

Response Pro Forma

When responding it would helpful if you would complete this pro forma. Please fill out your name and address or that of your organisation if relevant. You may withhold these details if you wish but we will be unable to include you in future consultation exercises.

Response Sheet

Contact details:

Please supply details of who has completed this response.

Response completed by (name):

Position in organisation (if appropriate):

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Name of organisation (if appropriate):

Women's Aid Federation of England

Address:

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Contact phone number:

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Contact e-mail address:

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Date:

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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?

About Women's Aid

Women's Aid is the national domestic violence charity that supports a network of around 300 local services working to end domestic violence against women and children in England. Our member services are integrated domestic violence service providers delivering a range of holistic services for women experiencing domestic violence and their children. Keeping the voices of survivors at the heart of its work, Women's Aid campaigns for better support for women and children, provides training and resources for professionals and delivers a package of vital 24 hour lifeline services through publications, websites and the National Domestic Violence Helpline (run in partnership with Refuge) on 0808 2000 247.

Women's Aid welcomes the opportunity to respond to the CPS consultation on guidelines for prosecution of domestic violence and will restrict our comments to our areas of expertise. We also welcome the progress that the CPS has made on the prosecution of domestic violence over the past few years. As the most recent CPS *Violence against Women and Girls Crime Report 2013-14* demonstrates the rate of convictions for domestic violence has risen to its highest point level ever, as has the number of cases referred from the police that have gone on to be charged. This progress is welcome and represents the commitment the CPS has in ensuring effective prosecution for domestic violence. Clearly there is a need to increase the number of cases that are taken to court by the CPS and we hope that this guidance will help achieve this.

In order to inform our response to the consultation we asked Women's Aid member services and survivors of domestic violence for their responses to the CPS guidance. Overall we received feedback from 27 survivors of domestic violence.

We believe that the CPS approach to understanding and context of domestic violence is generally well-informed and encapsulates the dynamics and impact of domestic violence accurately. We particularly welcome guidance that all domestic violence cases be flagged on the CPS system and the emphasis on coercive control and the recognition that coercive and controlling behaviour can include a range of behaviours such as isolation and intimidation.

Women's Aid is part of a campaign, the Domestic Violence Law Reform Campaign, which is calling for the criminalisation of coercive control, patterns of abuse and psychological harm. We believe that current law does not cover the very essence of domestic violence – the coercive control and patterns of abuse and leaves women survivors of domestic violence unprotected by current laws. We urge the CPS to consider how the law can better protect women.

Whilst we welcome the CPS approach to domestic violence as set out in the draft guidance we don't believe that it takes into account the gendered nature of domestic violence or the impact it has on women. An estimated 1.2 million women experienced domestic violence in 2012/13¹. Overall, 30% of women have experienced domestic violence since the age of 16, equivalent to an estimated

¹ Office of National Statistics [Focus on Violent Crime and Sexual Offences, 2012/13 Release](#) (February 2014)

4.9 million female victims of domestic violence². In general, female victims of intimate partner violence experience more severe violence and control, with more serious psychological consequences, than male victims; the impact on women is greater and women are much more likely to be fearful of their partners. Women are three times more likely to be arrested for domestic violence than men³ and they are also more likely to have experienced sexual violence. Furthermore, 89% of victims who experience four or more incidents of violence are women⁴ and 32% of women had experienced domestic violence four or more times from the same perpetrator (compared with only 11% of men)⁵.

We also believe that the CPS approach and understanding of domestic violence should recognise the different forms of violence within domestic violence. The conflation of intimate partner violence with family violence and the failure to identify the consequences of different forms of intimate partner violence has impacted on the effectiveness of the criminal justice system to intervene.

Domestic violence was initially used to describe violence in intimate relationships when the term was developed in the 1970s. Since then it has significantly widened and the current government definition of domestic violence/abuse covers a range of different forms of violence, perpetrators and victims. The new government definition conflates family violence with intimate partner violence, including: sibling abuse, child abuse, child to parent abuse, so-called “crimes of honour”, female genital mutilation, forced marriage, elder abuse, and other violent acts within the family. There are significant differences between intimate partner violence, which affects women disproportionately, and other forms of violence such as sibling abuse.

It is important that these different forms of violence are identified and recorded, for this to be possible it is important to ensure that in all cases disaggregated data is collected on the relationship between the victim and the perpetrator as well as the sex and age, location of crime, type of weapon used, and motivation. Guidance should be given to ensure such data is collected at the local level and nationally, using the same definitions to ensure effective data collection. Guidance on data collected should be in line with recommendations of UNODC⁶ and include length of time before charging, conviction rates, and average length of trials, pre-sentence detention, and provision of legal aid, sentencing, and cautions. Data should also be collected on the use of mediation and restorative justice and if this is ever used in cases of intimate partner violence, despite government policy that neither should be used in domestic violence cases.

The guidance should also cover advice to prosecutors in cases where the woman has been charged with an offence, but is clearly the victim, ensuring they receive the support needed and the correct perpetrator is prosecuted.

The types of violence included in the guidance should take into account abuse that occurs online and via social media as well. Links to CPS guidance on social media and online abuse could be more clearly linked to this guidance. This type of abuse is increasing and Women’s Aid sees it very much as part of the spectrum of intimate partner violence. A Women’s Aid survey of domestic violence survivors found that:

- 45% reported experiencing some form of abuse online during their relationship, including through social networking sites or over email.
- 48% reported experiencing harassment or abuse online from their ex-partner once they’d left the relationship⁷.

² Office of National Statistics [Focus on Violent Crime and Sexual Offences, 2012/13 Release](#) (February 2014)

³ Hester, M (2009) Who does what to whom? University of Bristol and Northern Rock Foundation.

⁴ Walby S and Allen J, 2004, *Domestic violence, sexual assault and stalking: Findings from the British Crime Survey*, Home Office research report.

⁵ Ibid.

⁶ UNODC has developed international standards on statistics required, see

http://www.coe.int/t/dghl/standardsetting/equality/05conferences/2014ParisSeminarAccessJustice/Presentations/4_Bisogno.pdf

⁷ Virtual World, Real Fear: Women’s Aid report into online abuse, harassment and stalking (February 2014)

A Women's Aid member service also commented that the current CPS approach does not make the distinction between women who are at different levels of risk or recognise the changeable nature of risk for women victims of domestic violence.

Survivors also wanted the impact of some of the coercive and controlling behaviour to be explained a bit more in the guidance – for example, isolation tactics have a huge impact on undermining women's sense of self and self-esteem. They talked about the lasting impact that intimate partner violence has on their lives and the need for the CPS to understand this.

Many of the survivors that we asked about the draft CPS guidance also welcomed the CPS approach to understanding domestic violence. However, they stated that though they welcome it in principle it is often not understood on the ground by professionals such as the police and prosecutors. Member services who sent us their views on the draft guidance also agreed that the guidance and the leadership in the CPS understands the impact and dynamics of intimate partner violence but that this does not always filter down to prosecutors on the ground. For example, one member said they have heard from women that prosecutors on the ground have talked about seeing worse violence when they speak to a woman and being openly frustrated when women are reluctant to proceed with prosecutions. A member service also highlighted that children are often used by perpetrators to control women and that the CPS guidance should recognise this.

The CPS understanding of domestic violence as set out in the guidance for prosecutions of domestic violence is very welcome and does cover the nature, impact and dynamics of intimate partner violence. We believe that the understanding does need to take into account the gendered nature of intimate partner violence and explore the nature and impact of online abuse as well. We also believe that the CPS need to have regard for the fact that this understanding of domestic violence may not always translate to prosecutors on the ground and consider how best to ensure that prosecutors across the country have a genuine understanding of the impact and dynamics of intimate partner violence.

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?

Women's Aid welcomes the CPS guidance and the lines of enquiry it sets out for evidence gathering. We also welcome the clear identification that prosecuting will always be in the public interest as serial perpetrators of intimate partner violence will continue to perpetrate if their behaviour is not sanctioned. We believe that the guidance could expand how evidence of coercive control could be gathered where offences arising from coercive control have been identified. We believe that it could be made clearer that domestic violence cases should not be considered for conditional cautions – possibly through the use of highlighting this phrase in bold.

We welcome that the guidance states charging decisions should be made speedily but don't think that 'speedily' is clear enough for prosecutors. We would like to see something more objective in the guidance to enable prosecutors to be clear about how long it should take them to make decisions. We note in the most recent CPS report on VAWG prosecutions that the average charging decision takes 4.57 days in domestic violence cases which we welcome. However, when we asked survivors who had experienced the prosecution process how long it took for a charging decision to be made – the answers ranged from one week to 104 weeks. Clearly 104 weeks is far too long for women to be waiting for a charging decision and there is huge inconsistency in how long it is taking for decisions to be made. Again, we believe that the CPS should consider how this guidance can be better implemented on the ground. Records on the length of charging should be collected locally and nationally for comparison to improve response time.

We believe that there could be a system where serial perpetrators are flagged on the CPS system which is information that could be used to gather evidence in other cases.

We believe that the guidance should pay particular attention to children and young people in this section. Children often feel left out of the process, and this may be for their protection. However in all cases of domestic violence, children need to be asked whether they would like to/can contribute. There are those children who have lived in fear for all, most or part of their lives and feel being able to contribute to prosecuting the perpetrator may contribute to their healing and empowerment. However, sensitivity around evidence gathering may also mean that children feel they are being asked to 'take sides'. Some children are not troubled by this, however most children will have a range of mixed feelings and after providing evidence or information may feel guilt and/or responsibility for certain outcomes and may feel they've let down one or both parents. Support for children must be provided in order to allow them to do what is within their best interest- before, during and after the case is prosecuted. Disabled children are also often not considered as being able to play an active role in cases of domestic violence as they require additional support to do so.

Children (witnesses and victims) may also be coerced and threatened with being taken into care by Social Services or further harm to themselves or others if they share any information about the violence. This is usually from the perpetrator, however it can also come from the victim, who may have been threatened herself or if she intends to reconcile with the perpetrator from fear or other factors.

Many of the survivors we asked were not satisfied with how the CPS gathered evidence for their case. The most common complaints included not being listened to and the time it took for the CPS to assess their case and gather evidence. One survivor was disappointed that she wasn't asked about patterns of abuse she had experienced. When survivors were satisfied with the CPS evidence gathering the speed and efficiency in which it was done was the main element of their satisfaction. Members services stated that when women are not satisfied with the way that the CPS have handled their case it causes them to lose trust in the CPS and the justice system as a whole.

We also asked survivors whether they had been kept informed of progress made on their case. About half of them had and half of them had not. One survivor stated that her partner was informed by the CPS that the case was being dropped three days before she found out by calling the police station. Where women had not been kept informed we asked them what impact this had on them. Women

talked about feeling very fearful and delays adding on the stress that they already felt because of the situation. One woman was constantly fearful of what her ex-partner may do in retaliation for her taking the case forward. Two women also talked about trying not to let the situation affect their children but stated that it did have an impact on them. Ensuring victims are informed, particularly where they might be in danger is a requirement in Article 56 of the Council of Europe Convention on Preventing and Combating violence against Women and Domestic Violence (Istanbul Convention) which the UK government has signed and has announced it will ratify.

The All-Party Parliamentary Group on Domestic and Sexual Violence Inquiry into access to justice published its report in March 2014⁸. This Inquiry found that women were experiencing delays throughout the criminal justice system and the lack of communication they received about their cases. The Inquiry also found that women survivors of domestic violence were being let down by the Criminal Justice System and were often not supported through the complex process of a prosecution. It made recommendations on ensuring that all frontline justice professionals received specialist high quality training in the dynamics and impact of intimate partner violence.

Member services also welcomed the joint evidence checklist that has been developed by the CPS and ACPO. They also noted that sometimes there is communication breakdown between the police, the victim and the CPS that can lead to delays, and highlighted that when there are delays in evidence gathering charging decisions this puts the woman and her children at increased risk which is recognised in the CPS guidance. There is a clear need for ongoing risk assessment of the victim's safety.

Women's Aid believes that the CPS guidance on evidence collection and prosecution is generally good. There are areas for improvement however, particularly in communication with the victim and delays in decisions being made.

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).

⁸ Women's Access to Justice: from reporting to sentencing (APPG on Domestic and Sexual Violence, 2014).

Women's Aid welcomes the CPS focus on how evidence collection can be improved to increase the number of evidence-led victimless prosecutions. Survivors have told us that often the case is based on their testimony due to the lack of collection of other evidence and therefore feel a great deal of pressure, stress and fear about what that means for them and their children. If more cases can be progressed that don't rely solely on the woman's testimony then we believe this will improve access to justice for women survivors of domestic violence.

For this to happen though it relies strongly on front-line police officers getting the evidence collection and initial investigation right first time. The recent HMIC report into police response to domestic violence which was published in March 2014⁹ found unacceptable weaknesses in how the police responded to domestic violence, particular in their evidence collection. We strongly support the HMIC recommendation in this area that the College of Policing needs to assess the training that police receive in domestic violence awareness, including training on impact of intimate partner violence and effective evidence collection.

Furthermore, we believe that the CPS has to be stronger in demanding better evidence collection from the police – including video evidence which should be made available – to enable them to build the strongest case possible. We are concerned at reports that video evidence is sometimes not viewed by the CPS because of the length of the recording. The guidance should emphasise the importance of this type of evidence, particularly in ensuring a conviction and advice on how it should be viewed and treated.

We believe that the role of specialist domestic violence services should be recognised in the guidance here as they are crucial in supporting women when they have made a report to the police and throughout the process of a prosecution. It is also vital that women are informed clearly about what will happen if the CPS decides that the case should proceed to prosecution (for example, whether they will have to give evidence) and what the expectations of them will be and what support will be available. As the guidance identifies when women are not supported like this they are more likely to not continue with the prosecution.

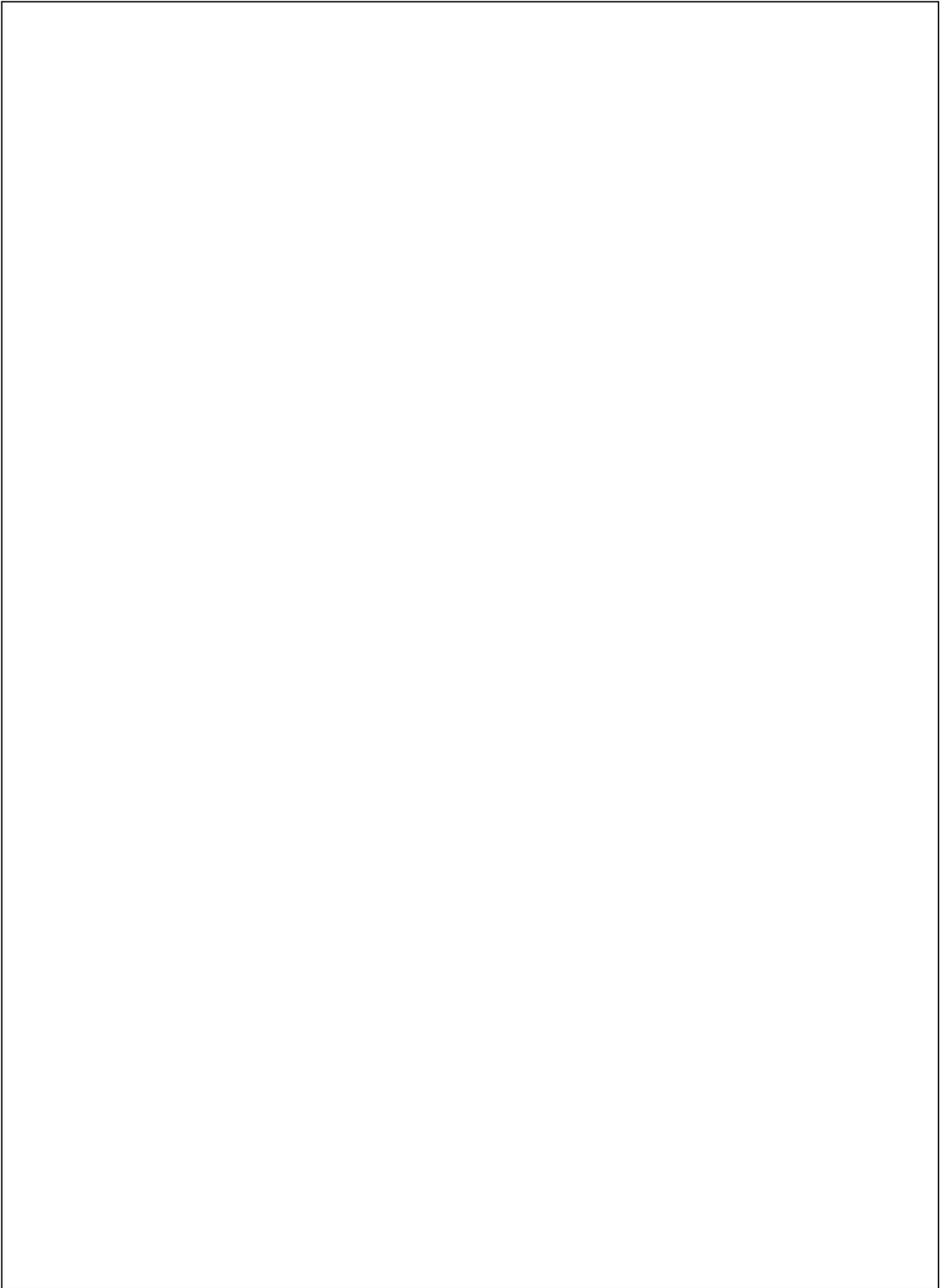
Women's Aid are concerned about the increasing criminalisation of women who decide to stop supporting a prosecution and refuse to give evidence and as a result are charged with perverting the course of justice. We believe that the CPS guidelines should set out clearly the reasons why this may occur and strongly urge the guidelines to state that women should not be criminalised themselves in this instance.

We welcome the guidance setting out why victims may retract their statements or withdraw from the case and ask the CPS to consider include the additional reasons below:

- The victim does not want to be perceived as unreasonable by the perpetrator as these pose further difficulties in receiving any future child maintenance from perpetrator/father of the child.
- The victim may have threat of being 'disowned' or outcasted from their family or community.
- Victims, especially teenagers may fear bullying and harassment (online and offline) from school and wider neighbourhood/community. They may still attend the same school as the perpetrator or the perpetrator is part of their community.
- The victim has not had good police support in current or previous cases.

Overall, we welcome the focus on moving forward with evidence-led prosecutions in cases of domestic violence but believe that there are huge improvements that need to be made in the police understanding of domestic violence, particularly intimate partner violence and how to collect evidence for these cases to be successful.

⁹ HMIC Everybody's Business: Improving the police response to domestic abuse (March 2014)



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?

Women's Aid welcomes the CPS guidance in the area of safety and support for women victims and how they can be protected. The guidance recognises the need for extra support and the importance of safety of women victims in court.

However, we believe that women's experiences of court do not always meet the guidelines set out by the CPS. The APPG Inquiry into access to justice found that many women were not treated as victims when they were in court but purely as witnesses. There is a need for better understanding in the courts about the impact of court proceedings on women victims and the fear that they will feel appearing as a witness.

Women's Aid welcomes the recognition that the support of an advocate such as an IDVA can have a positive difference on women survivors and their experiences of court. However, it should be recognised that not every woman will have access to the support of an IDVA or a specialist police officer and they should not be relied upon as the only solution to the issue of effectively supporting women through the process. Specialist domestic violence services also have a key role to play in supporting women and often refuge workers or other workers in this service will support women through the process in addition to their other responsibilities. It is important that the guidance recognises this and encourages CPS personal to liaise with the specialist services and include them in any multi agency working in their area.

Survivors who had experience of requesting or using safety measures in court had mixed experiences. Where safety measures were put in place the survivor was satisfied with them. Other survivors had asked specifically for a screen in court but one was not provided. These survivors then felt intimidated by the perpetrator when they were in court. Other survivors had used separate waiting areas but one of them was connected to the waiting area where the perpetrator was so she did not feel safe at all. Suggestions for improved safety measures include completely separate waiting areas and different arrival and departure times for the victim and perpetrator. Member services stated that women were also often required to wait in the same area as the perpetrator's family or friends which they felt very intimidating. We also believe that when women are allowed to give evidence remotely, they should be supported to do this in a safe, women-only environment such as a specialist domestic violence service or women's centre. This has to be a specialist service to ensure that the woman feels safe enough to give evidence. Specialist domestic violence courts were praised when they were in existence in an area.

The CPS guidance is welcome in this area and clearly states the safety and support that women victims should be receiving in court. However, it is clear that these safety measures and support are being applied inconsistently and are not always available. For this guidance to be effective in better protecting victims it has to be implemented effectively on the ground.

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.

Women's Aid welcomes the CPS guidance section on how intimate partner violence may impact on different groups of people. However, we do think that there are other groups of people that can be included and some additional considerations made.

The largest group of people that has been omitted from this list is women victims. As highlighted earlier in our response the vast majority of victims of four or more incidents of intimate partner violence are women and two women per week are killed at the hands of their partner or ex-partner. It is vital that prosecutors recognise the different impact of intimate partner violence on women victims and specific needs they have throughout the prosecution process.

We also believe that the below groups of people could be included in the list:

- Women using mental health services;
- Women with learning disabilities (if not included in the disabled people group);
- Women with substance misuse issues;
- EU migrants and non-EU migrants;
- Pregnant women;
- Women with no recourse to public funds.

Furthermore, when considering teenagers in abusive relationships we believe that the following additional points should be included.

- Although teenagers may live apart from their abusive partner, the abuse is not only experienced in person or via social media as already acknowledged through their smartphones, but also through simple but constant texting and calling on their phones.
- Teenagers may not spend most of their time at home, but at school, in extracurricular activities or outside in the community or in their neighbourhoods and these are places where the abusive partner may also have easy access, especially if they are also a member of one or more of those settings.
- There may be more instances of stalking (physically and on social media) when non-cohabitation occurs, which is part of the controlling behaviour.
- Some teenagers may be living with their partner with their partner's parents, thereby being an environment of additional threat and coercion.

Finally, although we welcome the understanding of different groups of people's needs we believe that all victims of intimate partner violence should be treated as individuals with their needs assessed and met however they need to be. Because a victim fits into one, or more, of the identified groups does not mean that their needs will be the same as others identified in that group.

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

Women's Aid welcomes the CPS guidance for prosecution of domestic violence and believes the guidance identifies some of the key issues for women survivors of intimate partner violence going through the criminal justice system and good practice in supporting them. However, as we have stated earlier in our response we believe that the gendered nature of domestic violence should be a theme which runs throughout this guidance – currently this analysis is absent from the guidance. We are also concerned that prosecutors have a clear understanding of coercive control. It is also essential that prosecutors are able to distinguish when victims have been charged in error and are able to provide victims with the support they need to address the real perpetrator.

Furthermore, we have described throughout our response to the consultation there is a great deal that needs to be done to ensure effective implementation on the ground of this guidance. Survivors and member services we consulted with to inform our response to this consultation generally welcomed the guidance as it is written but were clear that how the guidance is interpreted and implemented by local prosecutors varies greatly in quality and consistency. We urge the CPS to consider how they hold local prosecutors to account for the delivery of this guidance and how they can collect evidence about how the guidance is being implemented on the ground. The CPS should consider how they support local prosecutors in better understanding domestic violence including intimate partner violence, for example, through specialist training. We also urge the CPS to involve survivors of domestic violence as much as possible in this process.

The updated CPS guidance on prosecutions of domestic violence is an important step towards women survivors being able to access justice. However, it is clear that more needs to be done on the implementation of this guidance for this to be achieved.