
4	allowing children, relatives, neighbours or animals to enter areas where the incident took place (where possible).

#### Deployment checklist

When following the deployment checklist you should:

Step	Action
1	prioritise the safety of those at the incident, members of the public and officers;
2	ensure that medical assistance is en route, where appropriate;
3	make sure that support (backup) is available for the officer(s) attending the incident where appropriate;
4	inform the caller when an officer(s) has been dispatched;

	and
5	inform the caller when a police officer(s) has arrived at the scene so that the officer(s) can be safely admitted to the premises.

### Consult systems

PNC, CORVUS and other systems as appropriate should be consulted to establish:

- the domestic abuse history of all parties, particularly the presence of Multi Agency Risk Assessment Conferences (MARAC) or Integrated Domestic Abuse (IDAP) flags;
- the criminal offending history of all parties, particularly violent and sexual offending;
- information regarding:
  - current warrants;
  - court orders;
  - restraining orders;
  - injunctions;
  - bail conditions;
  - license conditions;
  - Sex Offender Registration; and
  - any relevant intelligence;
- the child protection history in relation to any children at the address; and
- any risk of violence to attending staff.

You must:

Step	Action
1	pass this information to the attending officer, <b>prior</b> to them attending at the scene;
2	inform the divisional duty supervisor, if the incident is a 'repeat' domestic incident; and
3	ensure that the STORM log is accurately updated and includes sufficient information for supervisors to monitor the incident.

### Updating STORM log

All STORM logs, involving reports of domestic abuse, **must** be fully updated with the description and progress of the incident.

All domestic abuse incidents must be finalised in accordance with National Crime Recording System (NCRS), and include a Niche reference number or explanation as to why one is not applicable.

Prior to the incident being finalised on STORM, ensure that divisional supervision have endorsed the log that:

- effective action has been taken;
- a DASH risk assessment has been conducted and graded Standard, Medium or High; and

- the incident has been recorded on Niche.

All reported domestic incidents should be finalised with the appropriate Fin code(s) and the text 'domestic abuse' included in the Qualifiers field.

## Attending officer

### Prior to attending the scene

Prior to attending the scene you must ensure you have received all relevant antecedent history as described [above](#).

### Initial actions

Your first priority is to protect all persons present from injury or further harm. This includes the victim, children, witnesses, police officers and the suspect.

The requirement for positive action means that in all domestic abuse cases you must consider the incident as a whole, not just the oral or written evidence of the victim.

Focus your efforts, from the start, on gathering evidence in order to charge and build a prosecution case that does not rely entirely on the victim's statement. This is particularly important where, at any stage during the process, the victim appears not to support a prosecution.

### Action on arriving at the scene

To ensure the safety of victims and children and to preserve evidence, you should:

Step	Action
1	reassess the victim and officer safety, including immediate risk, particularly in respect of access to or use of weapons;
2	make an immediate assessment of the need for first aid or other medical assistance such as an ambulance (this should include the needs of the victim, any children, any other persons and the suspect);
3	separate parties, including any children;
4	confirm the identity of the suspect (if they are no longer at the scene and circulate a full description);
5	establish who is or was at the scene, including any children;
6	request appropriate checks on the suspect and household (including warrants, bail conditions, civil orders and child protection register, ViSOR, Niche, firearms licences or intelligence reports linking suspect and household members to weapons) if not already done;
7	make accurate records of everything said by the suspect, victim and any witnesses, including children;



8	record the demeanour of the suspect, victim and any other witnesses, including children;
9	consider taking photographs and/or using a video camera to record evidence pending arrival of SOCO;
10	consider requesting CID assistance and report findings to the investigating officer (if different from the first response officer);
11	secure the safety of victims in their home – if this is not possible, consideration should be given to taking them to another place of safety, e.g. the home of a relative or a refuge;
12	obtain an overview of what has occurred, taking into account the established risk factors associated with domestic abuse; and
13	ensure that information relating to the suspect is included in any risk management processes.

#### Language and communication difficulties

The use of family members, in particular children, to interpret, other than as a last resort should **not** be used. Any use of a family member or child as an interpreter at the scene should only be for the purpose of establishing facts that might secure the immediate safety of all parties.

If officers use a member of the family or member of the public to interpret at the scene, this should be recorded with the details of the 'interpreter'.

As a preference to using a child or family member, officers should consider using a telephone interpreting service, e.g. language line through an Airwave radio set. Any use of such a service should be limited to preliminary inquiries.

#### Gaining a first account from a victim or witness

When gaining a first account from a victim or witness, you should:

Step	Action
1	ensure each party is spoken to separately (speak to the victim and/or any children independently, in a place where the suspect and other family members cannot overhear, to allow them to talk more freely);
2	explain the investigation processes and procedures to the victim and/or any witnesses, and make it clear that the police take these matters seriously;
3	explain that support is available for the victim or witness;
4	obtain a first account as soon as practicable after the event, when the witness may be most able to recall the incident;
5	<b>Important:</b> record first accounts given by witnesses, especially those relating to suspect descriptions, e.g.,

	clothing worn. (These may prove to be a most reliable source of information as they are made with the incident still fresh in their minds);
6	the first account from the victim should be recorded contemporaneously and verbatim where possible, in speech marks in a pocket note book. The victim should be asked to sign the entry as a true record with reasons for any delay being noted; and
7	the fact that any witness or victim may be under the influence of drink or drugs must be recorded but will not prevent a first account being obtained.

### Victims requiring treatment at hospital

It may be necessary to ensure that the victim receives medical treatment at a hospital or other health facility.

If this is the case, you should:

Step	Action
1	accompany the victim in order to maintain the continuity and integrity of the evidence, and to coordinate any investigations undertaken;
2	ensure that all materials (medical items, packaging, protective clothing) used in the examination are from recognised and approved evidence collection kits;
3	where the use of surgery or hospital equipment is unavoidable, a control sample should be obtained, e.g., a hospital swab and any blankets or sheets seized and individually packaged and prepared as an exhibit at the scene;
4	if a forensic medical examination is necessary, explain the reason to the victim.  The forensic physician is responsible for determining consent. The victim should be asked if they have any preference regarding the sex of the doctor.
5	make sure when separate individuals involved in the same case require a forensic medical examination, different forensic physicians at different locations examine them.  Where this is not possible, forensic cleaning should take place along with other measures to avoid any cross-contamination of evidence;
6	avoid cross contamination of scenes and should, where possible, avoid attending both the scene and any forensic medical examination;
7	ensure an appointed forensic physician or other suitably trained and authorised health service personnel, conducts the forensic medical examination in a suitably equipped medical room.

**Securing and preserving evidence and information**

When securing and preserving evidence and information you should:

Step	Action
1	note that the: <ul style="list-style-type: none"> <li>• victim is the primary scene and they should be treated as such (the investigator's first concern should be the victim's safety, state of mind and ability to cope with forensic requests); and</li> <li>• suspect is a scene, and other persons at the premises may also be scenes;</li> </ul>
2	secure, preserve and control the scene to limit any access until sufficient information is available to make an informed assessment of the situation;
3	remove people and animals from the identified areas of activity, and, ideally, from the whole area, if practicable;
4	establish physical secondary scene parameters – potentially the whole of the premises;
5	be aware that the suspect's actions following the incident may create further sites of forensic interest;
6	consider erecting cordons and putting in place a recorder to document people entering and leaving (depending on the severity of the incident);
7	consider any potential areas of contamination that could impact upon the integrity of evidential material;
8	take possession of any exhibits, for example weapons used, mobile phones etc;
9	ensure all other forensic opportunities are used at the scene to obtain evidence and corroborate the victim's account;
10	request SOCO attendance to take digital photographs of injuries or disturbance at the scene. It may be preferable to delay the taking of an injury photograph for example to allow bruising to develop. If SOCO is not available photographs may be taken using Blackberry or other digital devices. However, wherever possible SOCO should be utilised.
11	<p>where possible, ensure that any 'Headcam' or other body worn recording device is operating at the time of arrival.</p> <p>'Headcam' or other body worn recording devices should always be deployed during the initial attendance at domestic incidents.</p> <p>Headcam type devices are crucial tools in obtaining admissible evidence to progress cases, particularly where the victim subsequently does not wish to proceed.</p> <p><a href="#">(Headcam operating protocols)</a></p>
12	record in your pocket notebook the demeanour of the

	victim and suspect and apparent disparities in strength and size;
13	record the state of the scene e.g. signs of disturbance or damage;
14	conduct house to house enquiries and obtain statements from witnesses; and
15	identify and seize CCTV including that at relevant locations visited by the victim and suspect prior to the offence, for example licensed premises, where this may provide corroborating evidence.

### Children (All persons under 18)

Check that any children in the household have not been harmed and assess any needs they may have, e.g. Social Care or CPPU referral.

There are minimum recording requirements for children and when attending domestic abuse incidents. Record details of children present at the time of the incident or ordinarily resident at an address where a domestic abuse incident has occurred, the details should be:

Step	Action
1	name, including other family names and any previously used names;
2	date of birth;
3	sex;
4	normal address;
5	general practitioner where known;
6	primary carer or care arrangements for looked after children;
7	school;
8	full details of the child's circumstances, as witnessed by the officer, to include personal welfare, cleanliness, communication ability, injuries and demeanour;
9	details of anything said by the child; and
10	full details of other children ordinarily present at the address.

### Warning signs

The following 'warning signs' indicate some of the ways of highlighting a child at risk:

- child made the call for Police attendance;
- child is harmed, either physically or psychologically as a consequence of the domestic incident; or
- the child is/has been subject to previous child protection referrals.

Children can suffer trauma from both the offence and the conduct of the investigation, so every effort must be made to minimise their distress.

In all cases, you should find out if any children in the household are

subject to abuse. They are at increased risk if domestic abuse is occurring.

If you have reasonable cause to believe that a child is at risk of suffering significant harm, you may remove the child to suitable accommodation and keep them there for up to 72 hours. The child is then referred to as being 'taken into Police Protection'.

Link to [Powers of police protection](#)

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#### **Recording details of the incident**

Ensure that details of the incident have been recorded on NICHE, recording 1 of the following as appropriate:

- Domestic:
  - Breach of Bail;
  - Breach of Peace;
  - Crime;
  - Harassment Warning; or
  - Verbal dispute

An additional Niche occurrence type exists: MARAC referral. This is to be submitted by Safeguarding Unit staff when taking a case to [MARAC](#).

Crime recording processes are currently undergoing changes and staff should follow local procedure:

- a domestic incident should only be recorded on Niche for persons aged 16 and 17 where they are have been intimate partners. Where incidents which might otherwise be thought of as 'domestic' occur between persons under 18 who are siblings, parent and child or some other relation a child protection VIVID report should be recorded in addition to any Niche (non domestic) crime and this report will be managed by the local Child and Public Protection Unit (CPPU).
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## **Domestic Abuse, Stalking, Harassment and Honour Based Violence (DASH) risk assessment**

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#### **Introduction**

To determine the level of risk posed to the victim by the alleged offender you must take account of the DASH risk assessment and any other relevant information.

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#### **Conducting a risk assessment**

Conduct a DASH risk assessment with the victim and complete the Form 257 (available on Word Crime drop down menu).

DASH is a three part process. You must use your professional judgment to:

- identify the risk factors which are present using the 27 points identified on the F257;
- assess the level of risk they indicate (i.e. a factor may be present, such as financial abuse, but may not be serious); and
- manage that risk by addressing any immediate threats to the victim.

Guidance notes on the completion of the DASH assessment can be accessed via [this link](#).

The level of risk must be determined as:

Level	Description
<b>Standard</b>	no significant current indicators of risk of harm.
<b>Medium</b>	there are identifiable indicators of risk of harm.  The offender has the potential to cause harm but is unlikely to do so, unless there is a change in circumstances, for example, failure to take medication, loss of accommodation, relationship breakdown and drug or alcohol misuse.
<b>High</b>	there are identifiable indicators of risk of serious harm.  The potential event could happen at any time and the impact would be serious.  (A 'high' risk may be highlighted by several indicators or, alternatively, there may be just one. The decision must be based on the information contained in the risk assessment and professional judgment).

#### Supervisors agreement on risk assessment

You must be satisfied that you done all you can to ensure that the victim is safe when you leave, before leaving the scene consult with supervision. Secure the supervisors agreement to your DASH risk assessment (Standard, Medium or High).

Endorse the agreeing supervisor's details on the F257 form, and ensure the STORM log is endorsed with the risk assessment level.

Risk assessments should be fully shared with the victim, so that they are aware of both the risk assessment process and the outcome of the risk assessment.

The victim should **not** be asked to sign the risk assessment, as the responsibility for protecting the victim rests with the police.

#### Referral to victim support

You must obtain the victim's informed and explicit consent for referral to Victim Support and other support agencies.

This information should be recorded on the F257 DASH risk assessment.

## Obtaining statements

### Victim statement

Obtain a full detailed statement from the victim, even if the complainant declines to prosecute. If the victim wishes to speak to an officer of the same sex, you should make every effort to ensure that one is available.

Within the statement you should include:

Step	Action
1	the full history of the relationship and any other previous incidents (including incidents witnessed by children, other family members, friends or when medical assistance was sought);
2	the full details of the current incident including evidence to support the alleged offence;
3	details of witnesses present at the scene;
4	the nature and seriousness of the victim's injuries (physical and emotional);
5	any weapons used;
6	any threats made before or since the attack;
7	details of family members;
8	whether the suspect planned the attack;
9	whether the parties are separated;
10	the victim's view on the future of the relationship;
11	details of any civil orders or injunctions made or pending;
12	details of any child contact agreements;
13	whether any attempt at choking (strangulation) has been made;
14	whether any sexual violence has occurred;
15	the victims views regarding their and any children's safety;
16	the effect on any children present, and if they have been harmed;
17	the impact on victim;
18	any other available witnesses; and
19	all victims should be invited to make a Victim Personal Statement.

### Account recorded by body worn video

If a victim (or witness) first account is recorded by a body-worn video device, they should be given the opportunity to review their first account prior to a further interview or the making and signing of a statement. Any interview or statement should make reference to the recording and reviewing of the first account.

**Reluctance to provide a statement**

If a victim is reluctant to provide a witness statement, officers should make every effort to ascertain the reason for the reluctance and remedy the victim's concerns. Domestic violence victims often play down the behaviour of the offender and have genuine concerns about giving evidence. In such cases you should obtain a statement covering as much of the incident and relevant history as possible, it may be appropriate to include in the victim personal statement the concerns of the victim with regard to giving evidence.

Do not include in the body of the statement reference to declining to prosecute, but note this in the file.

If someone subsequently wishes to withdraw their complaint or amend their statement then the OIC must liaise with the district Safeguarding Unit before taking any further action, (The Home Office has issued guidance as to the content of withdrawal statements and requires an accompanying report to be provided to the CPS).

**Additional information**

In order to fully achieve objectives set out above you will need to obtain information regarding:

- the status of the victim's current relationship with the offender;
- the effect on that relationship if the prosecution continues against the victim's wishes including your views;
- offender's potential for re-offending;
- whether the victim supports the prosecution, including how they feel about attending court;
- victims and witnesses may be '[Vulnerable victims](#)' under the terms of Sections 16 and 17 of the Youth Justice and Criminal Evidence Act 1999 and they may require Special Measures;
- any witnesses who may require an interpreter and notify the investigator of requests from witnesses for interpreters of the same sex or of a particular ethnic group, political orientation or affiliation; and
- issues relevant to bail conditions e.g. information re workplaces and schools etc.

**Attending officers statement**

As the attending officer your statement must:

- describe what you saw on arrival, including:
  - injuries to complainant;
  - evidence of distress of complainant or other family member;
  - evidence to corroborate use of violence such as damage, overturned furniture, blood on wall etc.;
  - demeanour of suspect if still at scene (drunk/aggressive etc);
  - physical differences between complainant and suspect (height/size etc); and
  - injuries to suspect; and
- record the allegation made by the complainant.



This is key evidence and may be used at trial even if the complainant does not attend. The better the quality of the statement, the more likely the evidence will be admitted under the Hearsay provisions. The statement must contain a **word for word** record of exactly what the complainant told you about how the injuries were caused including details of:

- who caused the injuries?
- when were they caused? (the more proximate the assault to police attendance, the more likely the court will be to admit the allegation in the absence of the complainant);
- how were they caused?
- did anyone else witness the assault?
- was a weapon used?

After recording the victim's comments in your PNB the victim must be invited to read and sign the entry. The fact they read and signed the entry should be specifically referred to in your statement.

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**Recording the suspects response**

Record the suspect's response to the allegation of assault made by the victim.

This should be recorded **word for word** in your PNB and any admission/partial admission shown to the suspect who should be invited to sign it as above. This record should also be put to the suspect in interview.

If the complainant makes the allegation in the presence of the suspect, this should also be noted as the suspects response may be incriminating including silence or otherwise not disputing the allegation.

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**Significant statements**

A significant statement made by the suspect is one which appears capable of being used in evidence.

Paragraph 11.4, Code C of the PACE Code of Practice states that at the beginning of an interview the interviewer, after cautioning the suspect, shall put to them any significant statement or silence that occurred in the presence and hearing of a police officer or other police staff before the start of the interview. Such statements should then be included as part of the suspect interview plan.

**If the suspect has made a significant statement you should ensure that this is recorded in your PNB and the suspect invited to sign it. This fact must be relayed to the custody officer and recorded in the custody record.**

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## Supervisors

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**Introduction** Supervisors must take an active interest in the investigation of all domestic violence cases. The Dispatch centre should bring all instances of repeat domestic violence cases to the attention of a supervisor.

**Wherever possible a supervisor should attend the scene of any domestic violence incident to identify and direct any action required.**

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**Action required by supervisor** On being notified of a domestic violence incident you must:

Step	Action
1	assess the risk to the officers attending;
2	ensure that victim safety issues are addressed and a DASH risk assessment has been conducted;
3	continually monitor/supervise the incident and the subsequent investigation;
4	ensure that immediate efforts are made to arrest suspects who are outstanding;
5	ensure that suspects who cannot be found are circulated as wanted before the officer retires from duty;
6	ensure that all relevant evidence has been gathered;
7	ensure that a Niche occurrence has been recorded; and
8	prior to any incident being finalised on STORM, endorse the log that effective action has been taken and a DASH risk assessment has been conducted.

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## Investigating officer

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**Initial actions** The reluctance of a victim to provide a statement or testify against their spouse, cohabitee or partner, must not deter you from gathering evidence, interviewing the alleged offender and submitting a file to the CPS (this includes cases where the victim has provided a decline to prosecute statement).

Victimless prosecutions should always be considered. In such cases, treat the incident as a crime, preserve the scene and consider forensic evidence from the victim and location.

Where available, the following should be obtained:

- a copy of the 999 tape;
- any 'Headcam' footage;
- medical reports; and

- SOCO photographs of scene/victim.

### 999 tape recordings

Assess the tape recording for its evidential value to the prosecution case. The tape should be used in the suspect interview if it contains:

- evidence of distress, alarm or fear on behalf of the victim, caller or other person present;
- allegations made against the defendant; or
- background noise of damage, violence or threats or anything else of evidential value.

The following actions must be considered:

Stage	Description
1	ensure that the sections of the tape played during the interview do not contain confidential information;
2	where the call has been made by a third party, particularly an anonymous caller, careful consideration should be given as to whether playing the tape during the interview may put the caller at risk;
3	during the suspect interview invite the suspect to comment on the accuracy of the call and identify the person(s) voices on the tape;
4	the Short Descriptive Note (SDN) of the taped interview should include a verbatim account of the defendant's response to the 999 tape.  The content of the 999 call need not be transcribed.
5	the MG3 (pre charge advice form) should include reference to the 999 tape and whether it has been used in the interview.  If the 999 tape hasn't been used, then the reasons why should be stated.
6	the pre charge advice lawyer will listen to the 999 tape in considering the case.  Where the case is being considered by CPS Direct the 999 tape should be played down a phone line to the lawyer.

### Headcam footage

If available this must be shown to the suspect in interview.

The Short Descriptive Note (SDN) of the taped interview should include a verbatim account of the defendant's response to the recording. The content need not be transcribed.

The MG3 (pre charge advice form) should include reference to the recording and whether it has been used in the interview and if not the reasons why.

A description of the recordings content must be supplied to the CPS lawyer before a charging decision is made.

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**Bad character evidence** Bad character evident must be prepared and put to the defendant in respect of previous similar incidents where appropriate.

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**Hearsay** All hearsay evidence should be put to the suspect in interview as this may subsequently be deemed admissible.

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**Special warnings** Where appropriate special warnings should be given in accordance with Criminal Justice and Public Order Act 1994, Sections [36](#) and [37](#).

Risk assessment and previous domestic history and should be attached to the file.

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**Counter allegations** Police responding to domestic abuse incidents may be confronted with sharply conflicting accounts of what has taken place, with each party claiming to be the victim. Examine whether the victim may have used justifiable force against the suspect in self-defence. The suspect may make a false counter-allegation and/or both parties may exhibit some injury and/or distress.

Counter allegations require you to conduct immediate further investigation at the scene (or as soon as is practicable), to attempt to establish the primary aggressor. Be aware that the primary aggressor is not necessarily the person who was first to use force or threatening behaviour.

When investigating counter allegations, you should note and record:

Step	Action
1	the comparative severity of any injuries inflicted by the parties;
2	whether either party: <ul style="list-style-type: none"> <li>• has made threats to another party, child or another family or household member;</li> <li>• has a prior history of abuse or violence;</li> <li>• has made previous counter-allegations; or</li> <li>• acted defensively to protect him or herself or a third person from injury.</li> </ul>

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**Dual arrests** When investigating a counter-allegation, you should evaluate each party's complaint separately to determine whether there was a primary aggressor. Avoid making dual arrests without conducting a full investigation that seeks to identify the primary aggressor. When counter allegations or a dual arrest have occurred, this should be

recorded and the information included within the prosecution file.

The arrest of the primary aggressor does not prohibit you from arresting both parties if there is evidence that both parties have committed offences and you are unsure whether offences have been committed in self-defence. Further investigations should determine whether offences have been committed in self-defence and appropriate action taken.

If more than one arrest is made, a separate domestic abuse incident report should be completed for each victim, and each report should be cross-referenced to the other. Depending on the severity of the offence, arrests should not be made for acts which you have reasonable cause to believe were committed in self-defence.

## Harassment

The Protection from Harassment Act 1997 was introduced to address harassment where conduct was such that it did not necessarily constitute an offence under any existing legislation.

To prove offences under the PHA you should note the following:

Stage	Description
1	a compulsory component to prove the offence is showing a course of conduct, which amounts to harassment (section 2) or fear of violence (section 4) of another, which the defendant knows, or ought to know, amounts to harassment or fear of violence.
2	<p>a course of conduct is conduct on at least two occasions <b>but</b> this information could be provided by the witness(es) during the first complaint.</p> <p>There is no requirement for a previous warning by police to have been given. It has to be shown that the person knows, or ought to know, the effect of their behaviour on the victim.</p> <p>If neither PHA nor other offences are made out in full but a PHA warning is appropriate:</p> <ul style="list-style-type: none"> <li>• the nature of the police warning and the provisions of the PHA should be explained fully to the victim; and</li> <li>• a record of the incident, providing details of the type of conduct, location of any witness statement(s) and any details of the police warning (including officers and times), should be recorded on the Niche occurrence.</li> </ul>

## Submitting reports to CPS

### Information required by

The table below lists the information required to assist the CPS in making a decision, you should provide:

CPS

Step	Action
1	details as <a href="#">above</a> where the suspect declines to provide a statement or wishes to withdraw a complaint;
2	a copy of the 999 tape;
3	a copy of any 'Headcam; footage;
4	any medical reports;
5	any SOCO photographs;
6	copies of all risk assessments as confidential unused material; and
7	the antecedent domestic abuse history as confidential unused material.

## Custody sergeant

### Flagging information on custody record

When a person is arrested for an offence that has occurred as a result of a domestic abuse incident, this information should be flagged on the:

- custody record at the time the person is booked into custody; and
- front of the custody record when it is printed off for the attention of other custody staff.

### Charging and bailing

When charging and bailing a domestic abuse suspect the offender must be bailed to the **next available** Special Domestic Violence Court.

This option should be selected from the custody system drop down menu of Courts and the appropriate bail date will be populated on to the MG4. Similarly, the MG4 and accompanying documents must be water marked with the legend 'Domestic Violence', Niche will provide a tick box over the MG4 which when selected will automatically do this.

You must ensure that the investigating officer has gathered all relevant evidence and interviewed the alleged offender prior to release from custody.

### Where bail is appropriate

If bail is appropriate the following conditions for DV cases must be considered. Unconditional bail will only be granted in exceptional circumstances. Bail can be opposed, or conditions attached, in accordance with Section 47 of the PACE Act 1984 and the Bail Act 1976.

Section 47(1A) allows bail conditions to be imposed when a person is released without charge under Section 37(7)(a).

Bail conditions that should be considered:

- not contacting the victim, either directly or indirectly;
  - not going within a specified distance (at least half a mile is recommended and specific street boundary will also be required by the Court) of the victim's home or workplace, or schools or other places, the victim or victim's children attend, such as shopping areas, leisure or social facilities, child minders, family and friends;
  - to live at a specified address, not that of the victim;
  - to report to a named police station on specific days of the week at specified times; and
  - to obey curfews as applied.
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## **Section 38 PACE**

Section 38 of the Police and Criminal Evidence Act 1984 creates the requirements which a custody officer must consider before deciding to detain a person after charge. In all serious injury or repeat incidents, you should take into account the safety of the victim, and any children, before you decide to grant bail.

Always take account of an injunction or court order which does not contain a power of arrest. Do not impose bail conditions which may conflict with other existing orders. You should consider speaking to the defendant's lawyer to establish if any orders exist.

If there is insufficient evidence to charge, it may be necessary to release an alleged offender. If this is the case you must ensure that the OIC is made aware prior to release so that protection can be afforded to the victim and if within office hours the Safeguarding Unit is made aware.

Cautions are rarely appropriate in domestic abuse cases, as usually offences subject to the arrest are not the first offence and because the nature of offences might constitute a breach of trust.

**In all cases you must ensure that the victim has been fully updated with the proposed course of action (release NFA, 47/3, caution, charge and bail, charge and detain) before the suspect leaves custody and any safety issues raised by the victim taken full account of and mitigated.**

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## **Safeguarding Units**

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### **Local SGU roles**

Each local authority area has a Safeguarding Unit (SGU) responsible for overseeing the management of all domestic abuse incidents within the district.

Staff have the following roles to:

Step	Action
1	liaise internally and externally to provide a multi-agency approach to dealing with safeguarding issues;
2	to provide continuing support and a line of communication for the police and other agencies;
3	monitor incidents/information and initiate appropriate interventions;
4	establish and maintain appropriate contact with victims and offenders. Undertake evidence gathering interviews of Vulnerable Adults (ABE) and suspect interviews where appropriate;
5	identify and address the training needs of divisional personnel in relation to safeguarding issues;
6	monitor the implementation within division of both force and divisional policies; and
7	monitor the response to Domestic Abuse, Hate Crime, Vulnerable Adults, Honour Based Violence, Forced Marriage, Missing Persons and Child Sexual Exploitation and recommend actions to improve service delivery.

#### Niche domestic abuse occurrences

SGU staff will review Niche domestic abuse occurrences on a daily basis, ensure that the risk assessment has been properly completed and review its accuracy in the light of any additional information they may hold regarding the victim or abusers antecedent history.

In all cases the SGU staff will consider what actions are necessary to protect the victim from further harm and will endorse the occurrence with a specific, measurable, achievable, realistic and timely action plan to achieve that.

#### Formal child protection referral

As a minimum and in all cases SGUs will **notify** the district Child Social Care department of the details of all children who are members of households in which a domestic abuse incident occurs.

Where the following apply SGU staff will always make a formal child protection **referral** to that department:

Step	Action
1	when a child is used as a shield;
2	where the victim is pregnant;
3	where the victim is assessed as high risk through the DASH risk assessment and there is a child in the household;
4	when a child is injured;
5	when a child has called the police;
6	when a case is referred to MARAC and children are members of the household;
7	when it is the third incident of domestic violence in a 12



	month period;
8	where a child under 1 year of age is present in the household; and
9	where professional judgement is that the child is otherwise at risk of significant harm.

### Safeguarding report option on Niche

In the cases of all referrals Children's Social Care departments are required by the DCSF Guidance Working Together to Safeguard Children 2010 to notify agencies of the actions taken in respect of referrals made by them (5.36). This response should be copied to the Niche OEL report.

SGUs should seek to implement this notification and referral process via secure e mail to specified mail box addresses using the 'Safeguarding Report' option on Niche.

In determining a victim's Safety Plan, account will be taken of the level of risk to the victim and the plan should be proportional to that risk, focusing resources on those most at risk of harm.

### Protecting the victim

The following are some tactical options which may be considered to protect the victim:

No	Action
1	notification by letter of the assistance available and provision of appropriate locally orientated literature re help available from external bodies.  Letters may be accessed from the Word drop down menu Crime/ CPPU Disclosure/169s.
2	disclosure of an offenders previous serious offending after liaison with the area CPPU DI and application to the duty Force ACPO officer.  There is no statutory framework for such disclosures but the police's duty of care may warrant such action;
3	a contact plan to ensure contact is maintained with the victim, for example by contacting at work or providing a mobile phone;
4	an escape plan should the victim need to flee at short notice;
5	installation of external sanctuary measures or an internal safe room or arson prevention measures;
6	implementation in liaison with the NPT of Cocoon or Police Watch schemes;
7	with the victim's consent notify employers etc. of the risk to the victim and details of the abuser;
8	the use of covert cameras or observations, for example in harassment cases;

9	number blocking on the victim's phone;
10	provision of alarms;
11	provision of Refuge or re-housing;
12	assistance in the safe recovery of personal property from a former home (e.g. passports etc);
13	referral on the basis of consent to third sector help groups especially recognised IDVA services;
14	assistance in accessing civil remedies;
15	help in determining child contact arrangements;
16	anonymous registration for voting purposes;
17	concealment/changes to NI number; and
18	concealment of medical records.

### Measures to manage the abuser

SGUs must also consider proactive measures to manage the potential abuser.

These may include:

No	Action
1	trigger plans – for example pre prepared bad character evidence or grounds for opposing bail;
2	briefings to response and NPT staff about at risk victims in their areas;
3	flagging on Niche, e.g. as 'of interest to';
4	early arrest;
5	use of remands in custody and bail conditions;
6	use of ASBOs where appropriate;
7	Restraining Orders;
8	Violent Offender Orders;
9	<a href="#">Sexual Offences Prevention Orders</a> /Risk Of Sexual Harm Order;
10	ANPR to track a suspects vehicle movements (e.g. in harassment cases);
11	licence enforcement;
12	bail enforcement;
13	offender management e.g. referral to Drug Intervention Programmes;
14	referral to agencies e.g. male perpetrator groups where available;
15	re-housing the offender may reduce risk to the victim; and
16	referral into the Multi Agency Public Protection Arrangements and SORT processes;

## Chapter 2 Victim withdraws complaint

### Information

There are many reasons why a person may refuse to take forward a

complaint against their partners. Domestic violence is unique as the victim is often made to feel that the abuse is their fault.

The fact that a victim withdraws their complaint does not mean that criminal proceedings against their assailant will be dropped. The decision to prosecute lies with the Crown Prosecution Service and not the victim, removing any responsibility from the victim.

In cases which involve assault, injury or the threat of injury between spouses, both victim and offender are competent and compellable to give evidence. The Crown Prosecution Service must be told of any reluctance and the reason for it, if known.

**Action required**

Where a victim indicates a wish to withdraw a complaint before the suspect has been arrested or while they are still in custody before charge the OIC should liaise with the district SGU and where possible contact made with the victim by that Unit to establish the reason for the victim's reluctance and address any needs they may have.

If someone wishes to subsequently withdraw their complaint or amend their statement the OIC must liaise with the Safeguarding Unit before taking any further action. The Safeguarding Unit will assess the case and give you guidance regarding what action to take.

SGUs will take the complaints decline to prosecute, retraction CJA statement post charge.

If a retraction statement is taken, it should include:

Step	Action
1	details of the alleged crime and full reasons for wishing to withdraw the complaint, i.e. why the victim does not want the investigation/prosecution to continue;
2	confirmation that the original complaint/allegation was true;
3	details of any amendments to the original complaint;
4	how the victim feels a prosecution would impact on their life, and their children if the case continues; and
5	that the victim is making the statement of their own free will, i.e. they have not been put under pressure to withdraw their complaint and whether the victim has been put under any duress, either by the defendant or any other family member.

**Report to CPS**

If a complaints decline to prosecute CJA is obtained a report to the CPS must be submitted including:

Step	Action
1	your views on the how the case should proceed;
2	details of all DASH risk assessments which have been conducted throughout the enquiry, including any other follow

	- up risk assessments, which have been conducted as the result of the victim wishing to withdraw the complaint;
3	how the victim may react to being compelled to give evidence;
4	the safety of the victim and any children;
5	who the victim has discussed the case with, particularly anyone who has advised them (e.g. defence solicitor) and whether any civil proceedings have been, or are likely to be instigated; and
6	a revised DASH risk assessment must be conducted if there is any withdrawal of support for a prosecution. This must be recorded on Niche

## Chapter 3 Multi Agency Risk Assessment Conference (MARAC)

### Introduction

Each of the West Yorkshire Districts operates a Multi Agency Risk Assessment Conference (MARAC) process which is underpinned by local agreements.

These meetings will be attended by a supervisor from the district's SGU who will be responsible for supplying information to the meeting and initiating police actions in respect of cases discussed at it.

### Assessed as high risk

Where a victim is assessed as being high risk under the DASH assessment model there will be a presumption that the case will be referred to MARAC. A decision not to refer must be endorsed on the occurrence report.

Where a referral is made a Niche 'Domestic MARAC Referral' occurrence will be created by the SGU. The SGU will request Force Intelligence to create:

- 'Notify if';
- 'Involved MARAC Offender'; and
- 'Involved MARAC Victim'

flags for the abuser and victim respectively which will remain active for a period of 12 months. These will generate a notification to the owning SGU when those nominals come to notice.

## Chapter 4 Integrated domestic abuse and safer relationship programme notifications

### Newly convicted offenders

The Probation Service will supply Force Intelligence with details of newly convicted offenders who are currently subject to an Integrated

Domestic Abuse (IDAP) or a Safer Relationships Activity (SRA) sentence.

They will create a flag 'Notify If' 'Involved in Integrated Abuse Programme' for all such offenders which will generate notifications to the owning SGU whenever those nominals come to notice.

The SGU will evaluate the information and if appropriate email details using the 'Safeguarding Report' option on Niche to the Probation mailboxes

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## Chapter 5 Court orders

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### Introduction

The Civil Law can be used to protect a victim of domestic abuse. It does not replace the criminal law and an application for a civil injunction by a victim does not remove the need for action by the police.

If anyone wishes to find out more information they should contact a local solicitor specialising in family law. Many solicitors offer a free half hour for the initial consultation and many people will be eligible for Legal Aid.

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### Court orders

The [Family Law Act 1996](#) gives Magistrates and County Courts the power to issue orders to protect the applicant and any children from the respondent:

- non-molestation orders; and
- occupation orders.

Breach of a non-molestation order constitutes a criminal offence and therefore is arrestable. An occupation order may be issued either with or without a power of arrest and therefore the order would need to be checked via Niche prior to action being taken against the offender.

In some circumstances the court may issue the order ex-parte. These are emergency applications and the respondent is not normally present at the application hearing. **The order has to be served on the respondent before it becomes enforceable.**

If a person breaches an injunction or court order, you should refer to the [relevant guideline](#).

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### Breach of non molestation order

From 1 July 2007 a breach of a non molestation order issued under the Family Law Act became a criminal offence. While there are several types of civil order and injunction this is the most commonly used civil order for domestic abuse cases.

It is vital not to confuse **Non Molestation Orders** with **Restraining Orders**.

Order	Criminal offence made in the	Breaches are contrary to
Non molestation	Civil Courts at the request of a private applicant	Sec 42 A (1) and 5 of the Family Law Act 1996.
Restraining	<ul style="list-style-type: none"> <li>• Magistrates Court; or</li> <li>• Crown Courts at the conclusion of criminal hearings, either conviction or acquittal.</li> </ul>	Section 5 (5) and 6 of the Protection from Harassment Act 1997.
<p>Officers must not confuse the two when formulating charges.</p> <p>Orders are entered on PNC and this will indicate if the suspect is subject to a Restraining or a Non Molestation Order and original Orders are scanned on to Niche and clearly indicate the type of Order made.</p>		

#### Role of help desk staff

An order may be delivered to you (normally by hand) by the person employed to serve the papers on the respondent. You must confirm that the order has been served on the respondent before accepting it.

**Note:** You should ensure there is sufficient information in the order to satisfactorily identify the respondent. If there is insufficient information, e.g. no date of birth, reasonable enquiries must be made at the time, with the assistance of the serving agent, before you accept the order. You should not accept an order which has insufficient information.

If you accept an order, you should:

Step	Action
1	stamp the order with the divisional stamp dedicated for this purpose;
2	request the person delivering the order to complete the sections on: <ul style="list-style-type: none"> <li>• name of respondent;</li> <li>• time, date and location where the papers were served; and</li> <li>• sign the section relevant to them;</li> </ul>
3	sign the section relevant to help desk staff stating the time and date you received the document;
4	create an occurrence on Niche and attach the order as a scanned document; and
5	task PNC Cell with inputting details onto PNC; and file locally.

## Domestic abuse

### Policy administration

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**Document  
information**

The table below lists the details relating to this document.

Item	Details	
Document Title	Domestic abuse	
Owner	Local Policing Support	
Author / Reviewer		
Date of last review	13/06/2011	
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**Revision  
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The table below details revision information relating to this document.

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